IN THE MATTER OF THE INQUIRIES ACT 2005

AND IN THE MATTER OF THE INQUIRY RULES 2006

THE ANTHONY GRAINGER INQUIRY

RULING RE: APPLICATIONS FOR ANONYMITY AND OTHER PROTECTIVE MEASURES

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1. Pursuant to the Inquiry's Anonymity Protocol[1] for the Disclosure and Redaction of Documents, I have received applications from the following witnesses for anonymity and / or other protective measures:

Applications made by Greater Manchester Police ("GMP)

(1) N18

(2) J18

(3) Q6

(4) A17

(5) Y19

(6) N3

(7) Q9

(8) G1

(9) G6

[1] *Inquiry Protocol: Applications for anonymity and other protective measures*, 21 September 2016.

(10) G11

(11) H9

(12) J4

(13) N7

(14) U2

(15) U9

(16) V3

(17) V8

(18) W4

(19) W9

(20) X7

(21) X9

(22) Z15

(23) Ray Evans

(24) C1

(25) C2

(26) C3

(27) C4

(28) C5

(29) C6.[2]

Applications made by the National Crime Agency ("NCA")

(30) P10

(31) P11

(32) P12

(33) P13

[2] Q3 was added to the Inquiry's witness list on 14 November 2016. GMP has not yet made an application for anonymity or other protective measures in relation to Q3. If such an application is made, a further ruling will be issued.

(34) P14

(35) P15

(36) P16

(37) P17

(38) P18

(39) P19

(40) P20

(41) P21

(42) P22

(43) P23

(44) P24

(45) P25

(46) P26

(47) P27

(48) P28

(49) P29.

2. I have before me the following material:

<u>In relation to the witnesses whom it is proposed will give evidence in open hearings, from GMP:</u>

(1) An Open Note in support of the applications, dated 26 October 2016;

(2) A Second Open Note in support of the applications, dated 9 November 2016;

(3) The Open witness statement of Chief Superintendent John O'Hare, dated 25 October 2016 (together with a Closed version, which reveals those parts of the Open statement that have been redacted before disclosure to the Core Participants);

(4) The Open witness statement of Chief Superintendent John O'Hare dated 8 November 2016;

(5) The Open witness statement of Chief Superintendent John O'Hare dated 15 November 2016;

(6) The Open and Closed witness statements of Detective Superintendent Julian Richardson, dated 24th October 2016;

(7) The Open and Closed witness statements of the applicants N18, J18, Q6, A17, Y19, N3, Q9, G1, G6, G11, H9, J4, N7, U2, U9, V3, V8, W4, W9, X7, X9, and Z15, all dated 18, 19, or 20 October 2016;

(8) Statements of the protective measures originally sought by the applicants N18, J18, Q6, A17, Y19, N3, Q9, G1, G6, G11, H0, J4, N7, U2, U9, V3, V8, W4, W9, X7, X9, and Z15, all dated 18, 19 or 20 October 2016;

(9) The Open supplemental witness statements of the applicants N18, J18, Q6, A17, Y19, N3, Q9, G1, G6, G11, H0, J4, N7, U2, U9, V3, V8, W4, W9, X7, X9, and Z15, all dated 7 November 2016; and

(10) From the applicant Ray Evans, his Open and Closed witness statements and a statement of protective measures sought, all dated 25th October 2016, along with a supplemental witness statement dated 8th November 2016.

<u>In relation to witnesses whom it is proposed will give evidence in closed hearings:</u>

<u>From GMP:</u>

(11) Closed statements of the protective measures sought by the applicants C1, C2, C3, C4, C5 and C6;

(12) Closed witness statements from each of C1, C2, C3, C4, C5 and C6 in support of their applications dated variously 26 and 27 October 2016 (and one of which is undated);

(13) A Closed Note in support of the applications; and

(14) The Closed witness statement of Detective Superintendent Julian Richardson dated 28 October 2016.

From the NCA:

(15) The Open submissions of the NCA (which are undated);

(16) An Open risk assessment (which is also undated);

(17) The Open witness statement of Christopher Farrimond, the Deputy Director for Intelligence Collection within the NCA;

(18) A Closed witness statement of P22 dated 28 October 2016 to which is annexed a Closed risk assessment prepared by P22 and dated 27 October 2016; and

(19) Closed witness statements in support of the applications, from the applicants.

From other Core Participants

(20) Email exchanges between GMP, the NCA and other Core Participants on 1, 7 and 11 November 2016 concerning clarification of the nature and extent of the protective measures sought;

(21) The written submissions lodged on behalf of Gail Hadfield-Grainger, dated 7 November 2016;

(22) The written submissions lodged on behalf of John and Marian Schofield and Stuart Grainger, dated 7 November 2016 and supplemented on 11 November 2016; and

(23) The written submissions lodged on behalf of Q9 dated 7 November 2016 (together with a small clip of additional material relied upon by him).

From Counsel to the Inquiry

(24) Their written submissions, dated 11 November 2016; and

(25) A bundle of the relevant authorities and statutory material.

3. I heard submissions from Counsel to the Inquiry, and Counsel on behalf of all Core Participants who wished to make such submissions, at a hearing listed for that purpose on 14 November 2016.

4. Section 18(1) of the *Inquiries Act 2005* creates a presumption of public access to inquiry proceedings and information:

> "Subject to any restrictions imposed by a notice or order under section 19, the chairman must take such steps as he considers reasonable to secure that members of the public (including reporters) are able—
> (a) to attend the inquiry or to see and hear a simultaneous transmission of proceedings at the inquiry;
> (b) to obtain or to view a record of evidence and documents given, produced or provided to the inquiry or inquiry panel."

5. Subject to that presumption, section 19 of the *Inquiries Act 2005* empowers the chairman of an inquiry to make a restriction order specifying only such restrictions (a) as are required by any statutory provision, enforceable EU obligation or rule of law or (b) as he considers to be conducive to the inquiry fulfilling its terms of reference or to be necessary in the public interest. In deciding whether a restriction is conducive to the inquiry fulfilling its terms of reference or is necessary in the public interest, the chairman must have regard in particular to:

(a) the extent to which any restriction on attendance, disclosure or publication might inhibit the allaying of public concern;

(b) any risk of harm or damage that could be avoided or reduced by any such restriction ("harm or damage includes ..." section 19(5));

(c) any conditions as to confidentiality subject to which a person acquired information that he is to give, or has given, to the inquiry;

(d) the extent to which not imposing any particular restriction would be likely—

(i) to cause delay or to impair the efficiency or effectiveness of the inquiry, or

(ii) otherwise to result in additional cost (whether to public funds or to witnesses or others).

The use by section 19(3)(b) of the phrase "in particular" demonstrates that the list of factors mentioned in section 19(4) is not intended to be exhaustive.

6. For present purposes, the only relevant statutory provision outside the 2005 Act itself is section 6 of the *Human Rights Act 1998*, which makes it unlawful for a public authority such as the present Inquiry to act in a manner that is incompatible with rights enjoyed under the European Convention of Human Rights. The rights likely to be engaged are those set out in articles 2 and 8 of the Convention. It follows that if the refusal of any application would involve an unjustified interference with one of those rights, the condition in section 19(3)(a) would be made out and the restriction sought would thus be "required" by a statutory provision.

7. As to restrictions required by any "rule of law", it is a matter for debate whether that expression is intended to cover the legal principles relating to public interest immunity. Section 22(2) of the 2005 Act provides as follows:

> "The rules of law under which evidence or documents are permitted or required to be withheld on grounds of public interest immunity apply in

> relation to an inquiry as they apply in relation to civil proceedings in a court in the relevant part of the United Kingdom."

