

**Opening Statement on behalf of Greater Manchester Police**

*Scope of this Document*

1. This document is deliberately limited in scope for several reasons:
  - a. The breadth of the terms of reference (TOR) make it undesirable to attempt to address all potentially relevant issues and there is no need, at this stage, to do so;
  - b. It is drafted without sight of CTP's opening statement. It cannot foreshadow what CTI deems relevant to say at this Opening stage and does not aspire to do so. We do not however anticipate any serious disagreement about what is and what is not relevant. We anticipate that CTI will address the known facts in some detail and we do not propose to repeat that exercise;
  - c. It is likewise not necessary at this stage to provide detailed comment on the high volume of documentation disclosed to date (and continuing to be disclosed). Many GMP witnesses are due to give oral evidence. Although the content of that evidence is predictable to the extent that they have prepared written statements, it is possible, as with any witness, that they may orally amend or supplement such evidence. In addition, many are not privy to the contents of the report of Mr Ian Arundale. For these two reasons alone, GMP does not intend to make detailed comments about their written statements;
  - d. It is not appropriate to use an opening statement to suggest to the Chairman or other CPs what the evidence will show. That will become clearer as the Inquiry progresses.
  
2. Accordingly, this document is designed to assist in providing as much of an indication as possible, about some of the criticisms levelled against GMP and its officers and to express a view about some of the more important

issues. At all times we will bear in mind the TOR. It is hoped that this approach will assist the Inquiry team and Chairman in deciding what to focus upon and that it will also assist the other Core Participants, not least Mr Grainger's family. It is not possible yet to provide a final response to all criticisms because investigative work continues and because evidence has yet to be heard. We will endeavour to keep CTI updated as the Inquiry proceeds in this regard.

*Role of GMP in the Inquiry Process*

3. It is very important that those participating in this process and the public hear GMP state that it fully supports the purpose of this Inquiry. The shooting of a citizen by armed police is necessarily a matter of the gravest concern and deserves intense scrutiny. All necessary and relevant questions about such an incident and the planning that preceded it must be answered not only for the benefit and information of those immediately bereaved but to maintain public confidence in police firearms operations and to inform organisational learning at a local and national level and within the relevant firearms unit and command structure. Those listening to this Opening Statement should therefore know that GMP:
  - a. Has assisted and will assist the Inquiry in its work as much as it can; and
  - b. Will seek to learn lessons as an organisation, as required.
  
4. GMP considers that it has a necessary and important role in providing as much information and evidence as possible, even if that points to internal or individual fault. GMP has not sought to rely upon section 21(4) of the 2005 Act and has been able, apart from some anonymity applications and one aspect of PII, to agree the issue of restricted evidence/redaction to date. It has not challenged the anonymity rulings of the Chairman and in seeking to protect one police tactic, it has acted in accordance with published guidance binding up on it and other law enforcement agencies including the Crown Prosecution Service.

*Preamble*

5. It must be said at the outset that it is not going to be possible to agree with all of Mr Arundale's conclusions, though some, as will become clear, are accepted. GMP has previously acknowledged failings in the context of the criminal proceedings. GMP is very clear that its approach to identified criticisms is not and will not be informed by any defensive tendency to self-preservation. It intends to take what it considers to be an evidence based and realistic, mature approach to the scrutiny that it faces because it considers that such an approach will assist the work of the Inquiry, will enhance public confidence and will likewise assist those bereaved by Mr Grainger's death. Where GMP disputes criticisms levelled against it or against its officers by experts, it does so in good faith. It fully accepts that criticisms expressed by any expert are likewise made in good faith and that there can, reasonably, be differences of opinion about fact specific and operational issues and about time critical judgments. Officers and experts will not always agree. In that sense, officers are no different from any other professional whose conduct and judgment is under the microscope and is seen through the prism of hindsight in the context of a legal process. Any continuing disagreement about certain criticisms exists because GMP and or its own independent experts genuinely consider that such criticisms are misplaced and do not always accord with the views expressed by experts commissioned by the CPS. The Inquiry has, to date, consciously chosen not to hear from those earlier experts even though they were at the time of their instruction bound by important statutory duties to the court contained in secondary legislation. We do not know what, if any, store the Chairman intends to set upon their expert views. We have already expressed our reservations about the suggestion that this can simply be addressed by putting alternative opinions to Mr Arundale because, in terms of evidence and procedure, that would be essentially a limited and limiting exercise. We believe that the specific but important divergences of opinion

must be investigated fairly and closely, to give effect to the TOR.

