

IN THE CROWN COURT AT SOUTHAMPTON

Southampton Combined Court Centre
The Courts of Justice
London Road
Southampton, Hampshire
SO15 2XQ

BEFORE:

**HIS HONOUR JUDGE WILLIAM MOUSLEY KC
THE HONORARY RECORDER OF SOUTHAMPTON**

BETWEEN:

R

PROSECUTION

- and -

**VICKRUM DIGWA
KIRAN KAUR**

DEFENDANTS

Legal Representation

Mr Nicholas Lobbenberg King's Counsel (Barrister) on behalf of the Prosecution
Mr Neil Anthony King (Barrister) on behalf of the Prosecution
Mr Jeremy Patrick Wainwright King's Counsel (Barrister) on behalf of the Defendant (Digwa)
Mr Benjamin Hargreaves (Barrister) on behalf of the Defendant (Digwa)
Mr Mark Watson King's Counsel (Barrister) on behalf of the Defendant (Kaur)

Other Parties Present and their status

Mr *Sagib Ajile* (Punjabi Interpreter)

Counsel's Opening Remarks (Prosecution)

Hearing date: 14 May 2026
Transcribed from 11:18:20 until 12:14:47
from 12:34:57 until 13:06:47
from 14:11:20 until 14:50:02

Reporting Restrictions Applied: No

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Number of folios in transcript 158
Number of words in transcript 11,339

A **Mr Lobbenberg:** Ladies and gentlemen, I appear on behalf of the Prosecution, assisted by my learned friend Mr Neil King. Mr Digwa, who sits at the back of court, is represented by my learned friend Jeremy Wainwright King's Counsel, assisted by Mr Ben Hargreaves. Kiran Kaur, who sits at the back of the court with the Interpreter, is represented by my learned friend **B** Mark Watson, who sits on the second row closest to you.

The purpose of this speech is not to tell you why these Defendants are guilty. That speech happens at the end of the case. This speech is to introduce you to the issues in the case and to **C** introduce you to the things that you're going to need to think about when you come at the end to make your important decisions. It's rather like the blurb on the back of a book, if anybody buys, still buys books. A blurb on the back of a book tells you what's inside the book, and this speech tells you what's inside the case that you'll be making the decision about.

D Now, the first and probably most important rule in this courtroom is the Prosecution bring this case and it is for the Prosecution to prove it, and they, the Prosecution have to make you what we now say is sure. In a previous age, we used the rather more poetic words of beyond reasonable doubt, but now we use the word sure. Could I ask for the equipment to be passed **E** out, please?

(pause)

F **His Honour Judge Mousley:** So here comes some paperwork, members of the jury. May, I may interrupt Mr Lobbenberg just for a moment. The temptation is always to start going through the paperwork as soon as you get it. Can you resist that temptation? Mr Lobbenberg will take your, will direct you to certain parts of it now and the, you will become very familiar **G** with what's contained in this file as the case carries on.

(pause)

H (counsel confer)

Mr Wainwright: Sorry, I'm just checking that there's one in the dock.

Mr Lobbenberg: There's one went into the dock yesterday.

A
(counsel confer)

Mr Wainwright: Would Your Honour mind if I just go to the back of court for a moment?

B
His Honour Judge Mousley: (no audible response)

(counsel confer)

C
Mr Wainwright: It's all right, I can share with my learned junior.

Mr Lobbenberg: And can the second document go out as well, please? Mr Usher, thank you.

D
(pause)

(counsel confer)

E
Mr Lobbenberg: Ladies and gentlemen, these documents are what we're going to be using in the trial to learn about what happened. There is also going to be a lot of this case, a lot of videos, and there's a full video evidential presentation that you're going to see, but for the purposes of this opening we're going to simply, I'm going to introduce you to these documents and the white one, this we call the jury bundle, OK? So if I ask you to pick up the jury bundle
F now please, if you open it you will see it, it has tabs. They're all numbered down the sides. So I will ask you to look at a particular number tab, you just turn it up. So just to give you an example, if you open tab 1 ...

G
(pause)

H
Mr Lobbenberg: In there you see the indictment. That's a posh court word for what the charges are that these Defendants face. So when, as I go through my opening, from time to time I'm going to ask you to look at documents in here. A lot of this material in this file are in fact transcripts. Transcripts of videos, transcripts of body worn video, and you are, in the course of the trial, going to be able to look at those videos and when you retire you will have a copy of all the material you've been shown, so it's not when you see it on the screen, that's

A not the only time you're going to see it. You get a copy of it when you retire. These documents are yours. You can write on them, make notes. Nobody looks at them except for you. Now they're in your possession, they are sacrosanct within this courtroom.

B The second document, and this is a document we're going to be looking at an awful lot as I talk, is this A3 sheet. This we call the storyboard, and you'll see that it's got page numbers on the right hand side so if I ask you to go over, if you open it, you'll see an example on page 2 of, it's got an awful lot of information on there, and what this is is effectively it's a timeline. It's a timeline through a really relatively short amount of time but a very significant amount of time. As you see, it starts at 22.33 and if I told you by half past midnight the man we see in C box one, the young man, was certified dead by a doctor that had flown in by helicopter to treat him on the streets of Southampton.

D So, let me tell you in a nutshell what this case is about. Henry Nowak was a first year student at Southampton University. On 3 December, he went out to meet his friends who he played football with for a night out. By the time he was walking home, about 11 o'clock in the evening, he had drunk less than the legal limit to drive. By chance, he met Vickrum Digwa around [REDACTED] Belmont Road.

E Henry Nowak had been using his phone to talk to friends. He'd been making videos as he walked along which he was sending to his friends on Snapchat. His phone captures the moment he met Vickrum Digwa. Vickrum Digwa was carrying an extremely large knife in a sheath openly displayed over his clothing. By half past midnight that night, Henry was dead. F He had been fatally stabbed by Vickrum Digwa using that knife. The knife that he, Vickrum Digwa, had chosen to carry out, to carry out onto the street.

G Now, the killing wasn't seen by anyone other than Henry and Vickrum Digwa. The neighbours heard the aftermath as Henry complained that he had been stabbed and that he was dying. Tragically, Henry was right on both counts.

H After he had been stabbed, Henry Nowak climbed onto a bin and over a fence to try and escape, but he'd already been fatally wounded and there was a blood trail on the street which demonstrates that he must have been stabbed before he climbed over the, onto the bin and over the fence. Vickrum Digwa chose to aggressively pursue him. The Defendant's brother,

Gurpreet, and father, Moga, were quickly on the scene. The family home, their family home, was nearby, at ■ St Denys Road, effectively just round the corner.