As Sir Christopher Pitchford, chairman of the Undercover Policing Inquiry has pointed out[3], the immediate context in which section 22(2) appears does not relate to restriction orders, but to objections raised by recipients of notices under section 21(1) of the Act. Without deciding the point, he inclines to the view "that section 22(2) was deliberately placed in in its statutory context so as to apply to evidence and documents *withheld* from the inquiry on public interest immunity grounds and that section 19(3)(b) was intended to create a self-contained public interest test to be applied to applications for restriction orders".

8. Whether I treat the established principles of public interest immunity as a "rule of law" within the meaning of section 19(3)(a) or apply the public interest test in section 19(3)(b), it seems to me that the practical outcome is bound to be identical. For that reason, I propose to adopt the same approach as Sir Christopher Pitchford, and make decisions about restriction orders by assessing the balance of relevant public interest factors in sections 19(3)(b) and 19(4). In each case, therefore, I must determine whether the restriction sought is either "conducive to the inquiry fulfilling its terms of reference" or "necessary in the public interest". In considering what is necessary in the public interest, I must have regard not only to the factors specified in section 19(4), but also to any other relevant matters, chief among which in the context of these applications is the public interest in the effective prevention and detection of crime. Finally, I must at all times have regard to my obligation under section 17(3) to act with fairness

[3] *UCPI Ruling on Restriction Orders: Legal Principles and Approach*, 3 May 2016, at §26.

– which applies as much to those who seek anonymity as to those who oppose it – as well as to any Convention rights that are engaged.

9. By definition[4], one of the main purposes of a statutory inquiry such as this is to allay public concern about the subject matter of the inquiry, in this case the circumstances surrounding the fatal shooting by a police officer of Anthony Grainger. It follows that the need to allay such concern is a powerful public interest factor, as is the public interest in the openness of the process. The various specific means to further those ends include the conduct of hearings in open session, the encouragement of effective participation by witnesses and others, and public scrutiny and accountability of the Inquiry's proceedings, conclusions and recommendations. Although no arguments have been addressed to me regarding the rights of the media under article 10, I remind myself that the right of the press to report the proceedings of an Inquiry, a key function of which is, as I have said, to allay public concern, is an important aspect of the right to freedom of expression under article 10. Further, the principle of transparency is of particular resonance in the present Inquiry, because my terms of reference require me to investigate some matters which, by their nature, cannot be ventilated in public. Against the background, therefore, of a hearing part of which must unavoidably take place in closed session, it seems to me that I must be more than ever vigilant to maintain the maximum degree of openness at all other stages of the oral hearing.

10. The principal competing public interest factors I have to consider are the need to minimise any risk of harm to witnesses and the need to minimise any risk of damage to effective methods of detection and investigation used

[4] *Inquiries Act 2005*, section 1(1).

by law enforcement agencies. In practical terms, in the context of this ruling, the principal means of protecting against those risks are the protection, where necessary, of the true identity of present or former firearms officers and the preservation of secrecy with regard to the operational techniques of sensitive police operations.

11. The determination I am required to make involves an assessment of the harm or damage that would or might result from disclosure on the one hand, and the harm or damage that would or might result from non-disclosure on the other, and a fact-specific judgment as to where the balance between the two rests. As I see it, section 19 of the Act must be read in conjunction with section 18 and therefore against the background of the presumption of public access, to which it is clear that restriction orders are an exception. One factor to which I am specifically required to have regard is the extent to which any restriction on attendance, disclosure or publication might inhibit the allaying of public concern[5]. Another is the extent to which not making a particular restriction would be likely to cause delay or impair the efficiency or effectiveness of the Inquiry, or otherwise result in additional cost[6]. In the context of the present proceedings, a restriction order should be treated as being "necessary in the public interest" only where, having regard to all the factors set out in section 19(4) of the Act, it can be shown to be necessary in order to avoid or reduce a risk of harm or damage of the kind contemplated by section 19(5), or for the preservation of secrecy with regard to sensitive law enforcement operational methods. In practical terms, the question is whether the Inquiry can, in fulfilment of its terms of reference, get to the truth, expose wrongdoing (if any has occurred) and make appropriate recommendations for reform without disclosing the

[5] *Inquiries Act 2005*, section 19(4)(a).
[6] *Inquiries Act 2005*, section 19(4)(d).

material which I am asked to withhold. A restriction order should only be made if and solely to the extent that the answer to that question is No.

12. In my judgment, the public interest in identifying any serious wrongdoing by agents of the State and exposing it to public scrutiny and accountability must carry particular weight where, as here, it is the State itself which, on behalf of some of the very agents against whom such wrongdoing is alleged, seeks to restrict disclosure of sensitive information. That is so, not simply in order that the public may know who has been guilty of such wrongdoing, but also to ensure that unjust suspicion of the innocent can be definitively dispelled. In the well-known words of US Supreme Court Justice Louis Brandeis, "sunlight is said to be the best of disinfectants". That is not to deny that there is a legitimate distinction to be drawn between withholding information as to the identities of those alleged to be responsible for wrongdoing and withholding information as to the alleged wrongdoing itself.

13. Factors of potential importance include (i) whether any alleged risk of harm or damage is objectively verifiable, (ii) the extent, if any, to which such risk may have diminished with the passage of time, (iii) whether a sensitive policing operational technique remains in use or has been abandoned or superseded, (iv) whether an officer formerly engaged in such a technique continues to be so engaged or has retired or been transferred to other, less sensitive duties, and (v) whether the information sought to be withheld may already be in the public domain, and, if so, the extent to which confirmation of that information would or might harm the public interest. Arguments advanced in support of applications for anonymity or other protective measures will generally carry little or no weight where the same points

would apply with equal force to other witnesses who have not sought such measures.

14. I now turn to the applications by or on behalf of officers or former officers of the Tactical Firearms Unit ('TFU'). Greater Manchester Police has applied for anonymity and protective measures on behalf of all sixteen officers who participated in the arrest operation, that is to say the occupants of cars Alpha, Bravo, Charlie and Delta. Of those officers, Q9 – the 'principal officer' – is separately represented and applies for such measures in his own right. In addition, GMP applies on behalf of six other witnesses, namely N18, J18, Q6, A17, N3, Y19 and Ray Evans. While I understand Chief Superintendent O'Hare's choice of standard criteria, as explained in his statement dated 25 October 2016, I have not adopted those criteria, because to do so would in my view risk applying the wrong test. I have preferred instead to follow and apply the approach I have already outlined in this ruling.

15. GMP applies for the following protective measures in relation to the witnesses whom it is proposed should give evidence in the open hearings of the Inquiry:
    (1) Other than Q9, Q6 and Ray Evans the measures sought are: (i) anonymity (so that instead they would be known by a pseudonym or cipher within the Inquiry proceedings)[7], (ii) to give evidence from behind a screen shielding them from sight of the public (but not Mr and Mrs Schofield or Gail Hadfield-Grainer or the legal representatives of Core Participants (but *including* screening from Stuart Grainger)), (iii)

[7] They also seek an order that their home addresses should not be disclosed. Such addresses will not be disclosed in any event unless, exceptionally, the Inquiry notifies a witness of the Inquiry's intention to do so: see paragraph 2 of the Inquiry's Anonymity Protocol. The Inquiry has given no such notification to any of the applicants concerned in this Ruling.

the provision of a secure method of entry to and exit from the Inquiry hearing room and the Queen Elizabeth II Building so as to shield their identities and appearances from the public and media, and (iv) the selection of a suitably equipped court room to enable these protective measures to be carried into effect.

(2) On behalf of Q9, GMP sought the same measures set out in sub-paragraph (1) above, save that in relation to him they applied for Q9 to be screened from Mr and Mrs Schofield and Gail Hadfield-Grainger and for his voice to be modulated so that his identity could not be ascertained by that means.

(3) In relation to Q6, GMP additionally applied for his voice to be modulated when he gave evidence from behind the screen.

