

THE ANTHONY GRAINGER INQUIRY

OPENING STATEMENT ON BEHALF OF MARINA AND JOHN SCHOFIELD AND STUART GRAINGER

1. This opening statement is made on behalf of Anthony's mother, Marina Schofield, his step-father, John Schofield, and his brother, Stuart Grainger.
2. Anthony was born on 26 January 1976 in Salford. He had two brothers, Stuart and Michael. He had some difficulties in childhood as his parents split up when he was 6, and his sister Natalie died when she was 9 hours old.
3. More recently, his life settled down. His mother married John Schofield, and Anthony was the best man at their wedding. Anthony became a father in 2002. His daughter was born on 3 February 2002 and his son on 9 July 2007.
4. Anthony loved cars, and worked for a vehicle recovery company. He got into trouble at times, and was convicted for theft and driving offences. There were people Anthony knew who were involved in very serious crime, but he kept himself from being dragged into that.
5. Anthony was shot dead by a police officer on 3 March 2012. At the time, he was sitting in the driver's seat of his car, in a car park in Culcheth. He was unarmed. There were no guns in his car. The officer who shot him did not pretend to have seen Anthony holding a gun.

6. Anthony was shot from close range by officer Q9 with a powerful semi-automatic rifle. The bullet hit his left chest, went through his left lung, his pulmonary artery, his right lung, and embedded itself in his right chest wall.
7. He was 36 at the time. He left behind a son aged 4 and a daughter aged 10. His killing was absolutely devastating for his family. It has torn their worlds apart. Anthony's mother, Marina Schofield, wishes to say this about him:

“Anthony was a committed family man. He was the most loving and caring person and was made to be a dad. He adored his kids. He was a good son, brother, and father. His children have been left without a father who they were both very close to. I cannot imagine the pain that they will have had to go through. If Anthony was doing wrong, he should have been arrested and sent to court. He did not deserve to be shot. I miss him dearly.”

8. In the evening of 4 March 2012 Anthony's mother attended the Royal Liverpool Hospital to identify his body. She buried him on 22 March 2012 at St Philip and St Stephen Church, Salford. She has fought ever since to reveal the true circumstances of his death.
9. Coming to terms with his violent killing has been made harder for his family because they have been kept in the dark about what really happened. They received barely any significant evidence for two years after Anthony's death, until the IPCC investigation report was finally produced. They first learned of the outcome of that report when it was leaked by the Greater Manchester Police to the Manchester Evening News. Despite there being strict undertakings to prevent disclosure of the report and accompanying evidence - which were in place to avoid

prejudicing potential criminal proceedings against GMP officers - GMP disclosed the report widely within the force.

10. After Judge Teague was appointed to take over the inquest, more material began to be disclosed to the family. But GMP wanted large amounts of the important material redacted. Many of the pages of evidence received by the family were entirely blank.
11. The material GMP wanted to be kept secret includes what is said to be the most important evidence in the case: the intelligence. The police say the operation against Anthony was “completely intelligence led”, and that the sensitive intelligence was the main basis for the key decisions. Yet the documents that the GMP were willing to disclose to the family had much of the central intelligence blanked out.
12. The information GMP wanted withheld is particularly important in this case, because Anthony was unarmed when he was shot dead. The family cannot understand how the killing of an unarmed man could have been lawful. It could only be justified if the police had genuinely reliable information showing both that Anthony had a gun to hand at the time he was shot, and also that he was ready and willing to fire at the police. Nothing in the disclosed evidence that the family have seen meets that threshold.
13. GMP sought to withhold a huge amount - some 5,850 entries - of relevant material from the public and family. This has meant that at this date, one week before the Inquiry is due to begin, but nearly 5 years after Anthony’s death, the family still has not received a great weight of the evidence. We understand that much of the material will be disclosed shortly. The fact that it will be disclosed shows the GMP had no good basis for trying to hide it.

14. The family pay tribute to the hard work and determination of the Chairman and his legal team, which has led to this information being revealed.
15. A further example of the obstructive and improper approach to this Inquiry by GMP is as follows. We understand that on Friday 6 January 2017, only one working day before this Opening Statement is due to be produced, GMP disclosed to the Inquiry team over 1,000 pages of new material. The family have yet to receive it. No reason has been given by GMP as to why this information has not been disclosed in time to enable core participants to examine it before producing their opening remarks.
16. This background is important because it underlines the need for this inquiry to be as open as possible. The family suspect GMP are attempting a cover up – to prevent the public learning about the true circumstances of the case. The family recognise that some information cannot be revealed, for proper legal reasons. But those reasons should not be misused. It is only if the inquiry ensures that as much relevant material as possible is made public, that the family and wider public may have confidence that the police have finally been held to account.
17. For the first two weeks, the Inquiry will hear witnesses entirely behind closed doors. It appears that these witnesses will be people from the NCA and the police who were involved in obtaining and passing on sensitive information which was relevant to the operation that led to Anthony's fatal shooting.
18. The family and their lawyers will be entirely excluded from those hearings. However, the public authorities whose conduct is at issue in this inquiry, will not be excluded. Their lawyers will be present and will be able to question witnesses and put arguments to the Chairman.