A

Vickrum Digwa said he had been racially abused and attacked by a drunk man, something he persisted in telling the police when they arrived on scene. Henry protested he hadn't attacked Vickrum Digwa and that he had been stabbed. Vickrum Digwa denied stabbing Henry. Vickrum Digwa did not summon an ambulance, did not call an ambulance. He chose to lie about what he had done from the get go, and the reason we can say that with some confidence is that much of what happened at the scene has been captured on phone footage, on 999 calls, and on subsequent body worn video when the police attend.

B

C

The police were also called by neighbours and by Gurpreet. When the police arrived, [Police Constable 1] was told by Vickrum Digwa, by Gurpreet, and by his father that Henry had attacked Vickrum. As a result, [Police Constable 1] arrested and handcuffed Henry. Henry told the Police Officers that he'd been stabbed. While Henry did this, Vickrum told them that Henry had not been stabbed. This was a lie told to officers trying to help a badly injured man, a man Vickrum Digwa had stabbed more than once. Very shortly after that, Henry became unconscious, and then the police set to work providing first aid and summoned an ambulance. Other officers spoke to Vickrum Digwa who again denied stabbing Henry. A doctor flew in by helicopter but there was nothing could be done to save Henry and he was declared dead at 37 minutes past midnight on the street.

D

E

After Henry was dead, he was examined by a pathologist. During her examination, the Pathologist found five sites of knife injury. There were four stab wounds and one incised wound to the jaw. So that's four penetrative wounds and an incised wound is a cut to the jaw. The injuries included two sites of injuries which were to the back of his legs, so to the rear aspect of his body.

F

G

The Defendant was interviewed. He chose to answer no comment to all the police questions at first. Eventually, he provided a short statement setting out his position before again answering no comment.

H

On 5 December, the Defendant was transported with his brother in a police van. That police van had been wired to record any conversation that might take place. The two chose to talk to each other about this incident, presumably presuming they couldn't be overheard, but it was in

fact being recorded. Vickrum Digwa told his brother he had stabbed Henry three times. He didn't mention any racism or any self defence.

A

Kiran Kaur is the mother of the Defendant. She came to the scene when Gurpreet and her husband were with Vickrum Digwa. Her son spoke to her and what he said was extremely significant. He asked her to take his shastar, which is the knife, the large knife, and this was captured on phone footage that was being shot so it could be heard, and subsequent imagery shows that after that conversation, he no longer had the sheath and the knife, and with her assistance, he got rid of the knife at the scene that he had used to kill Henry Nowak, and the knife was eventually found in a search of his family home at ■■■ St Denys Road, and you can see on the footage after the knife has left Vickrum Digwa at the scene, Mrs Kaur returns home running, and then turns round and goes back to the scene, and the Crown say that is when the knife is taken to the home.

B

C

D

The knife was found stashed amongst an arsenal of weapons at the home. When analysed, the knife was shown to have blood and fatty tissue on the blade. DNA analysis would prove that these came from Henry. There was hair that belonged to Vickrum Digwa and his DNA, Kiran Kaur's DNA were found on the sheath.

E

Can I say, right from the outset, that there is no dispute that Kiran Kaur took the knife and took it back to the house? That is not in dispute between the parties. She was arrested and interviewed about what she had done. She too chose to answer no comment to all the Police Officers' questions.

F

So with that very short introduction, can we now have a deep dive into the material? Let's start with Henry Nowak. He was in his first term at university, studying accountancy and finance at Southampton. He was a keen footballer and he was going out on a social with his team. I'd like to now introduce you to the storyboard please, ladies and gentlemen. How it works.

G

H

Can we start with the very first page, page 1? Because the most important thing is the legend at the bottom. Do you see that big black box? If you look at the big black box, in order to make it easier to follow, everything's colour coded, so if I explain the colour coding now as we go through it when you're looking for something on the page, you'll be able to know what colour you're looking at, so Henry Nowak, anything Henry Nowak is in orange. Vickrum

A

Digwa is in, shall we call it purple? I get bad at colour. Gurpreet Digwa is in blue, and the sequential numbering is in yellow. So on every slide, every, every page we look at there'll be a series of numberings which are always in yellow, and the order the numbers appear is the timeline snaking through.

B

So can we start with the start of the evening and can we have some footage please? This is the very start of the evening, and what we're going to look at is Henry Nowak leaving his halls of residence in the lift. If we can bring just the lift footage up, thank you.

C

His Honour Judge Mousley: If you just pause a moment, if possible --

Mr Lobbenberg: Can we pause it?

D

His Honour Judge Mousley: Members of the jury, you're all, some of you craning that way. There's a big screen over there also *which* may or may not be easier --

Mr Lobbenberg: (inaudible)

E

His Honour Judge Mousley: I don't know, all right? So, sorry, Mr Lobbenberg.

Mr Lobbenberg: OK, can we go, thank you and let's, this is Henry Nowak in his halls of residence leaving.

F

(beginning of recording playback – no audio)

(end of recording playback)

G

Mr Lobbenberg: And we can tell, can we now go to, open our storyboard and let's have a look at what we can see, what does he do with his night out? Because what has happened? Henry's phone had his location data turned out so that as he moves, his location is being, is picked up, so we can say that it is accurate where he is. We've, the police have also gone through an enormous amount of CCTV, and so we're going to look at where he went on his evening and we can see it in the CCTV footage. Can I say, I'm not going to play all that to you now, when the evidence starts, we're going to work through all of it, but we can see, if we turn up our page 2, let's just show you how this works.

H

A At the top of the page we have, a summary of what happens on the page, so it says here between 22.33.41 and 22, three, 33.58, he approaches The Hobbit in Valley Road and goes in the pub. He sends a message on Snapchat. The iPhone corroborates the location. He then leaves The Hobbit and shows him moving. So that's what it says in the top box, all right? I, I know you can read but the problem is in court I end up having to read it all out to you, so **B** forgive me if you get a bit bored, but that's how we do it.

But now having looked at the synopsis that, at the top of the page, if we look at the page itself, what I want you to do is track through the yellow numbering, we can see how it all fits **C** together, how we can say that. So we start at box one. Do you see there? We see Henry Nowak again. He approaches The Hobbit, he's showing his ID in the first still to the door staff, and then he's entering the pub, *going* through the door. So that's box one.

If you come across the page, do you see box two? And box two's got a dotted line going to a little brown dot on the map. So that is the location *deer*, data, and we know that's The Hobbit **D** Pub and so we can say Henry is inside The Hobbit, because his location data is putting him inside The Hobbit.

We then go to box three next. Box three is up, it's a Snapchat message, so in the sequence that's at 22.35.32, and he's saying: **E**

"I'm in The Hobbit."