(4) In relation to Ray Evans, GMP applied for the measures set out in sub-paragraph (1) above, save that (i) no application for anonymity was made and (ii) an application was also made for his voice to be modulated.

16. In relation to the GMP witnesses whom it is proposed should give evidence in the closed hearings of the Inquiry, GMP applies for the same measures as set out in paragraph 15(1) above.[8]

17. The NCA applies for the following protective measures in relation to each of its witnesses:

(1) For all applicants save for Christopher Farrimond, that (i) they shall be identified within the proceedings (whether in documents disclosed for the purposes of the proceedings, during the proceedings or in the inquiry

[8] As I find below, it is curious that an application for screening should be made in relation to witnesses whom it is proposed should give evidence in the closed hearings of the Inquiry: if the witnesses give evidence in such closed hearings, then they do not need to be screened from the public.

report) by reference to a number and that no reference shall be made within the proceedings to his or her name or other identifying feature; (ii) that when called to give evidence they shall do so in closed proceedings; and (iii) that an order should be made under s11 of the Contempt of Court Act 1981 prohibiting the media from publishing the identity or image or any other identifying feature of any applicant

(2) That in relation to Chris Farrimond, the measures in sub-paragraphs (1)(ii) and (iii) should be granted.

18. Before proceeding to determine the individual applications, there are certain general aspects common to many of them that I can conveniently address at this stage. Of these, the first and most important is the impact of article 2 of the European Convention on Human Rights. The Inquiry is a public authority for the purposes of the *Human Rights Act 1998* ("the 1998 Act") By s6(1) of the 1998 Act, it is unlawful for it to act in a way which it incompatible with a Convention right. This requires me to determine objectively, whether a real and immediate risk to the applicant's life would be created or materially increased if they gave evidence without the protective measures sought. If such a real and immediate risk to life would be created or materially increased without such measures being granted, then I ought to grant them.[9] For reasons already explained[10], an order specifying such restrictions as are necessary to avoid the real and immediate risk to life will in those circumstances be mandated by section 19(3)(a) of the 2005 Act.

[9] *Re Officer L* [2007] 1 WLR 2135 at [29] (also see *Re Officer C & Ors* [2012] NICA 47).
[10] See paragraph 6 above.

19. Shortly after Mr Anthony Grainger's death on 3 March 2012, GMP received intelligence that associates of his had offered to pay the sum of £50,000 to anyone who would shoot and kill a police officer. That threat was not confined to officers involved in the operation that led to Mr Grainger's death, or even to firearms officers, but was issued against police officers in general. The threat has not been repeated, nor is it suggested that it has in fact precipitated an attack against any officer. For those reasons, I cannot say that in and by itself, more than four years on, the threat is now such as to give rise to any real or immediate risk of death to any officer. Its principal relevance is that it provides clear evidence of the local atmosphere of hostility towards the police arising out of the killing of Mr Grainger and confirms that his death has provoked a thirst for revenge among some of his former associates. Further, I cannot exclude the possibility of a risk of lesser harm to those officers who were most closely involved in the attempt to arrest Mr Grainger. Neither does it follow from my finding that the threat does not of itself give rise to a real and immediate risk of death, that no such risk can be said to exist. Indeed, there are other factors in the case which convince me that such a risk undoubtedly does arise at the hands of Mr Grainger's associates.

20. Of those, one of the closest is his brother, Stuart Grainger. Stuart Grainger is a core participant in this Inquiry. He has graphically demonstrated his own capacity to kill, he has the most powerful of motives for doing so, and he has criminal associates who are equally prepared to resort to lethal violence and who have access to the necessary means, including firearms and explosives. He is currently serving a sentence of life imprisonment for murder following his use of a MAC 10 automatic weapon to kill a rival whom he had previously unsuccessfully attacked with a machete. I have been informed that, following Mr Stuart Grainger's conviction for murder,

witnesses were attacked by means of explosive devices. Plainly, those attacks could not have been physically carried out by Stuart Grainger himself, for he was by then in custody. Equally, I am not aware of any direct evidence to establish that the attacks took place on his express orders. At the very least, however, they demonstrate the existence of associates of his who are ready, willing and able to carry out potentially lethal revenge attacks on others even while Stuart Grainger himself remains behind bars. It would thus be wholly unrealistic to assume that Mr Grainger's present incarceration disables him from orchestrating such an attack on Q9, should he choose to do so.

21. For all those reasons, I regard Stuart Grainger as an exceptionally dangerous and ruthless criminal who is personally capable of the most extreme violence and who has equally violent associates through whom, indirectly, he may still enjoy access to lethal weapons. He has an even more powerful motive to exact revenge for the death of his brother than he had for avenging the slight he had endured at the hands of the man he murdered. The obvious target for any such vendetta is the officer who fired the fatal shot, namely Q9. I remind myself that the relevant threshold is a high one. I have to be satisfied that any risk of death is "real and immediate"[11]. In the case of Q9, I have no doubt that it is. Viewed objectively, I consider that Stuart Grainger presents an enduring mortal threat to that particular officer.

22. I cannot, however, say the same of any other individual in this case. That is not to say that all other witnesses are altogether free from any risk of harm. It is entirely understandable that some of them – particularly those who took part in the attempt to arrest Mr Grainger and the other occupants

[11] *Re Officer L* [2007] 1 WLR 2135 at [29].

of the Audi car – will have some degree of subjective fear and apprehension. But while I am satisfied that Stuart Grainger poses a real and immediate risk of death to Q9, as the officer who killed his brother, I am not satisfied that the same risk extends to other officers who were involved in the events of 3 March 2012.

23. At the same time, some of those officers, particularly those who participated more closely in the arrest operation, may have understandable subjective fears. In this regard in *Re Officer L* [[2007] 1 WLR 2135 the House of Lords, aside from considering the application of article 2, also addressed the position of those applications where, although the evidence fell short of establishing a real and immediate risk to the life of the applicant, he or she nonetheless had subjective fears that harm would result without an order for anonymity. The House of Lords agreed that this was a factor for consideration, even if the applicant's fears were not objectively sound. This would particularly be the case if it could be shown that their fears had an adverse impact on their health.[12] What is required is an assessment of the public interest in the openness of this Inquiry, the nature, content and importance of the evidence that each applicant has to give, the contribution if any that identification of the witness would make to public confidence in the Inquiry, and the nature of the personal interests of the witness, including the actual or perceived risk of harm to that witness. While I have taken the view that the threat by associates of Mr Anthony Grainger to pay £50,000 to anyone who would shoot and kill a police officer does not of itself give rise to any real or immediate risk of death, it does not follow that it can simply be ignored as having no relevance to the

[12] On the common-law test see also *Re A and others' Application for Judicial Review (Nelson Witnesses)* [2009] NICA 6.

present applications. Accordingly, it would be unfair to say that the fears of officers are wholly without foundation in this particular case.

24. The fears that have been expressed by and on behalf of firearms officers naturally extend to their loved ones. To that extent, these applications therefore also engage the article 8 rights of the officers and their families. As a matter of common sense, the closer an individual officer is to the events which led to Mr Grainger's death, the greater any risk to that officer is likely to be. While there may not be an objectively sound basis for such fears, the combination of the history I have outlined and the concomitant atmosphere of hostility towards the police is in my view sufficient to necessitate the protection of anonymity for those officers who were closely involved in the attempt to arrest Mr Grainger, reinforced in some cases by additional protective measures.

25. I now turn to the issue of 'operational effectiveness'. According to Chief Superintendent O'Hare, all sixteen officers in the four vehicles (Alpha, Bravo, Charley, Delta) deployed in the arrest phase were officers of the Tactical Firearms Unit ('TFU'). They are members of the Operations Team, most of them trained and qualified in counter-terrorism and other specialist firearms techniques ('CTSFOs'). Suitable officers for such roles are difficult to recruit and expensive to train. Because they are often required to work covertly, it is said that any loss of anonymity, with widespread media attention, would place them at risk of being recognised during covert operations, giving rise to a risk of 'historical' retribution. In his statement dated 25 October 2016, Chief Superintendent O'Hare puts it starkly: "Any loss of anonymity for the officers undertaking such duties will inevitably result in their removal from their duties within the

Operations Team." That in turn would mean that other officers would have to be recruited and trained as their replacements.