6. We recognise that information in the possession of the police about Mr Grainger and about his associates may not make easy listening for his family who have lost a son, father and brother or for Ms Hadfield-Grainger. We are conscious that they may not accept the view taken and retained by GMP and the CPS that on 3 March 2012 Mr Grainger was at an advanced stage of committing, with others, a serious criminal conspiracy, the full extent of which is unknown. GMP maintains that the suspicions held by those investigating Mr Grainger, David Totton and Robert Rimmer were both reasonable and correct, just as the suspicions held about those subsequently convicted as part of Operation Shire 2 were reasonable and correct. Those suspicions required the subjects of Operation Shire to be viewed as high risk and dangerous individuals who were surveillance conscious, sophisticated in their offence planning and determined to commit serious crimes and to evade detection and apprehension. We appreciate that the family will take little comfort from the fact that the Inquiry will receive important information about the available intelligence in closed hearings. We do believe that that this evidence informed and justified some important aspects of decision making right up until the point of arrest. We recognise further the frustration that has been expressed about the fact that important witnesses in statements in late 2014 indicated that they could neither confirm nor deny certain matters. We wish to make clear that those witnesses were being questioned in necessarily monitored and agreed circumstances because they were prosecution witnesses being questioned by representatives of a criminal defendant. Some had the required benefit of independent legal advice. We are supportive of their need to exercise absolute caution in some of their answers but we wish to make clear, for the avoidance of conjecture that the confined nature of some answers was not at the behest of GMP, lest it be assumed that it was.

7. GMP believes the deployment of armed officers not just to support surveillance but to effect any required arrest on 3 March 2012 to be justified and justifiable. We are aware of the significance of the absence of firearms or other weapons in the Audi and consider that the full factual extent of the conspiracy will never, now, be known. By 3 March 2012, it was believed that Mr Grainger would be the driver of one of the vehicles engaged in the commission of the offence. The group had a clear and recent history of conducting highly organised and surveillance conscious reconnaissance trips to Hanley, St Helens and Culcheth. GMP has always agreed that there was no specific intelligence that the suspects would be armed on 3 March 2012 but assessed, we believe reasonably, that they should be treated as suspects who had the ability and inclination to access weapons including firearms and to use them not just to commit substantive offences but to evade apprehension. In that sense Mr Grainger was consorting and conspiring with dangerous criminals, whose capabilities he understood and he formed part of a group prepared to take high and critical risks to commit crime and to escape the consequences of committing such crime. We wish to emphasise that we do not rehearse this assessment to cause unnecessary offence to Mr Grainger's family. We rehearse it because it is necessary to confirm at this stage of proceedings the threat that GMP believed the occupants of the stolen red Audi were capable of posing and the high index of suspicion subsequently required when arresting them.
8. Before we turn to the terms of reference that we do feel able to comment upon, we wish to say a few words about the report of Ian Arundale. We acknowledge the care, thought and time that has gone into the preparation of his document. We are conscious that he has tried not to be unrealistic and that he has tried to guard himself against the unfair perils of hindsight and of setting the bar during dynamic operations too high. Much of what he has said is familiar from the work of previous experts. We do not intend to address every criticism or expression of approval from him. We would

prefer to await oral evidence. We do however wish to remind all Core Participants that he is not privy to the evidence that will be heard in closed hearings and which, in our view, is very relevant to and informed some of the decision making that he now criticises - in particular the ongoing choice of MASTS supported interception as the tactical option of choice at the arrest phase – a tactical option that GMP maintains was appropriate.

*The Objectives and Planning of the Operation*

9. Operation Shire was a complex and long running investigation into serious organised criminals based in Salford who were suspected of committing high value robberies. The objectives of the operation were simple in nature but challenging in execution. The objectives were to protect the affected community (including financial institutions/custodians) from harm, the threat of harm and from loss, to build an evidential case against appropriate suspects in order successfully to prosecute them for offences reflecting their actual or intended criminality and where possible to use available legislation to recover assets from them. These overlapping objectives included an aim to arrest the suspects at an appropriate time with a minimum of danger to all persons.
  