F So on this page, we've put together three types of evidence for you to look at in one particular slice of time. You're looking at video evidence, you're looking at phone evidence, and you're looking at download of Snapchat, but rather than look at them all over, all over the place, **G** we've stuck them on one page so you can follow the timeline through, and then we go to four, do you see box four? He's still in The Hobbit Pub. Then if we go to box five, we're back on the CCTV. He's going out and travelling south, and going towards Jesters, what is Jesters Nightclub, and we go and look at six, he's on the outside of Jesters Nightclub and we've got a device location, you can see he's more or less at the door of Jesters. So you understand how **H** the sheet works, you just follow the numbers through, collect all the information, and you can see in that snap of time what Henry was doing, and that's what this document does, and that's what we're going to look at as we go through to his death.

A So the story of the evening we can see here on this storyboard, so let's go over the page. Let's leave page 3 for the moment, we'll come back to it. Let's concentrate on Henry at the moment. We'll come back to page 3 later.

B So he then, turn to page 4, what does it start, we're on page 4. Let's go to the top. We're now at just past 11 o'clock. He begins a conversation on Snapchat. He's asking a friend, and we see the Snapchat box, item one:

"Fancy picking me up?"

C Where is Henry when he asks for that pickup? You look at box two, he's in Jesters Nightclub. His friend replies:

D "I'm making food. Just stay out longer."

E And then we have the sideways eye, single eye which is see you later, I think. Making food takes time, and so that's item three. By four, he's still inside Jesters Nightclub. We can see that because of the location data, and then he moves. Can we go over the page please, ladies and gentlemen?

F This shows movement up the road, effectively, on the night out, and again let's just trace it through the boxes so that we can just all follow it. Number one, he's now outside on the road between Jesters Nightclub and The Hobbit, yeah? Two, he's outside The Hobbit. Three, we pick up some video footage and he actually breaks into a jog and we've got video footage of him coming past The Hobbit. Four, he's on Snapchat. Do you see the Snapchat box in the middle of the page, the lower one on the page? He then sends, four, five is a location, he's moving up the road. Six is a further Snapchat. Seven is a location on the road. Eight is further Snapchat. Nine, more Snaps. Ten, location.

G So you can see. What is happening is he's moving back up the road which is back in the direction of where the student accommodation is. He's walking home. Having asked his mate to pick him up, his mate says effectively he can't pick him up, he's making food, and so he fatefully walks, and we can trace his route because we've got the location and also as he walks he goes past people who've got CCTV. We've put all this together.

H

A So let's just follow that walk now together please. If we look at storyboard 6 we can see all that coming together as he carries on and you can see which route he takes because the location is turned on, and we pick him up on imagery and we've got all, I'm not going to take you through all of these because you can see the sequential numbering going up as the route goes on and where we've picked him up on video footage and audio message he, his friend tells **B** him what he's cooking. He's fish, potatoes, and eggs at 11 o'clock.

(pause)

C **Mr Lobbenberg:** And he's going north consistently, and over the page, go to seven. Now, at seven, Henry starts to take some videos which he's sending on Snap, and they are just videos of him walking along the street, and let's just follow this through. That's in box one. We see we've got a big icon with a video, with like a phone and a play icon. That's Henry taking a **D** video, and he's just simply walking along the street, and there's another one of him walking along and you see that, that is actually number four, but you can see that's as he's progressing up the street, and you can see that he sends Snap videos timed at 23.17.41 and 42. So that's box six, so that's after he's taken the videos, he seems to send them on Snap, of him walking home, and it's the kind of nonsense kids do, isn't it? Young men do. Importantly, can I invite **E** you to look on this map, we see the address [REDACTED] Belmont Road. That is going to become extremely familiar to us.

So the importance of this is time. If you look at item seven, at 23.17.54, he is just short of that **F** address. Just keep that in your head. Now, we've looked at Henry Nowak's movement up to that time. Now what I'd like to do with you is look at where Mr Digwa, Mr Vickrum Digwa was please, and so can we go back to page 3?

G (pause)

Mr Lobbenberg: Now, can we just orientate ourselves first of all where we are? You see on our plan [REDACTED] Belmont Road is at the bottom of our map. It's shaded in grey. Everyone found that, everyone found that? Great. **H**

As you carry on up the road, you see an, you see another address at [REDACTED] up, up Belmont Road. Outside that address, a red car pulls up and that is about 45 metres from the junction with St

A

Denys Road. You see St Denys Road moves across the map in grey, so the red car's about 45 metres from there, and Vickrum Digwa and Gurpreet Digwa walk along Belmont Road from St Denys Road direction and get into the red car. They come into, into the picture at 23.00. Takes them 23 seconds to move up and *they* get into the car. So at 11 o'clock, ballpark, Vickrum Digwa is in the red car outside [REDACTED] Now, can we go please to page 8?

B

(pause)

Mr Lobbenberg: Page 8.

C

(pause)

D

Mr Lobbenberg: Now we start to have to think about timing again. We know that in our box one at 23.17.55, Vickrum Digwa leaves the red car and starts walking south on Belmont Road towards the St Denys junction, and it take, he goes out of shot at 23.18.29. At that time, Henry Nowak, can we have a look at the sequencing again? Go to box two. Remember we stopped with him just short of Belmont, the house [REDACTED]. By three, he's just north of there and it's 23.18.30. Sorry for getting into the weeds on time, but you'll see why it matters.

E

(pause)

Mr Lobbenberg: So you see where Henry is and you see that Vickrum Digwa is walking south. Over the page, please. Now ...

F

(pause)

G

Mr Lobbenberg: What happens now is extremely significant, and is going to be the focus of what you're going to be needing to make your mind up about. At 23.19.16, Henry Nowak is making a short five second video on his iPhone, on his iPhone, and this is a video of Vickrum Digwa. The two have an exchange and the video ends with Vickrum Digwa approaching Henry Nowak. By the end of this incident, Henry Nowak's phone is found in Vickrum Digwa's pocket.

H

(pause)

Mr Lobbenberg: The exchange is summarised in our box two, and we're going to have a look at this, but let's look at what's in box two. There is a conversation. Henry Nowak says:

A

"Innit bad man, what bad man. You're a bad man. You're a bad man, go on."

B

And Vickrum Digwa replies:

"I'm a bad man."

C

"Are you a ba --"

And it cuts off, and you can see Vickrum Digwa is wearing a large knife. You can see it in the still image, and what we're going to do now, let's just go through the boxes. If you look at one, box one is the, is important. At that time, 23.18.31, just prior to the, the video, box two we've seen. Box three, 23.19.17.

D

Now, at 23.19.17, the phone which has given a location it's in during the video. Because the video starts at 23.19.16 and is five seconds long. So you can say that box is during the video. By the time it's got to box four, it is past the end of the video, and it looks like what has happened is that Henry's phone has been taken off him. So by the time you're at box four, it may be that the phone is in the possession of Mr Vickrum Digwa. So can we now look at this short video footage?

E

F

(pause)

Mr Lobbenberg: Yeah. (inaudible) We're having technology issues.