19. The Director of Public Prosecutions decided to charge the Chief Constable of GMP for criminal offences involving the planning of the operation that led to Anthony's killing. Yet the defendant to those criminal proceedings will be represented during the closed hearings in this inquiry which will explore the GMP's conduct, whilst Anthony's representative will be excluded. This inequality of arms means that, to ensure the public and family to have confidence in this inquiry, the Chairman and his legal team carry a heavy burden. They will have to demonstrate that they have thoroughly inquired into the circumstances of the case, and are ready to identify failings by the GMP or NCA if that criticism is due.
20. The family must put their trust in the Chairman and his legal team, to ensure that a fair and balanced hearing of the evidence takes place, and to ensure that the interests of the family and the wider public are fully represented during closed sessions. The family have been impressed by the approach of the Chairman and his team so far, and hope that they will not be let down.
21. This inquiry should ascertain whether the police complied with their substantive obligations within article 2 of the European Convention on Human Rights (the "right to life"). Those obligations include that the operation must be planned and controlled so as to minimize, to the greatest extent possible, any risk to life: *Makaratzis v Greece* (2005) 41 EHRR 49, §60. The police's own policy sets out the same standards¹.
22. The need to minimize risk to the greatest extent possible applies to the communication of relevant information. In *McCann v. United Kingdom* [1996] 21 E.H.R.R. 97 the Grand Chamber concluded that the UK

¹ For example, the 2003 Code of Practice at §3.4.4, and GMP's policy on MASTS: [G2/1778].

violated article 2 of the ECHR when terrorist suspects were shot by state agents (the ‘death on the rock’ case). This finding was partly due to miscommunication, which meant that the level of risk posed by the subjects came to be exaggerated. A series of working hypotheses as to the risk the suspects would be armed and intending to use weapons were conveyed to the firearms officers as certainties: §208-209. The Grand Chamber said:

“the authorities were bound by their obligation to respect the right to life of the suspects **to exercise the greatest of care in evaluating the information at their disposal before transmitting it** to soldiers whose use of firearms automatically involved shooting to kill.” §211.

23. The same applies to the police officers and NCA staff in this case. They were bound by article 2 to exercise the greatest care in evaluating and transmitting relevant information. In order to satisfy the article 2 procedural duty, the Chairman should ascertain whether the operation was planned and controlled so as to minimize the risk to life to the greatest extent possible, and whether the police and NCA exercised the greatest care in evaluating and transmitting relevant information.

The closed sessions

24. The family respectfully invite the Chairman and his legal team to examine the following questions in respect of intelligence and other information that was relevant to the operation that led to Anthony’s shooting:
 - a. Exactly what was the original information?
 - b. If slang words were used, what did they actually mean? Code words may be used, particularly if the subjects are suspicious that police may

be following them. If so, it will be important to understand exactly what was meant.

- c. How confident could the authorities be about the meaning of the words used?
- d. For example, were the words “armed robbery” or “robbery” actually used? If “armed robbery” was not actually said, what words were used?
- e. How confident could the police have been to infer that those words meant “armed” and/or “robbery”, rather than, for example “theft of...” or “sale of...” or “exchange of...” something? There may be no reason to conclude that a nighttime theft from commercial premises would involve a weapon.
- f. Did police think the subjects were there to transfer the memory stick? There may be no reason to conclude that the subjects would be armed if so.
- g. If a robbery or theft was planned, when would it take place, and in what circumstances?
- h. What would the target be?
- i. In particular, was J18 correct to say that “at 19.03 hrs [on 3.3.12] ... the intelligence picture indicated that Cash in Transit target was involved” [H/29]?
- j. What did the information say about Anthony?
- k. When was the information obtained?

- l. How reliable was the source?

 - m. For example, was other information provided by the source incorrect or inaccurate? Did the source have any reason to exaggerate or concoct the information?

 - n. Similarly, was the means of obtaining and communicating the information reliable? Was it hearsay, overheard in a noisy pub, which could well have been mistaken?

 - o. If a source was an informant, was it someone who was on the list of informants within the memory stick, and does that undermine the reliability of the information provided?

 - p. Was the information, together with the reliability of the source and of the interpretation given to the words used, passed on accurately?
25. Whenever someone is shot and killed by the police, there is a need for a thorough inquiry into the circumstances that led to the death. That is in part because there is acute public concern about police shootings, particularly, as here, the killing of an unarmed man. That concern can only be properly assuaged by a public and comprehensive examination of the case. But it is also needed, to ensure that the police can learn lessons which might prevent other families having to go through what Anthony's family have faced. The need to do so is, if anything, of increasing importance. There have been 5 fatal police shootings in the last 9 months alone, and the Metropolitan Police is currently considering arming all of its officers.

26. Firearms officers do an important job, and often put themselves at serious risk in doing it. But if we are going to arm police with deadly weapons, and require them to undertake high risk armed arrests, then the public can expect them to be trained and organized to a high standard. With great power comes great responsibility. Every effort should be made to ensure that police do not shoot a member of the public dead if that can be avoided.
27. Anthony's family want to whole truth to come out. If there was wrongdoing on the part of any officers from the top down, they want that wrong doing properly scrutinised, fairly examined and rightfully exposed. This should all be done in the most open way as is possible in the context of this inquiry, without fear or favour.
28. They want nothing less than the complete story in relation to the circumstances of how their unarmed son, brother and father was killed, told in an honest and unvarnished way.
29. If wrongdoing is found, they want the Chairman to give a full report explaining how that death occurred and recommendations to prevent a similar fatality occurring again in the future. They want this so that at the very least they can know that his death was not in vain. Out of this tragedy some good may occur and perhaps prevent another family at some future point suffering the pain they have suffered.

Leslie Thomas QC
Adam Straw
9 January 2017