10. Such objectives required balancing the need to protect the community at all stages, with doing more than simply disrupting a group of individuals which had, broadly speaking, only one aspiration – to commit acquisitive crime including cash heavy robberies using violence or the threat of violence. This type of crime strips local communities of social confidence and investment. It causes physical damage and places the intended victims at very real risk of serious injury or worse, as the subsequent offending of Lee Waring, Jamie and Aaron Corkovic (Op Shire 2) on 29 March 2012 shows. Mr Swindles was attacked on 13 December 2011 at his place of business by two males wearing balaclavas who stole the Audi which would be used by Mr Grainger. Happily he was not seriously hurt but his frightening and volatile experience serves to exemplify the collateral and

serious impact that just the preparatory stages of this OCG's planning has on citizens and on the community, leaving aside any financial impact. There is rightly, an expectation that the police will do more than let such criminals know that they are under suspicion. Disruption may be appropriate in limited circumstances. Here it would serve little purpose and would cause already sophisticated criminals to take more evasive and covert care, thereby rendering the prospect of a successful prosecution distant and increasing the likelihood of further unsolved serious offences with added and high risk to potential victims and institutions.

11. Core components of planning included the use of available intelligence, surveillance and where appropriate an arrest strategy, supplemented with tactical advice and options. It also included dialogue with the CPS to inform case building. The Operation was kept under regular review and where necessary, its focus shifted. In terms of planning, we believe that it was correct to assume that the occupants of the Audi on 3 March were dangerous and might be armed.

*The information available to those who planned the operation, and the accuracy, reliability, interpretation, evaluation, transmission and dissemination of such information*

12. These issues will be the subject of open and closed evidence. GMP does not intend to go into much detail about these issues at this stage (having addressed several in its defence case statements for *R v Fahy*) but do wish to make some observations.
13. The management and assessment of intelligence about all Shire suspects including Mr Grainger was conducted in good faith. The Inquiry will hear detailed evidence about the systems in place and the natural risk of human error that can arise when a heavy volume of information and intelligence is handled electronically, on paper and orally by a wide number of officers with different functions.

14. It was reasonable and essential that those responsible for the investigation and arrest had available to them both historic and up to date intelligence which provided information not just about specific individuals but about the potential inter-operability and characteristics of the groups being investigated and the wider fringes of those groups.
  
15. GMP tried to obtain access to as much intelligence and information as possible better to inform the operation. Some aspects of the information were demonstrably more reliable than others, as is usually the case. It was reasonable to operate on the basis that the suspects, including Mr Grainger, had been involved in planning and committing armed robberies and were highly motivated on 3 March. It was also reasonable to infer that such suspects could behave in an unpredictable way and might be armed. This is, in part, exemplified by the fact that Joseph Travers who had not previously featured at all in Operation Shire, was an unexpected presence on 3 March. His conviction for his role in the Adelphi Post Office robbery in Salford in 2004 and what this says about his capability shows precisely the potential but unavoidable volatility and risk involved in policing at this level.
  
16. We acknowledge, regret and apologise for the fact that some errors were made and these can be publicly stated:
  - a. The subject profile of Anthony Grainger, prepared by Ms Rachel Griffiths, wrongly recorded that as a result of the Operation Vulture investigation, proceedings against Mr Grainger in respect of an armed robbery in May 1996 in Prestwich had been ordered “to lie on the file”. This was not correct and applied to his brother, Mr Stuart Grainger. Anthony Grainger was in fact acquitted after the judge dismissed the charges prior to any jury determination. This factual error appears to have been the unfortunate result of simple human administrative error.



- b. During the Shire briefings to armed officers on 2 and 3 March it was suggested that Totton, Rimmer and Mr Grainger had been responsible for a robbery said to have been committed in Preston in 2008 in which a hacksaw had been used to cut the bars on the windows of a bank. The relevance of this was recent and related to the sighting of Totton in suspected possession of a hacksaw on 29 February immediately after a reconnaissance with Mr Grainger to Culcheth. The briefing about this robbery was inaccurate in more ways than one. There was nothing to suggest that either Mr Grainger or Rimmer were involved and the intelligence suggesting Totton's involvement was circumstantial and limited. Furthermore the offence was committed in 2005, not 2008. The available written evidence again suggests that these inaccuracies were the result of human error.
- c. The express reference on 2 March to the fact that there was no specific intelligence that the subjects would be armed was not repeated on 3 March, as Supt Granby has recognised.

17. GMP does not seek to hide from these errors. Although this will be an issue for the Chairman, GMP considers, reinforced in its assessment by multiple expert opinion, that they were unlikely, adversely, to have affected the planning of the operation or to have muddled in isolation the judgment of any key decision maker. Mr Grainger was not acting alone and was not the main target of the operation. The available intelligence about his co-conspirators was highly relevant to the threat assessment. Those tasked with investigating Mr Grainger and assessing the threat that he might pose would have been entitled to consider his suspected role in Operation Vulture regardless of the outcome of the legal proceedings. Critically, we do not believe that these errors affected the ultimate selection of tactical options, though as we say, we appreciate that this is matter for the Inquiry to examine. The inaccurate information provided to firearms officers on 3 March is plainly more

serious, however inadvertent. In reality, having been told that it was suspected the subjects were about to commit an armed robbery, those present would have understood, given their criminal history that they may be in possession of firearms and/or other weapons. Although GMP can derive some comfort from the collective expert view that none of the intelligence errors had a significant impact on the events of 3 March 2012 or on the operational outcome, GMP recognises the very real concern that such errors will provoke generally given the need to provide armed officers with accurate information and particularly in Mr Grainger's family.