G

(pause)

(counsel confer)

H

Mr King: Is that anything?

A **Mr Lobbenberg:** We're having the usual technical issues that plague the court *with the* (inaudible) If you come here often it's dreadful.

(pause)

B **Mr Lobbenberg:** For those of you certain age, it's time for some Kia-Ora and Butterkist but ...

(pause)

C **Mr Lobbenberg:** We did test it, of course, beforehand --

His Honour Judge Mousley: Yeah.

D **Mr Lobbenberg:** And it worked perfectly well.

His Honour Judge Mousley: It always, it always does, Mr Lobbenberg.

E **Mr Lobbenberg:** I'm afraid it does. This is --

His Honour Judge Mousley: But let, let's just --

F **Mr Lobbenberg:** This is important and I need --

Female: (inaudible)

G **Mr Lobbenberg:** To show it.

His Honour Judge Mousley: Well, let's just pause a moment. I think it might be, be coming out in a minute. Just let's be patient for now --

H **Male:** Yeah.

Female: Yes.

His Honour Judge Mousley: See if it ...

A

(pause)

Female: There we go.

B

Mr Lobbenberg: We're here. Right, so what we see first of all on this video clip is you're going to see some of those videos that he was taking as he walked along the road, and then we're going to see the interaction with Mr Vickrum Digwa. So we're good to go, please. Should have sound.

C

(pause)

(beginning of recording playback)

D

Mr Nowak: (humming)

(background noise)

E

Mr Nowak: There you are, bro. Hello, car. *All right*, we've got to walk here, do you know what I mean? Oh.

(background noise)

F

Mr Nowak: *Right*, innit bad man, what bad man. You're a bad man, say you're a bad man, go on.

G

Mr Digwa: I am a bad man.

Mr Nowak: Are you a *bad* --

H

(end of recording playback)

Mr Lobbenberg: Right. Can we just see it again?

(pause)

A (beginning of recording playback)

Mr Nowak: (humming)

B (background noise)

Mr Nowak: There you are, bro. Hello, car. *All right*, we've got to walk here, do you know what I mean? Oh.

C (background noise)

Mr Nowak: *Right*, innit bad man, what bad man. You're a bad man, say you're a bad man, go on.

D **Mr Digwa:** I am a bad man.

E **Mr Nowak:** Are you a *bad* --
(end of recording playback)

F **Mr Lobbenberg:** All right. You will want to consider a number of issues. We know, because we'll be able to show you because we've matched up, married up the features in the video, who was facing in which direction. At that moment in time, Mr Digwa is further down Belmont Road. It appears he turns round, Henry must have turned round from his travelling north to be, to be making the video, and he then closes the gap between himself and Henry, and Henry's phone ends in Mr Digwa's pocket, and you'll be in time, one of the issues you'll need to consider is who was being the aggressor, why is Henry's phone in his pocket?

G **H** Now, let's consider the large knife that Mr Digwa was wearing, Vickrum Digwa. Sikhism obliges male followers of the faith to carry and wear certain items. These include a wooden cone, a metal bangle, and what is called a kirpan, a ceremonial knife. Sikhs may wear a small kirpan. That satisfies their religious obligation and it's legal for them to wear a small knife. Can I have the small kirpan, please?

A (pause)

Mr Lobbenberg: Ladies and gentlemen, this, and I'm asking that it be handed round, was found around the Defendant's neck. It hands on a lanyard and it satisfies any religious obligation to carry a knife. It is worn normally under clothing. To His Honour.

B (pause)

C **His Honour Judge Mousley:** Yes. This will be exhibit 1 and I suggest, Mr Lobbenberg, that it's probably sufficient for present purposes if the Usher simply walks along the front row --

Mr Lobbenberg: Yes --

D **His Honour Judge Mousley:** Of the jury --

Mr Lobbenberg: I'm certainly --

E **His Honour Judge Mousley:** And shows --

Mr Lobbenberg: Content --

F **His Honour Judge Mousley:** It to --

Mr Lobbenberg: With that --

His Honour Judge Mousley: The jury.

G **Mr Lobbenberg:** Your Honour.

(pause)

H **Mr Lobbenberg:** Thank you, Mr Usher. So that small kirpan satisfies any religious obligation a Sikh may have to carry a blade, and this, Mr Vickrum Digwa was wearing that under his clothing around his neck. However ...

A (pause)

Mr Lobbenberg: This is what he had strapped to the outside of his clothing.

B (pause)

Male: Just *keep it* (inaudible)

C (pause)

His Honour Judge Mousley: Yes, thank you. Exhibit 2, please.

D (pause)

Mr Wainwright: Your Honour, I know my learned friend's about to move onto a significant part of his opening. Might we have a short five minute break? There's a matter I need to raise with him.

E **Mr Lobbenberg:** Of course.

His Honour Judge Mousley: Yes. Yes.

F (adjournment)

G **Mr Lobbenberg:** Ladies and gentlemen, can we just briefly open our jury bundle to tab 2, please? Just to focus on the dimensions of this knife which will be important when we come to consider later on the injuries, and if you open tab 2, can I invite you please to look at picture 3 which has a scale and picture 4 where the scale is rather easier to read, and you can see the length of the blade is about 21cm. On picture 4, you've got the scale at the bottom, the ruler at the bottom, so that's the blade, not the hilt, 21cm long, and you can see the width of the blade, that it's a tapering blade, and as you can see in that picture, the blade still had blood on it.

H (pause)

A **Mr Lobbenberg:** And ...

(pause)

B **Mr Lobbenberg:** Within Sikhism, it's the considered opinion of an expert in the faith that the use of a kirpan is absolutely a last resort, but in any event the kirpan was what was round his neck. Mr Digwa was choosing to carry on the streets of Southampton a very large, 21cm bladed knife.

C Now, the actual stabbing was witnessed by no one other than Henry, who cannot tell you what happened, and Vickrum Digwa, who lied about what he had done when the police arrived.

(pause)

D **Mr Lobbenberg:** Gurpreet Digwa was not there, and we can say that with confidence by looking at our page 10.

(pause)

E

F **Mr Lobbenberg:** Remember we were talking about timings and focusing on the time of the video? So we're all back, if we go back to page 9, the video is 23.19.16. So that's when the altercation, we know, kicks off. 23.19.16. Now, Gurpreet doesn't leave the red car, we're now on page 10, until 23.21.15.

(pause)

G **Mr Lobbenberg:** And at that time, the phone is still in that area north of Belmont.

(pause)

H **Mr Lobbenberg:** So we can, we suggest Gurpreet Digwa was not present at that initial altercation, which may become important when you come to consider what Gurpreet Digwa tells the police on a 999 call. What is the source of his information? Now can we go over the page, please?

A (pause)

Mr Lobbenberg: A number of things happen.