26. If those assertions are justified, they may amount to a significant argument in favour of anonymity and, possibly, screens. They are not, however particularised or qualified in any way whatsoever, nor are they substantiated by reference to any previous examples. For those reasons, I have not been prepared to accept them at face value. I am aware that similar arguments were advanced at the inquest into the death of Jordan Begley, who died in 2013 following his arrest by officers of GMP in the course of which a Taser device had been used. In those proceedings, HM Senior Coroner for Manchester refused applications for anonymity and screens on behalf of four TFU officers, two of whom were said to work within GMP's Counter Terrorism and Special Firearms unit. GMP did not seek to challenge that decision. I have been informed that, although the officers concerned were subsequently suspended, that was for reasons unconnected with the refusal of the anonymity applications.

27. I accept that there are valid distinctions to be drawn between the Begley applications and those advanced in the present case. In the first place, the Coroner was considering the applications in a different legal context, namely the *Coroners (Inquests) Rules 2013*. There was no suggestion of any connection between the death of Mr Begley and organised crime groups. Further, although all four officers belonged to the TFU and had varying degrees of covert capability, they were not members of the Specialist Operations Team. As I understand the position, although trained and qualified to participate in covert operations, their duties also required them to patrol openly in armed response vehicles. From that I infer that the prospect of members of the public seeing them in uniform did not, in the

eyes of GMP, automatically disqualify those particular officers from participating in other, covert operations.

28. By contrast, the additional statement of Chief Superintendent O'Hare dated 15 November 2016 indicates that all but three of the firearms officers involved in the arrest phase of Operation Shire are current members of the Specialist Operations Team ('SOT'). The SOT's main role is to combat the activities of organised crime groups and conduct operations against terrorist organisations. Its officers wear plain clothes. When not engaged on specific operations or training courses, members of the team may perform the duties of a Firearms Support Team, again in plain clothes, and using unliveried vehicles. In very rare circumstances, such a team may be required to work in uniform, but on such occasions their "identity exposure" is kept to "a bare minimum". In his additional statement, it is noteworthy that Chief Superintendent O'Hare gives a more nuanced explanation of the likely consequences of a loss of anonymity than he had originally provided:

> "...any Ops Team member who does not receive anonymity and protective measures, including screening, and who is identified publicly, would need to undergo a risk assessment. Where it is believed that their ability to continue as a covert Ops Team officer has been compromised, then the officer will inevitably need to be relieved of their covert TFU and CTSFO roles for their own safety and that of their colleagues."

It is his assessment that if the identities of firearms officers in respect of whom I am considering applications for anonymity and other protective measures were to be made public, any risk assessment would be "very likely to conclude that their ability to continue as an Ops Team officer has been compromised and that they would be relieved of their covert TFU and CTSFO roles".

29. I am prepared to accept that to reveal the identity of a serving SOT officer would be likely to compromise his effectiveness in that role. There is, of course, a strong public interest in maintaining anonymity in such cases because of the high level of the current terrorist threat and the consequent need to preserve the utility of all front-line assets required to defeat that threat, particularly where (as in the case of CTSFOs) recruitment is difficult and training both time-consuming and expensive. At the same time, it does not seem to me that the need to preserve such anonymity by itself automatically necessitates or justifies the use of screens. Anonymity, by which I mean the identification of officers by reference to approved pseudonyms, should be sufficient to avoid the risk of officers' identities being "made public", because it will prevent any person so inclined from researching their career histories and personal and family lives. The only additional risk arising from a refusal of screens would be the chance, which I judge to be slight, that a person in the public gallery might, having seen a witness giving evidence, subsequently recognise him while the witness was engaged on covert duties.

30. The additional suggestion that an observer in the public gallery might be able to provide a description to targets of covert operations is not one I can dismiss out of hand, any more than I have been able to dismiss it in the context of Q9's article 2 rights. At the same time, precautionary measures which may properly be regarded as proportionate against the background of a real and immediate risk of death will not necessarily be so regarded when weighing up the balance of the public interest in relation to the possible compromise of a firearms officer's future operational utility. In the latter case, the public interest in transparency and effective participation by core participants is not materially prejudiced by the use of approved pseudonyms, but would in my judgment be adversely affected by screening

the witnesses from the public or core participants. In any case, any residual risk can be adequately addressed by other means which would not produce as great an impact on the efficiency or effectiveness of the Inquiry and would be less likely to inhibit the allaying of public concern. For example, arrangements can be put in place to convey witnesses to and from the Inquiry hearing securely, so that they cannot be photographed, and the Inquiry can also prohibit the making of sketches and require mobile telephones, cameras and other devices capable of producing images to be surrendered by those entering the hearing room while the relevant witnesses are giving their evidence.

31. For those reasons, the view I take is that the only measure justified on purely operational grounds to protect the anonymity of any of the firearms officers to whom the present applications relate is the use of ciphers (together with the practical measures that I have identified in paragraph 30 above). Even so, not all the relevant witnesses are still serving in the SOT. For various reasons, some have left, albeit with, in two cases, an expressed desire to return to such duties in due course. One officer was never a member of the SOT in the first place.

32. I have given anxious consideration to each individual witness in respect of whom an application has been made for anonymity or other protective measures. The criteria I have applied, and my approach to those criteria, are as I have set out in the earlier part of this ruling. With those matters firmly in mind, I now turn to individual witnesses. For the sake of simplicity, I will refer to each of them, regardless of sex, by masculine pronouns. Where no separate closed addendum is issued in relation to a witness, it can be taken as indicating that I would have reached the same conclusions, for identical reasons, even if I had not seen any of the closed

or redacted material that has been placed before me. In those circumstances, it seems to me that there is no need for a closed ruling in relation to those particular individuals. Where, however, my reasoning has been materially affected by such material, I have provided a separate closed addendum.

WITNESS 'N18'

33. This witness was the Strategic Firearms Commander on 3 March 2012. He was a high-ranking police officer, but has now retired from GMP. There is therefore no public interest in his continuing operational effectiveness such as to warrant granting him anonymity or any other protective measure.

34. N18 was not personally present in Culcheth on the evening that Anthony Grainger was shot and killed. He was the senior commander with overall responsibility for the firearms strategy of Operation Shire on that day, but he played no part in the making or carrying out of tactical decisions. Although he clearly played a very senior role in managing the firearms strategy, he had effectively delegated control of the arrest phase to the tactical firearms commander, J18, and the operational firearms commander, X7. N18 was thus far removed from the events that took place on the car park, over which he had little or no practical influence on the day. Many of the arguments advanced in support of maintaining his anonymity would apply with equal force to his immediate predecessor, Steven Heywood, who was Operation Shire's Strategic Firearms Commander until 2 March 2012, yet Mr Heywood has not sought anonymity or any other protective measure. In N18's case, the public interest in open justice and the accountability of those in charge of Operation Shire compels me to refuse the application for anonymity and

other protective measures. There is a closed addendum in relation to this applicant.

WITNESS 'J18'

35. J18 was the Tactical Firearms Commander on 3 March 2012. He has retired from GMP and has no continuing role in law enforcement. There is therefore no public interest in his continuing operational utility.