*The decision to deploy armed police officers and to make arrests, and the criteria applied in reaching those decisions*

18. GMP maintains that there were more than sufficient grounds to authorise the deployment of armed officers at various stages of Operation Shire and on 2 and 3 March 2012 because there was reason to suppose that officers may have to protect themselves from offenders who were in possession or had immediate access to a firearm or were otherwise so dangerous so as render such deployments appropriate. It is worth noting that this appears to be the collective view of those experts asked to opine on this issue and that this independent collective expert view has been formed without access to all of the available intelligence. We note Mr Arundale's reservations about the lack of detail in authorising the issue of specialist approved munitions. We do consider that such authorisation was appropriate, subject to what we say later about the use of CSDCs and we do consider that the decision to authorise was properly considered.
19. David Totton was the main target of Shire by 3 March 2012. Intelligence justified, as the experts agree, an assessment of Mr Grainger as someone who had a propensity for violence and suspected involvement in serious offences where weapons were used.

20. We believe that historically there has been some misunderstanding about “tipping points”. The Inquiry will receive evidence about the threshold issues engaging the SIO and CPS and the timeframe issues engaging firearms command/officers whose priority is the protection of the public. As far as we are aware, there has never been any disagreement with the CPS about this issue. The CPS can advise forces about evidential thresholds and rightly, the CPS played no part in operational decision making. The SIO has addressed this issue in detail in his witness evidence as have the relevant firearms command officers and CPS witnesses. We do not consider that GMP was motivated by a premature or overzealous impetus to arrest at any cost. We note that the CPS considered that there was enough evidence to charge Rimmer, Totton and Travers with conspiracy to commit robbery and would have additionally charged Mr Grainger had he not died. We also note that after full consideration, the CPS declined to accept the lesser pleas offered at the Shire trial.

21. The question of when, if at all, to arrest suspects suspected of being on the cusp of committing serious crime will attract divided opinion and involves complex and dynamic considerations which will naturally overlap, on occasion, with the options facing a TFC and OFC. In this regard, officers are in an unenviable position. If they arrest too early, they risk a negative charging decision or failed prosecution with the inevitable result (which would also follow from mere disruption) that suspected criminals have simply been alerted to police attention and are free to commit further serious offences, taking even more precautions to avoid detection. If the police do nothing and the suspects go on to offend they risk criticism that the offences and resultant harm could have been avoided. If they intercept in a high-risk situation, someone will always suggest that they should have done things differently.

22. GMP understands that there will be different opinions about the decision to arrest the occupants of the Audi. We remark in passing that Operation

Shire can hardly be said to have been a rushed endeavour.

23. We agree that the record keeping in some respects has not enabled a fully informed after the event assessment of certain rationales and thought processes and that sometimes the level of record keeping did not comply with good practice. Some omissions are the result of an appropriate and guarded approach to recording intelligence, some probably reflect the realities of dealing with stepped phases of a dynamic and complex operation where it is not strictly necessary to provide a systematic written explanation for all options or considerations. Some officers will always record more information and rationales than others. That said, we acknowledge specific criticisms made, for example:
- a. The review by Supt Granby during the evening of 2 March 2012 could have been better documented. The Inquiry will hear from him and those he spoke with that evening and will be able to assess whether, despite the lack of written detail, he did in fact, as Mssrs Molloy and Sturman conclude, appropriately review the situation including the working strategy and threat assessment.
  - b. Supt Granby's rationale for seeking authorisation for specialist munitions should have been recorded in more detail as should his consideration of the various tactical options. The details of his discussions with the relevant TAC could have been recorded in more detail.
  - c. Individual SFCs will inevitably vary in personal style and content of their policy logs against national guidance. It is, we think, a matter of debate, how much detail is required in these circumstances. We recognise that the independent review of ACC Sweeney's log by D.C.C Simon Chesterman and CI Kevin Nicholson concluded that the tactical plan could have been recorded in more detail and ACC Sweeney will no doubt be able to comment upon what, if anything, that demonstrates.