B (pause)

Mr Lobbenberg: Firstly, at 23.22.41, there's a mobile number, Gurpreet's mobile number makes a call to a mobile number belonging to his dad, Moga Singh, who was at the home address in, round the corner. Then, at 23.22.58, and that doesn't appear on this sheet, but at 23.22.58, Vickrum makes a short video which shows Henry climbing. What Henry does is he climbs onto a large bin area, climbs over a fence, and onto a car on the other side of the fence. That may be something you want to think about. Why? Why is Henry climbing? Who is being the aggressor? Who is seeking, perhaps, to escape?

D (pause)

Mr Lobbenberg: Equally significant, whilst there were no witnesses, there was blood. There was a trail of blood, and we can see that. If you look at your jury bundle, we're going to look at a sketch of it and then later in the evidence we're going to look at the actual bloodstains on a presentation. This is just a sketch of the blood trail. *Are we* (inaudible)

Female: Spilt water.

Mr Lobbenberg: We are, we're always spilling water in this court. If we ask nicely, there, there's always big piles of tissues.

His Honour Judge Mousley: Don't worry, we'll just, we'll --

Mr Lobbenberg: We, we --

His Honour Judge Mousley: We'll just get you some help, don't worry.

Female: Thank you.

Mr Lobbenberg: At least it's not on a laptop which is what I regularly do.

A
(pause)

(counsel confer)

B
(pause)

Mr Lobbenberg: Are we all set? Nearly.

C
(pause)

(counsel confer)

D
(pause)

Mr Lobbenberg: Right. Sorry, can we just look at the bloods, please? It's in the jury bundle, tab 4, and I'd just like to introduce this to you so you understand it when we come to look at it on the telly later. This works in exactly the same way. Do you see the numbers running across? These are all bloodstains. So we know, because what, you're about to look at this video of the climbing, that he's bleeding before he starts to climb because there's blood at one and two, and as he's climbing, he's leaving a trail. Do you see the, all the other numbers? So there's a trail of blood that tracks his progress before he climbs and as he's climbing. So it means he has already been stabbed by the time he is climbing.

The deed has already been done, and what happens after that, and we see it here, four, Gurpreet, Gurpreet Digwa starts makes a video which has been recovered from his phone, lasts about five minutes and we're going to watch it later, we're not going to watch it now, and associated with the phone call, we see the phone call at three, the call, that is not, because he's, didn't have his location data turned on, that symbol, see that black triangle with, it means he's using that phone mast to make that call on page 11.

H
(pause)

A

Mr Lobbenberg: Let's go to page 11 now. So page 11, we have a video at four, we have our location data at one and two, a call at three that uses that phone mast but we can't, all we can say is that phone mast was what the mobile connected with. We can't deduce exact location, unlike with Henry's phone where we can again, we're tracking where that phone is, but by that stage, Henry hasn't got the phone. That phone is with Vickrum Digwa, we suggest.

B

(pause)

Mr Lobbenberg: The phone, the video, we see an extract of it, a still, at our, in our box four, and you can see the knife is still there on Vickrum Digwa's chest.

C

(pause)

Mr Lobbenberg: Now, I'd like us to have a look and a listen please to the short climbing video. Can we please put that up?

D

(pause)

Mr Lobbenberg: With sound.

E

(pause)

(beginning of recording playback)

F

Male: (inaudible) bruv.

Male: (inaudible)

G

Male: Yeah, *I've got* his shoes and everything, bruv.

(end of recording playback)

H

(pause)

Mr Lobbenberg: Can we just see it again, please?

A (beginning of recording playback)

Male: (inaudible) bruv.

B **Male:** (inaudible)

Male: Yeah, *I've got* his shoes and everything, bruv.

(end of recording playback)
C

Mr Lobbenberg:

“I’ve got his shoes and everything, bruv.”

D When Henry was found and examined by the paramedics, he was down a shoe. So he has lost a shoe and is climbing without one of his shoes, leaving that trail of blood. Can we go over the page, please?

E (pause)

Mr Lobbenberg: The significant thing here, there’s the, the climbing video, we see, is the first, is item two on this page. We’ve just seen that. But significantly, we start to see people leaving ■ St Denys Road, running towards Belmont Road, and five second, eight seconds later, a second person leaves ■ St Denys Road and heads in the direction of Belmont Road. Now, the Crown say the first person to leave St Denys Road is Moga Singh who had been called by Gurpreet earlier, that call that we just looked at, and the second person to leave is Kiran Kaur.

G (pause)

H **Mr Lobbenberg:** And they both go to the scene. Can we go to page 13, please?

(pause)

A

Mr Lobbenberg: At 23.40, Gurpreet Digwa's mobile gets a six second call from Moga Singh's phone. Ten seconds later, the mobile attributed to Gurpreet Digwa calls 999, and again, we can see which mast it goes through. So if we look at the calls, number two is the incoming voice call from Moga, and the second call, box three, is a 999 call from Gurpreet. Now, the position is ...

B

(pause)

C

Mr Lobbenberg: Whilst the 999 call was being made, there was also a video being taken at the scene. Not going to take you to it now, but you can, we've also got a full transcript of the 999 call, and you'll be able to listen to it, and on the 999 call, both Gurpreet and Vickrum Digwa speak to the police, and what is significant is Gurpreet starts off by saying:

"Some fucker has attacked my brother."

D

But you know that Gurpreet wasn't even present at the start of this. He tells the police and describes somebody filming his brother, and you know that he couldn't be present for that because at that time he was still in the red car. He asserts it was racist and that the attacker had taken his brother's turban off. Again, was that something he had seen or could have seen? And you might want to think about who was giving Gurpreet that information?

E

Vickrum gets onto the operator. He says the man barged into him. He said the man was drunk. Well, you will know from the toxicology that Henry Nowak had less than the limit to drive a car in his system. He does tell them about he started recording him saying:

F

"Who do you, what do you think you are, bad man?"

G

He then said he grabbed the phone, the man punched him, and he then grabbed him round the head and he called him a Paki. He at no stage mentions a knife or the use of it to the call handler. Gurpreet goes on to tell the operator *that* Henry, who is bleeding from the mouth, *and* was injured having fallen from the fence he was climbing.

H

The Prosecution's case is quite plain. The account by Vickrum Digwa is dishonest. Vickrum knew, knew he had stabbed Henry Nowak multiple times. He knew that the reason he was bleeding on his cheek was because he had slashed his face with a knife. He knew he had

A

injured him. Whatever he did, he chose not to correct his brother. The other thing he chose not to do was call an ambulance, despite stabbing him repeatedly, including to the rear of his legs. He didn't seek help for the man he'd injured with his sizeable knife. Instead, he accused him of being a racist and being drunk.

B

(pause)

Mr Lobbenberg: These are all matters that you will have to make decisions about. Can we go over the page, please?