36. Further, there is nothing in his statement which takes his case out of the ordinary. The fact that he has played a part in securing the prosecution and punishment of violent and dangerous criminals does not, in my view, come anywhere near justifying the retention of his anonymity or the provision of other protective measures. If it did, hardly any police officer who had participated in operations targeting organised crime groups would ever give evidence without hiding his identity. Indeed, exactly the same considerations would apply to his colleague Michael Lawler, who had been J18's immediate predecessor as Operation Shire's Tactical Firearms Commander until 2 March 2012, yet Mr Lawler does not seek anonymity. In J18's case, I consider that the public interest in transparent justice and accountability requires that he should give his evidence openly in the usual way. I therefore refuse his application for anonymity and other protective measures. There is a closed addendum in relation to this applicant.

WITNESS 'Q6'

37. Q6 is a former authorised firearms officer and became GMP's Chief Firearms Instructor on 2 February 2012, a month before Anthony Grainger was shot and killed. The witness played no part in any aspect of Operation

Shire, but was subsequently asked to review the tactical firearms advice that had been given in relation to the events of 3 March 2012. His conclusions were critical of the Tactical Firearms Advisers, Y19 and N3, and of the manner in which they completed the relevant policy log.

38. The witness now holds another post within GMP which does not require him to perform covert duties. There are therefore no operational reasons to preserve his anonymity.

39. Given the fact that he had no direct involvement with the conduct of Operation Shire, there is nothing to distinguish his expressed fears of possible reprisals from criminals in whose incarceration he has been instrumental from those of any other successful police officer of his rank and experience. In such circumstances, there is no justification for anonymity or other protective measures of any kind and I accordingly refuse his application in its entirety. There is a closed addendum in relation to this applicant.

WITNESS 'A17'

40. This witness is the Firearms Training Manager for GMP. He was formerly a qualified tactical adviser for CTSFO operations. Although, for reasons connected with his health, the latter qualification has now lapsed, he wishes to reinstate it as soon as he is fit to do so. He also expresses a desire to return to "full firearms duties" as a member of the SOT.

41. At the time of the events with which the Inquiry is concerned, A17 was the force's Deputy Chief Firearms Instructor. He played no part whatsoever in any aspect of Operation Shire or the events which led to the death of

Anthony Grainger. He gives evidence of a general nature concerning the firearms training provided to officers of GMP's TFU, and he comments on the competence and proficiency of individual officers.

42. Given that A17 did not participate in Operation Shire, and bearing in mind the general nature of the evidence he is to provide to the Inquiry, the protection of his common law and article 8 rights does not in my view warrant the preservation of his anonymity or the provision of any other protective measures. His position in that respect is no different from that of any other police officer who has been instrumental in putting career criminals behind bars.

43. Further, A17's existing duties and responsibilities are not such as to justify his anonymity on operational grounds. He is not a current member of the SOT. To grant his request for anonymity on the speculative basis that he hopes to join the SOT at some point in the future would, in my judgment, involve a disproportionate interference with the public interest in open justice, in that it would unduly inhibit the allaying of public concern. A refusal, on the other hand, will not lead to the removal of any existing member of the SOT from his duties, nor will it have any significant impact on the public interest in fighting organised crime groups or terrorist organisations.

44. For the foregoing reasons, I refuse A17's application in its entirety.

WITNESS 'Y19'

45. Y19 is a former Authorised Firearms Officer (AFO). He was Operation Shire's Tactical Firearms Adviser on the evening of 3 March 2012, during

the arrest phase. He is no longer a member of the TFU, having returned to normal police duties. I am told that his surname is "very unusual and identifiable".

46. Although Y19's advisory role was an important one, he was not present when Anthony Grainger was shot and had no immediate control over events at that stage. There is nothing in the open statements of Chief Superintendent O'Hare or Y19 himself that in my view warrants the preservation of Y19's anonymity.

47. However, certain additional material contained within the closed statements of those witnesses has led me to conclude, on balance, that Y19 should retain his anonymity. There is no need for a screen. He will therefore continue to be addressed and referred to by his existing cipher while giving his evidence. As it would not be possible to disclose my reasons publicly without defeating the purpose of the direction, I have set them out in a closed addendum to the present open ruling.

WITNESS 'N3'

48. This witness, now retired from GMP, was formerly an Authorised Firearms Officer and a supervisor for the Armed Response Vehicle Team and the Operations Team. He was the Tactical Firearms Adviser on 1 and 2 March 2012, but thereafter he played no further part in Operation Shire. He is, however, an important witness, as it was he who advised the issue of 'specialist munitions' in the form of CS dispersal canisters. He is said to have an easily identifiable surname.

N3's involvement in the events that led to Anthony Grainger's death, while significant, was not in my assessment such as to warrant either the preservation of his anonymity or the provision of a screen. Such measures would disproportionately inhibit the allaying of public concern, in that any risk (or perceived risk) of harm to him or his family is far outweighed by the public interest in transparency and accountability.

49. Since the witness is now retired, there is no continuing public interest in maintaining his operational effectiveness. In those circumstances, I refuse his application in its entirety. There is a closed addendum in relation to this applicant.

WITNESS 'Q9'

50. The anonymity and principal protective measures sought in respect of witness Q9 are (1) the use of an approved pseudonym and (2) the use of a screen shielding the witness from the view of the public gallery and from Mr Stuart Grainger and the other family core participants (but not their legal representatives). Q9 does not actively seek voice modulation, although GMP has applied for it on his behalf. Other, consequential measures are also requested, but they largely depend on the outcome of the applications in respect of (1) and (2) above.

51. For the reasons explained in paragraphs 18 – 21 of this ruling, I am obliged by law to grant such restriction orders as are necessary to uphold Q9's article 2 rights. In relation to each of the protective measures sought, I have asked myself whether the pre-existing risk of death would be materially increased if Q9 were required to give evidence without it being afforded. I have no hesitation in agreeing that anonymity is necessary for that purpose,

as is screening from Stuart Grainger and the public gallery. The more difficult question is whether Q9 should also be screened from Mr Anthony Grainger's mother and stepfather (who, I am told, is partially sighted) and from his partner, Gail Hadfield-Grainger, all three of whom are also core participants in this Inquiry. It is not suggested by anyone that any of them poses any physical threat to Q9. What is said on behalf of Q9, supported by GMP, is that – particularly in relation to Mr Grainger's parents – members of the family would be at risk of intimidation or other forms of pressure from those with an interest in obtaining information that might enable them to identify Q9.

52. I recognise that it is a drastic step to prevent a mother from seeing the face of the witness who has admitted that he shot and killed her son. Only the gravest necessity could justify such a radical restriction. It is a question to which I have given the most anxious and prolonged consideration. But it is not necessary for me to find that a family member other than Stuart Grainger poses a direct and deliberate threat to the safety of the witness[13]. A real risk of such a threat may arise where another member of the family or close associate acquires information which might, if it fell into Stuart Grainger's hands, enable him to track the witness down. I have here to bear in mind the uniquely close nature of the relationship between any mother and her son, as well as the intimate relationship between mother and stepfather. In my judgment, it is not at all fanciful to suppose that Stuart Grainger might succeed in extracting sufficient useful information from his mother or stepfather to enable him to identify the officer who shot and killed his brother. Were he to do so, the consequences for that officer would almost certainly prove catastrophic. For that reason, I find myself driven to

[13] *R (Hicks and others) v Senior Coroner for Inner North London* [2016 EWHC 1726 (Admin), at §39.

the reluctant conclusion that screening from those persons is necessary in order to protect Q9's article 2 rights.