- d. Aspects of the TAC log completed by Q3 and Y19 made it difficult to review the quality of the advice being given. In particular policy decisions and rationales were not recorded in the detail that one might expect.

24. GMP commissioned its own reviews of the more critical logs after the incident in the spirit of learning lessons at individual and organisation level and in order to assess the ongoing ability of involved command officers to continue to fulfil their firearms command roles. We naturally accept the observations made during those reviews. GMP is not complacent about flaws in record keeping because it is always essential that post incident analyses are accurately informed by an available audit trail. The question of whether any gaps in recording reveal causatively relevant errors is of course a matter for this Inquiry. At present, we are not aware that these flaws reflect misjudgements about the tactics ultimately favoured.

*The command and control of the operation, its implementation, the actions of officers during the arrest phase, and the circumstances in which the officer who fired the fatal shot came to discharge his weapon*

25. This TOR is necessarily broad and this statement will not attempt to address it in detail. Part of the TOR will require a focus upon the tactical and operational decisions and actions of Supt Granby, X7 and the two TAC advisors on 3 March. Another part will focus upon the actions of the strike team on the ground. It is premature for GMP to speak for Q9, who is separately represented and who will, we understand, make his own opening statement. We simply observe at this stage that he is a very experienced specialist firearms officer whose accounts have contained consistent and clear explanations for his thought processes. It is imperative that any minute dissection of his split-second judgment is neither unrealistic nor artificial. We venture to suggest that Q9 would not have discharged his weapon unless he honestly believed he had good reason to do so and we also venture to suggest that he did so before any CS irritant

had been deployed although we appreciate that the sequence of events on the ground and the assessment of each officer's actions are plainly important issues for the Chairman to examine as the evidence unfolds.

26. We do consider that MASTS was an appropriate tactical option both to support surveillance and to apprehend the suspects. Supt Granby's working strategy was, we believe, reasonable and given the available intelligence on 2 and 3 March, his choice of tactical option justified. Intelligence drove the decision to support surveillance with MASTS on 3 March and intelligence governed the decision to arrest using a MASTS strike, bearing in mind a variety of factors to be balanced, later by the OFC in a time critical way, not least, protection of the public. We do consider that interception was justified as opposed to other tactical options including intervention, disruption, ARV involvement or doing nothing and our assessment, like that of the officers making it on the ground, is informed by their collective experience, the intelligence available at the time and the reality of the critical timeframe. The TFC and OFC were well aware that that ARVs were available should disruption be required. Naturally the Inquiry is yet to hear full evidence about this issue. Even if it is the case that alternative options ought better to have been recorded before or during the operation on 3 March, if only to be rejected, on the available information to date, GMP considers, pending oral evidence, that Mr Arundale's views on this particular issue may be unrealistic and at odds with the available intelligence that he has not been sighted on.

27. We hope it assists at this stage to indicate that GMP believes that the following "strike" related decisions were reasonable and justified:

- a. To utilise MASTS to intercept the suspects and effect arrests;
- b. To park the Alpha car across the front of the Audi and
- c. To permit Q9 to provide cover from his position in the rear offside of his vehicle.

28. Once the option of specialist munitions was authorised by the SFC, their actual deployment during any strike was appropriately left to the judgement of those officers tasked with their specific use. Decision making about both the authorisation and use of such munitions will be affected by information about the general intentions and capabilities of suspects, their potential manner of driving, the type of vehicle they are using and their immediate criminal focus. Obviously it will be necessary to hear all relevant evidence but we note at this stage that Messrs Sturman and Pemberton (and in part Mark Williams) disagree with Mr Arundale when he opines that the authorisation and use of the Hatton round was inappropriate.
29. We will deal with the issue of the organisational history of the use of CSDC within GMP a little further in this statement. Regardless of that history the Inquiry will also examine the circumstances in which X9 removed the canister pin. We appreciate that there may be an entirely well motivated difference of opinion about this – one which is more cautious and one which perhaps reflects the potential difficulties of trying to remove the pin, whilst carrying other equipment, focusing visual attention on subjects and moving quickly on foot towards the relevant vehicle. It does not necessarily follow that because an officer has removed the pin early he/she is intent upon deploying CS. If the pin has been removed and CS is not required, it can, if circumstances allow, be reinserted or it can be deployed safely away from the vehicle and this ability to react to changing dynamics enables the relevant officer to act flexibly as the situation unfolds.
30. The competence of relevant officers has been called into question and featured as an issue in *R v Faby*. This can conveniently be dealt with under the auspices of this TOR. We will take each in turn.