C

(pause)

D

Mr Lobbenberg: *Right*, here we see the knife being removed from Vickrum Digwa. Do you remember that video that was being shot by Gurpreet? We pick up audio on it and that audio is important, but let's just follow the boxes through so we know where everybody is rather than jump to the main event. We see box one and two, device location. So now we're at the 68 and 70 box. Three is the CCTV, two further people leave the address at ■■■ St Denys's [sic] Road that we suggest are further family members coming out, and at four the video recording picks up the following exchange, and can I say, as I said when I opened the nutshell, there is no dispute with what was said. There is no dispute that this knife was passed to Kiran Kaur by Vickrum at this stage, and this was in, largely in Punjabi and has been translated:

E

F

"Mum, come take it away. *Ma*, shastar, [shastar is another word for the knife, and] take this [he says]."

G

And thereafter when we see footage of Vickrum Digwa, he no longer has the large knife on his front, and curiously what happens shortly thereafter, Mrs Kaur goes back to the home address, and can we have that up, please?

H

Female: Going back?

Mr Lobbenberg: No, we'll have going, go, go, going and coming back, please. So let's have a look at both of those if we can. Are we good to go? Thank you. First we're going to see her leave the address, and when she leaves we've got a white marker on *there*?

Female: The second *one*.

A **Mr Lobbenberg:** She's the second white marker to leave the premises.

(beginning of recording playback – no audible speech)

B (background noise)

Mr Lobbenberg (over recording playback): One of the screens is, the first one is Mota [sic], and do you see the second one? That's her. That one screen is flickering, it's going to need to get fixed if it's possible over one of the adjournments.

C

HHJ Mousley (over recording playback): Certainly.

D **Mr Lobbenberg (over recording playback):** It's only showing black and white and it's flickering continuously.

HHJ Mousley (over recording playback): All right, thank you.

E **Mr Lobbenberg (over recording playback):** But we can probably muddle through I think without, down a screen.

(end of recording playback)

F **Mr Lobbenberg:** And this is the, we are, can we show the return now, please?

Female: (inaudible)

G **Mr Lobbenberg:** Sorry, we're having technical issues.

Male: (inaudible) this *side*.

H **Male:** It's 1 o'clock.

Mr Lobbenberg: *Oh, we, yeah, have we reached, well, we've, why don't we just have a look at the coming home, and then we'll go and get a sandwich.*

A

(beginning of recording playback – no audible speech)

(background noise)

B

Mr Lobbenberg (over recording playback): Do you see the white dot moving along the road? That's her coming back to the house.

C

(background noise)

(pause)

D

Mr Lobbenberg (over recording playback): And then going back to the scene. So she goes back to the house, then goes off back.

(end of recording playback)

E

Mr Lobbenberg: Just before we break, can we just look at 17, jury bundle tab 17 to demonstrate the difference with the knife?

(pause)

F

Mr Lobbenberg: In the top picture in jury bundle tab 17, you can see Vickrum Digwa has the knife. That's on the video footage on Gurpreet Digwa's advice [sic] at 11.24pm. The bottom picture is when the police have attended at 22.37.49 and you can see --

G

Mr Watson: 23.

H

Mr Lobbenberg: No knife. The knife has gone. You might want to think why. Why has that knife left the scene? And just to complete it, and then we'll stop for lunch, if you go to tab 2 of the jury bundle and go to page 13 *and* 14.

(pause)

A **Mr Lobbenberg:** Tab 2, 13 and 14, are we there?

Female: No.

B **Mr Lobbenberg:** No, not in the, my fault, jury bundle not ...

Mr Wainwright: Storyboard.

Mr Watson: Storyboard.

C **Mr Lobbenberg:** Not storyboard.

His Honour Judge Mousley: In the white file --

D **Mr Lobbenberg:** White --

His Honour Judge Mousley: Members of the jury.

E **Mr Lobbenberg:** File, ladies and gentlemen.

His Honour Judge Mousley: Tab 2.

F **Mr Lobbenberg:** White file, tab 2, page 13 and 14 in that. Sorry, it does get a bit confusing here.

(pause)

G **Mr Lobbenberg:** Tab 2, page 13, 14. *Are we all*, you nearly there?

(pause)

H **Mr Lobbenberg:** Thank you. Ladies and gentlemen, this is where the knife was found in the house, amongst that pile.

(pause)

A **Mr Lobbenberg:** So would that be a convenient moment, Your Honour?

His Honour Judge Mousley: Yes, thank you very much.

B (luncheon adjournment)

Mr Lobbenberg: Can we please go to page 15 of the storyboard?

C (pause)

D **Mr Lobbenberg:** There we go. If we look at our top box, a members of the public called 999 to report a massive commotion on Belmont Road stating someone had been stabbed, and what was going on in Belmont Road had attracted the attention of a number of the neighbours, and you're going to have read to you a number of them and hear from one of them live. In particular, [Witness 1], who lived across the road, he heard threats to Henry. He heard someone say:

E "You're not getting away, big man, and I'm going to smash you [or] I'm going to slash you."

He recalls hearing someone say:

F "I've been stabbed"

and at that point he called the police. He recalled hearing someone saying:

G "I'm going to die"

and another voice saying:

H "You're fine."

He watched and he saw the police arrive. Similar words were heard [Witness 2] and other people in the neighbourhood, so he hears Henry saying:

A

“I’ve been stabbed”

and he hears him saying:

B

“I’m going to die”

both of which were completely true.

C

So in the meantime as we look at our page 15, what was ongoing? The phone, which as you know, Henry’s phone, the orange dot, is no longer in Henry’s possession, it’s in Vickrum’s possession, and *it is* close by in that area in Belmont Road where Henry has climbed over the fence, and as we look, can we go over the page now, please?

D

(pause)

E

Mr Lobbenberg: Gurpreet, on this, starts to take a video. Last over four minutes, we’re not going to see it now. You will see it when you are, when we hear the evidence, and what happens is that Henry is slumped against a wall of the house, and he keeps slumping to the ground and being sat up by someone. We suggest that the person sitting him up is Mota Singh.

F

Mr King: Moga.

Mr Lobbenberg: Moga Singh. Vickrum Digwa’s father, and again you can fix the location of the phone is in the same spot in [REDACTED]

G

(pause)

Mr Lobbenberg: Can we just go over the page, please?

H

(pause)

A **Mr Lobbenberg:** We've already looked at this. This shows the return to the house of Kiran Kaur. We've already seen that video. We looked at her going and coming back, but this is actually where in time she comes back and you can see the orange dot has not moved, still roughly in the same location. Since we've looked at that video, we can turn over the page. Not going to show that to you again.

B Now what happens is things move on. The police arrive. They arrive at 23.37 and on scene are [Police Constable 1] , [*Police Constable 2*] , [Police constable 3] and [Police Constable 4] ...