53. In so far as the application for screening extends to Miss Gail Hadfield-Grainger, somewhat different considerations arise. She is reading for a degree in law. She is presently estranged from the rest of the family to the extent that they are not even on speaking terms. There is no guarantee, however, that there will never be any form of reconciliation, and I am satisfied that the threat posed to Q9 by Stuart Grainger is an enduring one that is unlikely to recede. Although it is less easy to envisage circumstances in which she could be induced to provide information to Stuart Grainger which might enable the latter to identify Q9, it is by no means inconceivable. She has associated in the past with other individuals who move in the same circles as Stuart Grainger. While those associations, now at an end, did not involve any criminal conduct on her part, they remain a historical fact which I cannot ignore in the context of the present application. They suggest that as long as she is thought by others to possess information which might help to identify Q9, she remains vulnerable to intimidation or other forms of pressure emanating from such persons at the behest of Stuart Grainger. For all those reasons, I take the view that Q9's article 2 right to life can only be adequately protected by extending the screening measure to cover Miss Gail Hadfield-Grainger. Her counsel will, of course, be able to see the witness. She herself will hear his voice, unmodulated. In my judgment, the use of a screen will not significantly impede her ability to participate effectively in this Inquiry.

54. With the support of GMP, Q9 also applies for anonymity and protective measures on other grounds, namely that (i) a refusal would amount to an unjustified interference with his article 8 right to respect for private and

family life, and (ii) the public interest in the detection and punishment of crime requires the maintenance of his anonymity. Strictly speaking, in the light of the conclusion I have already reached with regard to his article 2 rights, it is not necessary for me to determine those additional contentions. However, for the avoidance of doubt, I make it clear that any failure by this court to uphold Q9's article 2 rights would inevitably also amount to an unjustified interference with his rights under article 8 of the convention. With regard to the public interest, however, I note that he is not currently employed on firearms duties. It may or may not ultimately be possible for him to return to such duties after the Inquiry has concluded its business. Had it been necessary for me to make a determination in relation to this particular ground alone, I should have concluded that anonymity was not justified, since a refusal would not involve the removal from covert duties of any serving officer, and the public interest in open justice far outweighs any public interest (such as it may be) in preserving an officer's suitability for future employment on covert operations.

55. Accordingly, for the reasons set out above, I grant Q9 anonymity. He will continue to be addressed and referred to by his existing cipher. He must not be asked any question that might tend to reveal his identity. He will be screened from the public, and from Mr and Mrs Schofield, Mr Stuart Grainger and Gail Hadfield-Grainger (but not their legal representatives). In view of the concession that his voice is not particularly distinctive, I do not see any need or justification for voice modulation.

WITNESS 'G1'

56. This witness is a currently serving member of the SOT. He was the front passenger in Delta vehicle. That car did not enter the car park in Culcheth,

but remained in Common Lane. By the time G1 had run on to the car park, Mr Grainger had already been shot and the other occupants of the stolen Audi were in police custody.

57. Given the limited extent of his involvement in the events which led to Mr Grainger's death, I do not consider that his common law or article 8 rights justify anonymity or other protective measures. However, I accept that his future utility as a member of the SOT is likely to depend on the maintenance of his anonymity. For that reason, he will continue to be addressed and referred to by his existing cipher. However, the slight residual risk that his identity may become public following his exposure to observers in the public gallery is in my assessment outweighed by the damage to the interests of open justice that would result from the use of screens. Accordingly, I reject the application in his case for additional protective measures.

58. In reaching my conclusions, I have taken into account and reflected the matters set out in the passages redacted from G1's statement dated 19 October 2016 and Chief Superintendent O'Hare's statement dated 25 October 2016.

WITNESS 'G6'

59. G6 is a currently serving member of the SOT. He is said to have an "easily traceable" surname. He was the front passenger in Bravo vehicle. He played a significant role in the attempt to arrest the occupants of the stolen Audi. He left Bravo vehicle with the object of covering the rear offside passenger door of the Audi, which was of course on the same side as Mr

Grainger. After Mr Grainger had been shot, G6 helped to extract him from the Audi.

60. In my judgment, G6 was so closely and directly involved in the attempted arrest of Mr Grainger that he should on common law and article 8 grounds retain his anonymity and be granted the facility to give evidence from behind a screen. I would, in any event, have granted him anonymity (but not a screen) in order to protect the public interest in preserving his future operational effectiveness. He will therefore continue to be known as G6 and will be screened from the public and Stuart Grainger, but not the other core participants, while giving his evidence.

WITNESS 'G11'

61. G11 is a currently serving member of the Specialist Operations Team. He was the rear offside passenger in Charley vehicle. He helped his colleague U9 to detain Joseph Travers. He was so closely involved in the events on the car park on the evening of 3 March 2012 that he should on common law and article 8 grounds retain his anonymity and have the facility of giving evidence from behind a screen. I would, in any event, have granted him anonymity (but not a screen) in order to protect the public interest in preserving his future operational effectiveness. He will continue to be known as G11 and will be screened from the public and Stuart Grainger, but not the other core participants, while giving his evidence.

WITNESS 'H9'

62. This witness is a currently serving member of the SOT. In addition, he is one of a very small number of officers who has been specially trained in

certain specialist counter-terrorism tactics. He is said to have a very unusual surname and has expressed the fear that he may be especially vulnerable to identification and possible reprisals should he not be granted anonymity and the other protective measures requested on his behalf.

63. H9 was the driver of Charley vehicle. Having left that car, he ran to the driver's side of the stolen Audi and was standing close to X7, who was covering Mr Anthony Grainger through the open driver's window. H9 himself trained a Taser device on Mr Grainger, although he did not discharge it. The closeness of his personal involvement in the attempt to arrest Mr Grainger is such that he is in my judgment entitled on common law and article 8 grounds to retain his anonymity and have the benefit of a screen while giving evidence. As in the case of the preceding witnesses who are also current members of the SOT, I would in any event have granted him anonymity (but not a screen) in order to protect the public interest in preserving his operational effectiveness. He will therefore continue to be known as H9 and will be screened from the public gallery and Stuart Grainger, but not the other core participants, while giving his evidence.

WITNESS 'J4'

64. This witness is a current member of the SOT and a nationally accredited Operational Firearms Commander and Tactical Adviser. He was the front passenger in vehicle Charley. In the course of the attempt to arrest the occupants of the stolen Audi, J4 covered Anthony Grainger with his MP5 (although his own evidence suggests that the other occupants of the car had by that stage already left the car and Mr Grainger had been shot). Nevertheless, J4 was actively and closely involved in the arrest phase. On

common law and article 8 grounds, I consider that he should have the benefit of anonymity and the use of a screen. Had it been necessary for me to rule on the point, I would in any event have granted him anonymity (but not a screen) in order to protect the public interest in preserving his operational effectiveness.

65. For those reasons, this witness will continue to be referred to by his existing cipher and will be screened from the public and Stuart Grainger, but not the other core participants, while giving his evidence.

WITNESS 'N7'

66. N7 is a current member of the SOT. He is said to have a distinctive and easily traceable surname. He was the driver of vehicle Delta. As I have already indicated, that car did not enter the car park at any stage of the arrest phase of Operation Shire. N7 left the vehicle and made his way to the car park on foot. By the time he arrived, Mr Anthony Grainger was receiving first aid treatment and the other occupants of the stolen Audi were in police custody.

67. In view of the limited role which N7 played in the events that led to Mr Grainger's death, I do not consider that the protection of his common law or article 8 rights requires the preservation of his anonymity or the use of any other protective measures. I have reached the same conclusion in relation to the redacted passage at paragraph 14 of his statement dated 19 October 2016. I do, however, accept that N7's future utility as a member of the SOT is likely to depend on the maintenance of his present anonymity. On that ground alone, therefore, he will continue to be addressed and referred to by his existing cipher. As in the case of G1, the

slight residual risk that his identity may become public as a result of his exposure to observers in the public gallery is in my judgment outweighed by the damage to the interests of open justice that would be occasioned by the use of screens. Accordingly, I reject the application for additional protective measures in his case.