*Supt Granby (J18) - the TFC*

31. We believe that Mr Arundale may have overstated the significance of this officer's unsuccessful attendance on the Joint Services PSNI course in 2011. Supt Granby will be able to give evidence about the feedback he received and his own views about the relevance of this to his role as a TFC generally and on 2 and 3 March. The literature (and the joining instructions) surrounding this course have evolved since 2011. In 2011, when the course was advertised, D.C.C. Simon Chesterman (Working Group on Armed Policing Lead) made it clear that if a delegate was assessed as not meeting the required standard of the programme their existing accreditation would not be affected. This was confirmed within the written materials for the course with the caveat that if a critical issue were identified that raised a concern about operational practice, it would be conveyed to the Chief Officer of the relevant force. To the best of our knowledge this never occurred. Upon his return to GMP after the course, on 15 April 2011, Supt Granby notified both Chief Inspector Mike Lawler and Superintendent Leor Giladi of the fact that his attendance had been unsuccessful.
32. There was no requirement to pass this course, to continue as an accredited TFC. The course (attended by invitation rather than application) compliments existing skills and counts as ongoing professional development of a non-mandatory and specialist nature. It is a specialist firearms operations course focussing on counter terrorist operations, national security or situations where the nature of the circumstances surrounding an incident are deemed so serious by an accredited SFC they he/she directs the incident to be commanded by a specialist firearms commander. Following his attendance on the PSNI course in 2011, but prior to the death of Mr Grainger, Supt Granby attended 6 hours of command training on 26 January 2012 in GMP during which he was required to apply the CMM/NDM in the context of the policing response



to shooter incidents and was assessed as competent to act in the position of a TFC.

*X7 - the OFC*

33. Mr Arundale repeats the observation of Temp C.I. Pemberton, which we accept and regret, that, on one view, X7 was, technically, not occupationally competent as an OFC at the time of this incident because he had not completed his mandatory NPIA national command training day in 2011. Such training is required pursuant to Chapter 5 of the ACPO 2011 Manual. Enquiries demonstrated that X7 had been regularly refreshed in his MASTS, his last such training being on 17 March 2011 and 24 November 2011 during which his skills as an OFC, as before, would have been tested and assessed. This would, in fact, as Mr Nicholson remarks, assist in the re-accreditation process. It seems to be the case that X7 in fact attended the mandatory NPIA course on 20 October 2011 for some 2 to 3 hours but had been forced to leave early due to operational requirements. GMP does not take lapses in mandatory firearms command lightly although it is the view of Insp Marcus Williams that X7 was unlikely to have missed a great deal and may not have been required to repeat the training. The effect of any absence from the course, will be a matter for the Chairman, but we venture to agree with previously stated expert opinion that this failure was not critical and did not affect the quality or nature of X7's decision making. We note that the NPIA course was not a pass/fail exercise and individuals are not assessed against learning outcomes or criteria.

*Q3 - TAC*

34. We believe that Q3 was qualified to act as tactical advisor (TAC) on Operation Shire. He qualified as an OFC in 2010 and a TAC on 9.2.11. He was re-accredited as a TAC on 31.3.11 and underwent TAC refresher training on 25.10.11. His last MASTS refresher training was on 24 November 2011 and he received OFC refresher training on 23.2.12. Q3

handed over to Y19 shortly after 3pm on 3 March.

*Y19 - TAC*

35. GMP accepts the criticisms and wishes to apologise for the disconcerting fact that from the time of the amended 2011 NPFTC Module F2, Y19 was not occupationally competent in the role of MASTS and therefore not operationally competent to perform the TA role on a MASTS operation. It would appear as though GMP's Tactical Advisor SOP had not been amended in summer 2011 to take account of the change in requirements from the 2006 NPFTC, when it could have been. Y19 would have been operationally competent within the 2006 requirements which remained in place until May 2011. It will be for the Chairman to consider, what if any, relevance this has to the decision-making process on 3 March. Y19 had been refreshed in TAC and MASTS training in the five months preceding this incident. Y19 took over the role of Tactical Advisor during the afternoon of 3rd March 2012. This was at a time when the operation was already up and running, and a previous Tactical Advisor, Q3, had already given advice to the TFC, before the deployment commenced. Q3 was both operationally and occupationally competent to give tactical advice on MASTS. Y19 attended MASTS training on 30th November 2011 and would therefore have had a good level of knowledge around foot and vehicle tactics from a MASTS platform.