C (pause)

D **Mr Lobbenberg:** And [Police Constable 5]. The Officers are all equipped with technology. Once upon a time, they would have made a record in a notebook of what happened, been called to give evidence and explain it all to you. Now, everything is captured. It's captured on body worn video technology. So we have body worn video of what they saw, what they heard, which you will be looking at.

E Can I reassure you that for this body worn video footage, we have pixelated out Henry Nowak's face so you don't, it's not pixelated out on the others, some of the other videos, but you do not have to look at it, and we have also stopped it before any medical treatment such as CPR starts to happen, so you're not going to have to look at a young man dying on screen, all right?

F So the significance of the arrival *of the* police is this. Firstly, the body worn shows, from that still that we've already looked at, that Vickrum Digwa no longer has his large knife. You will see, and can I also add, all the body worn footage has been transcribed, so when you look at it you can also follow transcripts which we've got in the jury bundle for you to read, so you've got it in print and you've got it visually. Not going to take you to it now. That we will wade through when we call the evidence, but there, there's a substantial amount of video material for you to look at, so whilst this, you might think this is really fat, this bundle, lots and lots of it are transcripts of what you're going to be seeing, so it's just to make your job easier. You don't have to remember what you've seen on screen because it's all been transcribed and agreed, and as far as possible, material that's in Punjabi has been translated.

G

H

A So, the important thing is at the scene Vickrum Digwa complains to [Police Constable 1] that he's got an injury to his eye, and he maintains that he has been the victim of a drunken, racist attack. He does not point out the injuries suffered by Henry. He gives [Police Constable 5] a similar account. He tells the police he called an ambulance. He hasn't.

(pause)

B **Mr Lobbenberg:** He was asked how Henry, when the police find the wound, how he got the wound, and he doesn't answer, and throughout this process, Henry is saying:

C "I have been stabbed."

D Henry was handcuffed by the police. At that stage, the police had been called to a racist attack on the 999 call by Gurpreet, and at the scene there was Moga Singh, Gurpreet, and Vickrum Digwa. All saying Vickrum had been the victim of a racist attack. The reality is in fact very different.

E Henry complained that he couldn't breathe. He then became silent on the ground and convulsed, and at that, the police summoned an ambulance and commenced CPR, and it's when they commenced CPR the police found a stab wound to Henry's chest. Vickrum Digwa persisted in denying that he'd stabbed Henry. He persisted in his account that Henry had perpetrated a drunken, racist attack.

F (pause)

G **Mr Lobbenberg:** And over the page at 19, Vickrum Digwa was arrested for attempted murder, Kiran Kaur was arrested, Moga Singh was arrested, and Gurpreet Digwa was arrested by police.

(pause)

H **Mr Lobbenberg:** Now, if we put that to one side, we're going to need our jury bundle.

(pause)

Mr Lobbenberg: Let's, as I told you in the nutshell, what then happened is the paramedics came and the paramedics called the on call emergency doctor in the ambulance, flying ambulance, the helicopter. *The*, and Dr Sherwy flew in, but there was nothing that could be done to save Henry, and life was *destared* [sic] extinct at 00.37, and he had died on the street where he had been stabbed just walking home from a night out when he was under the legal limit to drive.

Well, the Defendants were taken to the police station. Vickrum Digwa answered no comment and then he made a prepared statement, as is his right. In his prepared statement, he alleged that Henry Nowak had subjected him to a drunken racist assault. He accused him of knocking his turban off and grabbing him by the hair, and he said, with his hair in his eyes, he stabbed out twice with his kirpan but acted in self defence. You may need to think about that account very carefully. At tab 14, you have the statement.

(counsel confer)

Mr King: 17.

Mr Lobbenberg: But can you turn up tab 17 again? We looked at this earlier from a different perspective. Do you see in tab 4, 17 the top picture which is taken very shortly after the climbing incident? Look, you'll be able to see it on the moving footage. Look at his hair. It is done up in a tight bun behind his head, shortly after Henry's gone over the fence. The bottom picture is taken when the police arrive and he's giving the account, and look at *Gupta's* [sic] hair. It's down. You may be entitled to say why has he put his hair down for the arrival of the police? What does that tell you about what he's telling them?

(pause)

Mr Lobbenberg: Kiran Kaur made two prepared statements. She said she was not involved in a murder and did not assist the offender.

(pause)

Mr Lobbenberg: The knife that was seen on Vickrum Digwa was found inside the family home in the pictures we've already looked at, at page [sic] 2, 13 to 14, big pile of things, very

A particular things. You're going to hear about forensics. I'll just outline what they are. Most of the forensics are not going to be called live, they'll be in what's called agreed facts. There's no dispute about this.

B The knife has blood on it. The blood was a billion times more likely to originate from Henry than from anyone else. That's how DNA evidence is expressed. It's always expressed as a probability. This is extremely strong support for the proposition that it's Henry's blood on the knife. Vickrum Digwa's DNA was found on the knife. Hair was found on the knife and it was a billion times more likely to come from Vickrum Digwa than from anyone else. Fatty tissue was found on the blade of knife, one billion times more likely to have come from Henry C Nowak. Extremely strong support that that knife was used to injure Henry, the knife you've looked at this morning.

D The sheath was analysed, DNA profiles of Kiran Kaur is recovered from the item. Her profile was also on the hilt of the knife. Vickrum Digwa's puffer jacket was found to be blood stained. It was Henry's blood upon Vickrum Digwa's jacket.

(pause)

E **Mr Lobbenberg:** We're now going to think about the pathology. Once upon a time, when juries had to do murders, at this stage I would show you a little book of photographs from the post mortem, which were horrible. You are not going to have to look at anything like that. It is has all been rendered into computerised diagrams.

F So what we're going to look at are computerised diagrams of Henry's body and the injuries the Pathologist found on it. This, we say, is a very important consideration in this case because you will need to consider how and why these injuries were caused on him, on him and how? G So can we please go to tab 3 of the jury bundle, with that warning?

(pause)

H **Mr Lobbenberg:** We've also got this injury in electronic format to show on the screen, *but* won't have it shown to you now. Tomorrow we're going to be hearing from the Pathologist so you'll be able to follow it both on paper and it'll be on screen in front of you as well. But before, let's get a handle on it so we know what this is about, all right?

A So first, first page is simply the coverall and on the second page you can see the numbering, it's in red on the bottom right hand corner, slightly cut off, very unhelpful. That wound on page 2 in the torso, that is the fatal wound. Now, the first number, 2.4cm, is the width of the wound at the top of the skin. That means that something that wide has gone into him, and

B when the Pathologist comes, we'll compare the wound with the knife that you've seen, and the estimated wound depth, so that's how, what is what we call the wound track, how far the wound has gone into the body, is 8cm. Now of course that's how far it's gone into a body, but it's also gone through all his clothing and we're talking about December, and this was a man wearing, young man wearing a shirt and a jumper, so it's gone through that and then it's gone

C 8cm into his body. Can you go over the page, please?