WITNESS 'U2'

68. U2 has been a CTSFO for six years. He has considerable experience in performing that role and has worked with other law enforcement agencies as well as GMP. It is not entirely clear whether he is currently a member of the SOT. The additional statement of Chief Superintendent O'Hare dated 15 November 2016 (at paragraph 6) suggests that he is, but his earlier statement of 25 October 2016 (at paragraph 123) implies that while U2 continues to perform the role of a CTSFO, he is a former member of the SOT. In the end, while the imprecision with which both Chief Superintendent O'Hare and U2 himself have approached this important matter is unfortunate, it makes no practical difference. It is clear to me that, having regard to his particular skills and experience, there is a powerful public interest in retaining this officer's anonymity. There is a closed addendum in relation to this applicant.

69. U2 was the driver of vehicle Bravo. He left the car when it came to a halt. As he did so, he "heard a loud crack, which through experience, sounded like a conventional firearm report". He then approached the nearside of the stolen Audi, where he participated actively in the attempt to arrest its occupants. With his MP5 he covered Mr Grainger, who by this time had been shot and was immobile, and then helped to extract him from the front of the Audi.

70. Having regard to the nature and extent of U2's involvement in the arrest phase of Operation Shire, I consider that the protection of his common law and article 8 rights clearly favours both the retention of his anonymity and the provision of a screen. Further, I am of the view that the public interest in preserving his future operational effectiveness would in any event justify the use of an approved pseudonym (albeit without the additional protection of a screen).

71. For those reasons, U2 will continue to be referred to and addressed by his existing cipher and will be screened from the public and Stuart Grainger, but not the other core participants, while giving his evidence.

WITNESS 'U9'

72. As in the case of U2, there is some confusion in the way in which Chief Superintendent O'Hare deals with the position of this witness. According to paragraph 122 of Mr O'Hare's statement dated 25 October 2016, one of the criteria that applies to U9 is criterion D ("Operational Issues – CT"). However, U9 is not included in the list of officers to whom this criterion applies (see paragraph 53). The true position seems to be that this witness was a member of the SOT at the time of the events with which this Inquiry is concerned. Since then, although he is still liable to be called upon to perform duties in support of that team, he has been transferred to the Firearms Training Unit. As I understand the position, while still available for deployment in covert operations, his primary role is in the field of training other officers.

73. On 3 March 2012, U9 was the rear offside passenger in vehicle Bravo and it was he who physically detained Joseph Travers. On any view, his involvement in the attempt to arrest Anthony Grainger was so immediate that the need to protect his common law and article 8 rights justify the maintenance of his anonymity and the provision of a screen. Had it been necessary for me to determine the application relating to him solely on the ground of the claimed public interest in preserving his operational utility, I should have refused him the use of a cipher on the ground that the limited extent of his present covert operational duties means that in his particular case the public interest in open justice must prevail.

74. U9 will accordingly continue to be addressed and referred to by his existing cipher and will also be screened from the public and Stuart Grainger, but not other core participants, while giving his evidence.

WITNESS 'V3'

75. This witness is a current member of the SOT. He was the rear offside passenger in vehicle Delta, which, as I have already indicated, did not enter the car park at any stage of the arrest phase. By the time V3 arrived on the car park, Anthony Grainger had been shot and the other occupants of the stolen Audi were in police custody. He did, however, help his colleagues to extract Mr Grainger from the Audi, and thereafter carried out chest compressions in an attempt to resuscitate him.

76. In my judgment, V3's involvement in attempted arrest of Mr Grainger is relatively remote. In common with other officers from vehicle Delta, he did not arrive on the scene until after Mr Grainger had sustained the fatal wound. His principal role thereafter was to try and save Mr Grainger's life.

In those circumstances, I do not consider that the protection of V3's common law and article 8 rights warrants the use of a cipher or other protective measures. However, I accept that his future utility as a serving member of the SOT is likely to depend on the maintenance of his present anonymity. On that ground alone, I will direct that he should continue to be addressed and referred to by his existing cipher. To provide a screen would in my judgment entail a disproportionate interference with the public interest in open justice. I therefore refuse the application for additional protective measures in his case. There is a closed addendum in relation to this applicant.

WITNESS 'V8'

77. This witness is a former member of the SOT but has now left the TFU altogether and been transferred back into normal police duties. Although he indicates a desire to return to TFU duties (an ambition which, according to Chief Superintendent O'Hare, would require him to undergo retraining), he now deals with members of the public on a daily basis. As things stand, therefore, there is no immediate public interest in retaining his anonymity for the purpose of preserving his operational effectiveness.

78. On 3 March 2012, V8 was the rear nearside passenger in vehicle Delta, which did not enter the car park in Culcheth. By the time the witness reached the scene on foot, Mr Grainger had been shot and the other occupants of the stolen Audi were in police custody. After doing what he could to help his colleagues revive Mr Grainger, V8 secured the car park to prevent members of the public from entering it.

79. In my assessment, V8's role in the events that led to Mr Grainger's death was comparatively remote. He did not reach the scene until after Mr Grainger had already sustained his fatal wound. His subsequent actions were directed to preserving Mr Grainger's life and thereafter his dignity in death. In those circumstances, notwithstanding the matters raised in redacted material covered by my separate ruling, I have concluded that V8's common law and article 8 rights do not justify maintaining his anonymity or the granting of other protective measures.

80. Further, as I have already pointed out, there is no present justification for retaining V8's anonymity on operational grounds. While he may hope to return to the TFU after further training, any public interest in facilitating or preserving that ambition comes nowhere near outweighing the public interest in open justice.

81. For the foregoing reasons, I refuse the application in relation to V8 in its entirety. There is a closed addendum in relation to this applicant.

WITNESS 'W4'

82. This witness is a current member of the SOT. He was the driver of Alpha vehicle, which was the car from which Q9 shot and killed Anthony Grainger. On any view, W4 was a primary participant in the attempt to arrest Anthony Grainger. In my judgment, his involvement is such that the protection of his common law and article 8 rights justifies the provision of a screen as well as the maintenance of his present anonymity.

83. In any event, W4's continued status as a qualified CTSFO within the SOT is likely to depend on the maintenance of his anonymity. For that reason,

had it been necessary for me to decide his application on that ground alone, I would have granted him anonymity (but not the use of a screen) in order to protect the public interest in his future operational effectiveness.

84. For all those reasons, W4 will continue to be addressed and referred to by his existing cipher. In addition, he will be screened from the public gallery and Stuart Grainger, but not the other core participants, while giving his evidence.

WITNESS 'W9'

85. W9 is a CTSFO and current member of the SOT. He was the rear nearside passenger in vehicle Alpha. He ran to the passenger side of the stolen Audi and detained David Totton, who was the front passenger and was therefore sitting alongside Anthony Grainger. As in the case of W4, W9's close and active involvement in the events which led to Mr Grainger's death is such that, in my view, the protection of his common law and article 8 rights justifies the provision of a screen as well as the use of an approved pseudonym.

86. In any event, the public interest in securing his future status as a valued member of the SOT is likely to depend on the maintenance of his present anonymity. Had it been necessary for me to determine the application made on his behalf by reference to that ground alone, I would have granted W9 anonymity (but not the use of a screen) so as to protect the public interest in preserving his operational effectiveness.

87. For the same reasons as in the case of W4, therefore, W9 will continue to be addressed and referred to by his existing cipher and will further be

screened from the public and Stuart Grainger, but not the other core participants, while giving his evidence.

WITNESS 'X7'

88. This witness was the Operational Firearms Commander on the evening of 3 March 2012, with immediate responsibility for the conduct of the arrest phase. As leader of the firearms team, he occupied the front passenger seat in Alpha vehicle and it was he who initiated the arrest phase by calling 'State Red'. When vehicle Alpha came to a halt, he made his way on foot to the driver's side of the stolen Audi, where he personally challenged Anthony Grainger and covered him with his MP5. At one stage, he struck Mr Grainger on the arm with the barrel of his weapon.