*X9*

36. We do consider that this officer was operationally and occupationally competent in the use of CS munitions and the Chairman has access to his detailed training records.
37. GMP remains conscious that as at March 2012 the system and available resources for recording all relevant firearms training details was wanting which is why, in part, E Fire was subsequently replaced with Chronicle. We are aware that a deficiency in recorded training details was not uncommon

across forces licensed to deliver training though we fully appreciate that such deficiencies were unsatisfactory even though recording systems have evolved for the better since that time, as Inspector Williams has explained in his witness evidence.

*The suitability or otherwise of the firearms, ammunition and other munitions deployed in the operation*

38. It is important that GMP comments upon the use of the CSDC in these opening remarks. A defence case statement was drafted on behalf of GMP during the prosecution of the Chief Constable for health and safety offences in which it was asserted that Home Office approval existed in respect of the use of CSDC. This assertion transpires to have been incorrect and it is important that this error is publicly corrected and apologised for. It was the understanding of those tasked with providing instructions that the statement was accurate. This issue played no part in the outcome of the criminal proceedings.
39. Each Chief Constable is responsible for establishing the operational requirements for their police area in order to determine a policy for the provision of weapons requiring special authorisation, and the equipment, training and accreditation of users. For this purpose, Chief Officers should assess the known and reasonably foreseeable threats and risks in their police area. Force policy should and did detail the specific process for the authorisation of firearms and specialist munitions and the level at which such authority must be given. The use of specialist munitions must be proportionate in the circumstances and subject to a dynamic application of the NDM (formerly CMM).
40. Upon receipt of his report, GMP instructed Detective Chief Inspector Ryan Davies to review the findings made by Mr Arundale about use of CSDCs. This officer, until now, has had no previous involvement with Operation Shire or investigation/Inquiry into the death of Mr Grainger.

He is an experienced investigator and detective who has worked in GMP Professional Standards Branch for several years. That work has involved a succession of critical, public interest and challenging GMP investigations that have resulted in serving police officers being arrested and ultimately convicted, imprisoned and/ or dismissed from the police service for a wide range of offences. We wish to make clear that what follows is provisional in the sense that some enquiries are outstanding and it is also a summary as we are conscious that, at the time of drafting, not everyone may have been sighted on the relevant documentation about this issue.

41. The relevant Manual of Guidance stipulates that only approved types of CS Munitions authorised by the Home Office should be used. From 2004 GMP were concerned to find an alternative to the approved CS RIP round because it was considered that its use was potentially hazardous especially if a targeted vehicle contained rear seat occupants but for other reasons as well. At all times, the motivation and intent was to increase not decrease safety to all persons potentially affected by a MASTS strike. There appears to have been an awareness that the use of any alternative would require assessment, if it did not exist already, from the Home Office Scientific Development Branch (HOSDB). GMP conducted research and entered into dialogue with the HOSDB who had clearly not tested CS FEGs/CSDCs. In 2007 Insp Andrew Holmes prepared a report for the GMP Firearms Policy Group seeking approval for the deployment of a CSDC manufactured by CTS Tactical Solutions in the US, imported into the UK by Beechwood Equipment. Each canister would contain less than the 5-gram limit suggested in the Himsworth Report. After the presentation of Insp Holmes' report by Chief Insp Brian Davies, ACC Thompson (as he then was) approved use of the CSDC subject to provisos, one of which required a written audit trail of consultation with the Home Office Scientific Development Branch.

42. GMP sought further advice. An email from GMP's contact at the HOSDB made it clear in an email dated 13 June 2007 that they could not support or sanction the use of less lethal weapons which did not have the support of the Home Office or ACPO whilst observing that ultimately it was the responsibility of the Chief Constable to ensure that sufficient information was available to conduct a relevant risk assessment. He explained the limited parameters of enquiry from the HOSDB perspective (chemical components and dispersal) and offered a provisional view on various aspects of the munition selected by GMP. This included advice that GMP should obtain an independent medical viewpoint as a safeguard. Naturally the Inquiry will wish to investigate who saw this email having regard to the principles of the ACPO Codes of Practice and the Manual of Guidance.
43. The product ultimately used by GMP is believed to have undergone modification in accordance with GMP's own research and consultation with a view to achieving a CS irritant content that had as much parity as possible with approved CS munitions including spray and RIP rounds.
44. Having received the HOSDB advice referred to above, GMP proceeded to use the CS Canister without seeking the support of central Home Office or ACPO. It would have been appropriate practice for GMP to have then sought the support of ACPO and/ or central Home Office, prior to using the CS Canister in policing operations.
45. Investigations to date suggest that the individuals involved made well-intentioned but erroneous assumptions about the extent of due diligence required or already achieved and interpreted the guidance material and advice given at the time in good faith but without consulting with ACPO to ensure central co-ordination. The reasons for this will be a matter for the Chairman.