(pause)

D **Mr Lobbenberg:** This gives you the wound track. So it goes into the body, past the left second rib in our middle picture, and it goes into the left lung.

(pause)

E **Mr Lobbenberg:** And what happened is 1,200ml of liquid blood and clotted blood had collected within the chest cavity. That's what killed Henry. Put simply, he drowned in his own blood, with his lung having been cut by the knife going 8cm into him. Can we go over the page, please?

F (pause)

G **Mr Lobbenberg:** These are two wounds on his upper right leg, and you can see where they are. They are towards the rear aspect of his body. They're, one, the, the top wound, the highest on the buttock, we see the size of it. Again, it's 2.5cm, so it's consistent in size with the wound on the chest. That's the gap at the top, and it goes in 5cm, so there's a wound on the top, just below his buttock, that goes in 5cm. The lower wound is 1.8 and goes in 3.5cm. So, so far three wounds. Over the page, please.

H This is a wound in effectively the pubic area on the groin, and it's a puncture mark, it's very small but it's been caused, the Pathologist says, by a knife. Fourth sizable wound in the groin.

A

Over the page, you will see that all the wound markers are coloured red, the fatal wound is coloured green, and other injuries found on the body are coloured black. Because what happens when a pathologist examines someone is they mark up every single injury, every single blemish, anything they find on somebody, and they can then use that information to help you, what you can learn from that. So there's a small mark on the top of the head, *but* over the page do you see there's another red mark on the side of, by the mouth and down? That is an, an incised wound, the red mark, and the Pathologist says that is caused by cutting the flesh with the knife, and we see it better overleaf ...

B

(pause)

C

Mr Lobbenberg: This incised wound. So, let's just complete the body diagram. Let's look, can you look at the hands over the page? We've got the right hands, forward and, front and back view of hands, and the left hand overleaf. There's no cuts on those hands. So, if you think about it, if somebody is fighting you with a knife and you put your hands up, you'd got what are called defensive wounds which are cuts. His hands don't have any cuts upon him. There are no defensive wounds caused by a knife to the hand which may be something you need to think about.

D

E

(pause)

Mr Lobbenberg: Going through, we then have injuries on the leg, but these again are non attributable to a knife. Can we go, last page is effectively an overview. It's got a blue front. Blue body map with lots of dots going round it. Have, have we all got there? The blue map of the body, *of* this section. Everybody there? What effectively this, the pathology means is this. As you look at Henry, there are five sites where a knife has been used on him.

F

G

A knife has been used to strike at his face. We don't know what order this happened, but we do know that these are all different areas of injury. So there's been a strike to his face, there's been the fatal wound to his chest, there's been a wound to his groin, so that is three strikes to the front orientation of this young man with no defensive injuries to his hands, and then when we look at the back orientation, at the back of his leg, we have two more injuries on different areas of his body. So a total of five knife strikes ...

H

(pause)

A **Mr Lobbenberg:** Has been used on the street that day.

(pause)

B **Mr Lobbenberg:** The fatal wound is the chest. You're entitled to ask yourselves a number of questions. Why multiple target areas? Why injuries to the rear aspect? Why the depth? Why no defensive injuries? What do these features tell you about what has happened? These are all matters that you will have to think about. I don't open the pathology lightly to you because I know it's unpleasant to grapple with, but in this case it's absolutely critical that you think
C about how this young man ended up with that many injuries caused by a knife on the street.

(pause)

D **Mr Lobbenberg:** Further, the clothing that Henry was wearing carried corresponding damage to the knife wounds, and your, the clothing has been examined by a scientist and for each of the injuries, you can see a cut through the clothing that is associated with the injury that the Pathologist say are knife wounds on the body of Henry, so the clothing bears the marks that confirm that a knife has been used on him in multiple places.

E
(pause)

F **Mr Lobbenberg:** And of course Henry's blood was examined by a toxicologist and the concentration in alcohol was 65mg in blood, which is, the drink drive limit, for your, is 80, so he's at 65 with the drink drive limit is 80 in blood, to give you an idea of how much alcohol he had on board.

G
(pause)

H **Mr Lobbenberg:** The last piece of evidence, on 5 December, the Defendant was covertly recorded talking to his brother in the rear of a police van, and the transcript was translated from Punjabi, and in this conversation, Vickrum Digwa admitted stabbing Henry three times, and in that transcript there was no discussion about self defence, there was no mention of racism, and it's also plain from that conversation that his brother Gurpreet wasn't present at

the time of the assault, so you need to consider what that telephone call to the police, the 999 call, tells you.

A

So now we come to the issues. The issues in this case are these. These aren't necessarily going to be the end of all the issues. Barristers always think of endless things to talk about, but this is what I suggest. Vickrum Digwa raises the defence of self defence. It's his case that any use of a knife by him was in lawful self defence. He doesn't recall exactly how the fatal wound came to be inflicted upon Henry. Kiran Kaur takes no issue that she took the knife from her son and took the knife home. Her issue is she says she's committed no offence.

B

So, what are the things you're going to need to think about when you come to make your decision at the end of the case? What are the things you might want to think about as you listen to the evidence? I suggest these may assist you. Who was the aggressor when they first encountered each other? Who was armed throughout and who was not? Who made efforts to escape and to get away, and who did not? How and why was this weapon used? The number of times the weapon was used on Henry, the location of the strikes on Henry, including that he seems to have been struck to the rear of him. What people chose to stay at the scene, whether they were being honest or not, and why anyone might lie? Why Vickrum Digwa might deny stabbing Henry? Why Vickrum Digwa didn't call for an ambulance to help Henry? Why Vickrum Digwa chose to get rid of the knife? Why did Kiran Kaur take the knife, and why would she then leave the scene and hide it? These are all questions that you will need to decide as you come to listen to this case as we examine a very short period of time over the next three weeks.

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The evidence that I'm going to call before you, a lot of it is agreed between the parties. Much of it is on video. I apologise, you'll be looking at the screen a lot. But you have transcripts of the conversations, and there are no disputes between the parties as to what is recorded or what has been translated. There will be some evidence called to you live. You'll be hearing from the Pathologist, from Mr Baldock, from various other people and you'll be hearing at length from the Officer in the Case as she goes through the electronic presentation of the evidence which will show you all the video footage.

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I will be addressing you at the end of the case in a very different speech, but for now that is my introduction to this case.

His Honour Judge Mousley: Thank you, Mr Lobbenberg.

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The Transcription Agency hereby certifies that the above is an
accurate and complete recording of the proceedings or part thereof.

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