89. X7 has an easily recognisable surname. Given the extent and nature of his involvement in the events which led to Mr Grainger's death, I am of the view that the protection of his common law and article 8 rights justifies the provision of a screen as well as an approved pseudonym. For that reason, I direct that he should continue to be addressed and referred to by his existing cipher and should be screened from the public and Stuart Grainger, but not the other core participants, while giving his evidence.

90. Although X7 does not feature in Chief Superintendent O'Hare's list of witnesses who were members of the SOT at the material time (see his statement dated 15 November, paragraph 6), X7's own statement indicates that he is a former member of the SOT. He has, however, returned to normal operational duties bringing him into regular contact with members of the public. He has not expressed any desire to return to firearms duties. There are accordingly no purely operational reasons why his present

anonymity should continue in the public interest. Although Mr O'Hare asserts that criteria C and D apply to X7, neither he nor the witness himself has put forward any specific reasons under either criterion. The application is, in reality, based upon the officer's fears and concerns for himself and his family, and the protection of his common law and article 8 rights. For the avoidance of doubt, I make it clear that if it had not been for the latter considerations, I would have refused the application on behalf of X7 in its entirety.

WITNESS 'X9'

91. X9 is a CTSFO and a member of the TFU Armed Response Vehicle unit, currently seconded to the SOT. He was the rear nearside passenger in Beta vehicle and is the officer who deployed CS powder inside the stolen Audi. He is one of the officers most closely and directly involved in the events immediately surrounding the death of Anthony Grainger, and his actions will inevitably receive close scrutiny. He has a distinctive surname that would make him readily identifiable. I have no doubt that the protection of his common law and article 8 rights justify both anonymity and the use of a screen.

92. In any event, his continued utility as a CTSFO seconded to the SOT is likely to depend on the maintenance of his anonymity. Even if I had not acceded to his application to protect his common law and article 8 rights, I would have granted him anonymity (but not the use of a screen) in order to protect the public interest in preserving his present and future operational effectiveness.

93. For the foregoing reasons, X9 will continue to be addressed and referred to by his existing cipher and will be screened from the public gallery and Stuart Grainger, but not the other core participants, while giving his evidence.

WITNESS 'Z15'

94. This witness is in a closely comparable position to that of the preceding witness. He is a CTSFO and a current member of the SOT. He was the rear nearside passenger in vehicle Charley, and it was he who deflated the front and rear nearside tyres of the stolen Audi with RAM shotgun rounds. At that stage, Anthony Grainger was still inside the Audi being challenged by another officer (presumably X7). By the time Z15 deflated the rear tyre, David Totton was out of the car being dealt with by X9 and W9.

95. Like X9, Z15 was very closely and directly involved in the events surrounding the death of Anthony Grainger. His actions, too, are likely to face close scrutiny. In my judgment, the nature and extent of his participation are such that the protection of his common law and article 8 rights justify both anonymity and the use of a screen.

96. Had it been necessary for me to do so, I would in any event have granted Z15 anonymity (but not the use of a screen) in order to protect the public interest in maintaining his present and future operational effectiveness as a member of the SOT engaged in counter-terrorism and other duties important to the safety of the community as a whole.

97. I therefore direct that Z15 will continue to be addressed and referred to by his existing cipher and will be screened from the public and Stuart Grainger, but not the other core participants, while giving his evidence.

WITNESS RAY EVANS

98. This witness is a covert surveillance officer. Posing as a member of the public on the evening of 3 March 2012, he confirmed the presence of the stolen Audi and its occupants on the car park at Culcheth immediately before the arrest phase. Having made his witness statement in his own name, he has not sought anonymity. Nevertheless, he wishes to give his evidence to the Inquiry from behind a screen. As in the case of the firearms officers (with the sole exception of Q9), I am of the view that a refusal of Mr Evans's application would not give rise to a real and immediate risk of death, nor would it endanger his safety, or that of his family or colleagues, in any other respect.

99. As Mr Evans himself acknowledges, his application is primarily based on the need to preserve his own future utility as a surveillance officer. It seems to me that the risk of his exposure to observers in the public gallery leading to his voice and physical appearance becoming familiar to potential targets of future surveillance operations or their associates is very slight. On the other hand, the use of a screen is appreciably less inimical to the interests of open justice where, as here, the true identity of the witness is known than where the witness is anonymous.

100. After careful reflection, I have decided that the balance of the public interest favours the granting of a screen for the purpose of preserving Mr Evans's future operational effectiveness as a covert surveillance officer.

On that ground alone, Mr Evans will be screened from the public gallery, but not from core participants, while giving his evidence. For reasons set out in a closed addendum to this open ruling, however, I reject his application for voice distortion.

C1 – C6; P10 – P29; and Chris Farrimond

101. In relation to each of these applicants, save for Chris Farrimond, I order that:

(1) They shall be identified within the proceedings (whether in documents disclosed for the purposes of the proceedings, during the proceedings or in the inquiry report) by reference to the cipher which they have been allocated and that no reference shall be made within the proceedings to his or her name or other identifying feature;

(2) When called to give evidence they shall do so in closed proceedings.

102. In relation to Chris Farrimond, I order that when he is called to give evidence, he shall do so in closed proceedings.

103. Insofar as the orders I make in paragraphs 101 and 102 above are orders that these witnesses shall give evidence in closed proceedings, they are orders pursuant to s19(1)(a) of the *Inquiries Act 2005*, namely a restriction on the attendance at particular parts of an inquiry (*viz.* whilst each of the witnesses set out above gives their evidence) of all individuals save for (i) Counsel to the Inquiry; (ii) the legal representatives of the NCA and, where applicable, GMP; and (iii) appropriately security cleared shorthand writers/loggists. I make these orders pursuant to s19(3)(a) and (b) of the *Inquiries Act 2005*. They are, in the case of certain of the witnesses, required to be made pursuant s19(3)(a) of the *Inquiries Act 2005*

in that the said restriction on attendance is required by a statutory provision. In the case of certain of the other witnesses, the orders are required to be made pursuant to s19(3)(b) of the *Inquiries Act 2005* on the grounds that it is necessary in the public interest to restrict such attendance. In both cases the underlying grounds for making the orders cannot be set out in this Open Ruling as to do so would cause the very harm which the orders are designed to prevent from occurring and / or it would not be lawful for me do so. I have set out my reasoning fully in a Closed Ruling.

104. Insofar as the order I have made above restricts the disclosure of the real identities of the witnesses (*i.e.* all the applicants, save for Chris Farrimond), I have again set out my reasoning fully in a Closed Ruling. In summary, I concluded that, having regard to the fact that each of the witnesses will necessarily give evidence in closed proceedings (with the consequence that their evidence will not be seen by the Core Participants, save for the NCA and in some cases GMP, nor by the public), there is no or no good reason for their names to be released as this would be meaningless and of no utility to anyone. By contrast there was in my clear judgement a significant public interest in maintaining the privacy and confidentiality of their identities, for the detailed reasons given in my Closed Ruling.

105. It will be noted that the NCA also applied that an order should be made under s11 of the *Contempt of Court Act 1981* prohibiting the media from publishing the identity or image or any other identifying feature of any applicant (presumably other than Chris Farrimond, whose identity and image is already public knowledge). I presently decline to make this order. That is because I consider it unnecessary in circumstances where each of the relevant applicants will give evidence in the closed proceedings of the

Inquiry (and a secure method of entry to and exit from the Inquiry hearing room and the Queen Elizabeth II Building will be provided so as to shield their identities and appearances from the public and media). I should add that I am not presently convinced, but I do not decide (because it is unnecessary to do so) that the Inquiry is a "court" for the purposes of s11 of the 1981 Act, having regard to the non-exclusive definition of a "court" in s19 of the 1981 Act ("'court' includes any tribunal or body exercising the judicial power of the State...").

HHJ Teague QC
Chairman of the Inquiry
9.12.16