46. That said and without flinching from the fact that the use of CSDC by GMP had not been approved via the national health check processes, we wish to make the following observations, in the light of some of Mr Arundale's remarks.
47. The CS FEG which was used on 3 March 2012 had a claimed CS irritant weight of less than 5 grams.
48. GMP has always been open and transparent about its possession and use of the CS Canister. In 2008, via HOSDB, GMP updated the 'UK Weaponry Database' with the fact that it possessed the CS Canister for operational use. From at least 2009, the National Police Improvement Agency knew that GMP possessed the CS Canister for operational use. In January 2012, NPCC Armed Policing staff knew that GMP had reported a leaking CD FEG.
49. John Alder's role, referred to by Mr Arundale, appears to have evolved from an NPIA specialist undertaking a 'critical friend review' of the GMP MASTS SOP to what effectively amounted to John Alder becoming, if not a co-author, a significant, specialist NPIA contributor to the GMP MASTS SOP that was re-written by GMP and Mr Alder between 6<sup>th</sup> February 2009 and 21<sup>st</sup> March 2009. A clear audit trail of email exchanges and revised MASTS SOP documents exists showing amendments by John Alder during that period. Mr Andy Latto was John Alder's manager at the NPIA. Mr Latto also appears to have taken part in the review of the GMP MASTS SOP by contributing to the revised GMP MASTS SOP. By 24 March 2009, Mr Alder had signed that SOP off as fit for purpose even though it openly referred to the operational use of CSDC.
50. DCC Chesterman (ACPO armed policing) reviewed ACC Sweeney's log along with Kevin Nicholson (NPIA) in 2012 as part of a series of reviews. Neither expressed concern about the fact that GMP were plainly using

CSDC operationally.

51. These observations are not made with a view to diverting the critical spotlight from GMP. At the conclusion of this Inquiry the Chairman will need to consider what, if any recommendations, he wishes to make. The use by GMP (which had a licence to train firearms officers) of this munition was known or ought to have been known by central organisations tasked with providing governance over the use of less lethal weaponry. Despite being scrutinised since 2008 (death of PC Ian Terry) and again 2012 (this incident), no investigative or reviewing body, until November 2016, commented or appears to have identified that the CSDC device was not approved. This issue may tend to show that policy and compliance varied significantly from force to force in 2012 though there is more consistency four years on and furthermore that systems which on paper appear to be robust and academically commented upon, do occasionally lack central as well as local governance.

52. The use of the canister then was risk assessed and the officers who deployed it were trained in its use. GMP no longer uses the CS Canister. GMP does retain the view that if CS is to be used within a MASTS context, then CSCDs generally represent a safer alternative to the approved CS RIP round. Its role in the events of 3 March, as we have observed, is a matter for the Chairman to make findings about. The Chairman may wish to consider the comparative qualities and characteristics of this munition versus those of the CS RIP round for the purpose of any recommendations.

*Any relevant firearms policies, protocols or manuals in force at the material time, together with any subsequent revisions or amendments*

53. We do not consider that it is necessary or useful for GMP to say anything about this TOR in an opening statement.

*Whether (and, if so, to what extent) the judgment, reactions or operational effectiveness of any of the planners, commanders or firearms officers were compromised by extended hours of duty or by limitations in their professional capabilities*

54. We do believe that appropriate weight was given by those tasked with commanding this deployment to hours of duty and welfare issues throughout 3 March. The officers engaged with this strike were adequately trained to operate in limited or no light conditions.

*The extent to which Mr Grainger's injuries would have incapacitated him whilst he remained conscious and whether, after Mr Grainger was shot, his life could have been saved.*

55. Again, we do not propose to comment upon these TORs in this opening statement.
56. The practice and procedure of armed policing is constantly changing and this Inquiry will naturally be focusing on events in 2012. By the conclusion of the Inquiry we aim to provide the Chairman with a formal organisational response to the recommendations advocated by Mr Arundale as we consider that this is likely to be useful. There is much in Mr Arundale's report (and other expert reports) that reflects good practice on the part of GMP notwithstanding the criticisms he makes and the latter will naturally feature more than the former. We wish to reiterate that on the information to date, it remains our view that individual officers acted at all times in good faith with the paramount issues of public protection / reducing public risk well in mind. However little comfort this observation is likely to provide those affected by Mr Grainger's death, it is as important to record as GMP's desire to learn organisational lessons.

9 January 2016.



