
THE ANTHONY GRAINGER INQUIRY

OPENING STATEMENT ON BEHALF OF Q9

1. On Saturday 3 March 2012 Q9, a highly trained specialist and experienced firearms officer, shot and killed Anthony Grainger during a pre-planned police operation. Self-evidently it was no part of the plan that Mr. Grainger would be shot, and such an outcome remains rare in UK policing. The primary objective of the operation was to secure the arrest of those suspected of engaging in serious and violent crime against the public.
2. In that Anthony Grainger was not in fact armed, there is a clear public interest in the Inquiry establishing why Q9 believed that he both had access to firearms and a capacity to use them for criminal purposes, and interpreted his actions at the scene accordingly. That the use of lethal force by operational police officers is sometimes both necessary and proportionate to the perceived risk is a matter of fact, however unwelcome.
3. The personal loss to Mr. Grainger's family and friends is recognised, and rightly so: similarly his life beyond the criminal activity documented from the perspective of law enforcement agencies. The reality of the threat to the public from those engaged in serious and organised crime is also to be recognised. This includes, as here, those with commercial premises subject to robbery of substantial highly secured cash deposits. Operational police officers such as Q9 act in the public interest to detect and prevent crime, including violent crime, and at repeated risk to their own lives. These interests are all directly engaged at pre-planned firearms operations such as that under immediate consideration.

4. As a trained firearms officer Q9 voluntarily accepted and met the risks and responsibilities intrinsic to the role. He was psychologically qualified and tested. As part of this operation, as with the many others he had conducted, he had no ambition to discharge his weapon without clear justification. Based on what he believed and saw, he maintains that he had such clear justification in relation to the death of Anthony Grainger.
5. Although the evidence heard by the Inquiry will extend over approximately 12 working weeks, and many thousands of pages of detailed evidence lies behind that exercise, the Inquiry should not – will not – lose sight of the realities of time for decision-making by the police officers at the scene. The Inquiry will involve millions of words, written and spoken. Q9 had to make a decision as to whether to discharge a weapon in less time than is taken to read a short sentence. Had Mr. Grainger been armed and a different decision taken by Q9 – if he had hesitated – a realistic outcome is that a police officer would have been shot.
6. Q9 will give his evidence some five years after the incident. He welcomes the fact that the events and his decision-making will finally be considered objectively and on the basis of evidence rather than assertion and/or ill-informed speculation. An Opening Statement is not the moment to rehearse contended conclusions arising from the evidence. No doubt significant lessons can be, and have been, learnt as to aspects of this police operation by Greater Manchester Police.
7. The Inquiry will resist the easy criticism that comes with the opportunity to review events through the prism of concluded events and/or facts only established afterwards, such as that there was no firearm in the vehicle. Its conclusions will be driven by the evidence and nothing else.

8. Q9 accordingly reserves any detailed commentary on his behalf as to wider themes and events until the conclusion of the evidence, including his own. As is documented, through witness statements and repeated interviews he has co-operated fully with the investigative process to date, and will continue to do so.
9. Those records demonstrate that he justifies his decision to shoot Anthony Grainger on the basis of lawful necessity. He had a reasonably held belief that the occupants of the car were engaged in robbery of commercial premises or cash in transit vehicles, and had access to and a willingness to use firearms.
10. He will maintain that the fact that no firearm was recovered from the suspects' vehicle in no way demonstrates that those in the vehicle were unlikely to have access to a firearm. The Inquiry should consider the possibility of an arrangement with a third party to deliver such a weapon to the scene. The occupants were part of, or reasonably believed to be part of or associated with, a more extensive organised criminal network that was using firearms. Those that engage in such serious and organised criminality cannot be surprised if the threat assessment made by law enforcement agencies in respect of them is that they may carry and use lethal firearms.
11. Notwithstanding the acquittal at trial of the defendants indicted with conspiracy to rob, that those in the vehicle were present with an intention to commit robbery at highly secure locations is the obvious and reasonable conclusion in all the circumstances. Much of the material that will be considered by the Inquiry was not presented to the jury.
12. Breaching the levels of security associated with commercial cash deposits such as existed at the scene requires the threat of serious violence, including lethal force. The occupants of the vehicle were wearing gloves – including those with reinforced knuckles – and/or balaclavas: these are characteristic

of an intention to rob rather than simply to steal. Wearing these items without more does not generally achieve access to highly secure cash deposits. As a minimum, it was a reasonable belief that a firearm would be used to achieve this purpose. Such a firearm did not necessarily have to travel in the same vehicle as the suspects, but may have.

13. As to the existing evidence, there are recognised differences in the recollections of individual officers at the scene. This is unremarkable, and if anything points to the intrinsic honesty of each. Had the accounts been identical the inevitable allegation would have been one of collusion.

14. In seeking to establish a narrative of events at the scene the Inquiry will consider the simple speed of events; that each officer has a different perspective; the well-documented phenomena of auditory exclusion and perceptual distortion more generally; and the dramatic and dynamic quality of events over a few seconds. This includes the discharge of Q9's weapon; the discharge of other rounds into the tyres of the suspects' vehicle by other officers; the deployment of CS into the vehicle; the movement of multiple officers towards and around the vehicle; and the necessity and fact of removing the occupants.

15. As a matter of law the lawfulness of Q9's decision to shoot is of course to be determined according to his honestly held belief at the time, and applying well-established law as to self-defence/defence of another. His position remains as it always has: based on the briefing, the occupants of the car were professional criminals with access to firearms and a willingness to use them to execute a robbery of secure cash locations. The timing of the decision to arrest was not that of Q9, but demonstrably sought to minimise the threat to members of the public from such serious and organised crime.

16. Further, on Q9's belief and account, an obvious interpretation of Mr. Grainger's decision to lower his right hand was that he was reaching for a

firearm. It was not associated with any wider movement of the body to get out of the vehicle. The vehicle was blocked in. Anthony Grainger appeared to have acted in direct contradiction of Q9's instruction, and/or when it must have been obvious to him that Q9 was a police officer.

17. Other police officers were approaching Mr. Grainger as he did this. Q9 could not reasonably be expected to have to wait to see a firearm in Mr. Grainger's hand before reacting as he did by discharging a round. Such delay could have proved fatal to the approaching police officers. The reality of the timescale is emphasised again on Q9's behalf.

18. It is recognised that the Inquiry's Terms of Reference are broad and do not expressly include the question as to whether the killing of Anthony Grainger by Q9 was lawful. If this question is addressed directly by the Inquiry, Q9 will maintain that his actions were lawful: the discharge of a potentially lethal round to incapacitate an equivalently lethal threat was necessary and proportionate. The Inquiry will be invited to direct itself according to *Sharman* [2005] EWCA Civ 967, CA at [11]: is there evidence to make the Inquiry sure that according to his honestly held belief Q9 was not acting reasonably in defence of others?

19. To that question, and whatever wider criticism the Inquiry may make as to details of the planning and execution of this police operation by GMP through its officers, it will contended on behalf of Q9 that there is only one answer. Had he not judged it necessary to shoot Anthony Grainger he would not have done it. Had he known at the time that Anthony Grainger was not armed with a firearm, he would not have done it.

20. The Inquiry will have access to wider intelligence than was known to Q9. Q9 is not party to the material subject to consideration in the closed

hearings. He has had the same disclosure as other core participants, including the family of Mr. Grainger.

21. The Inquiry will judge Q9's actions according to what he knew at the time. It must necessarily also determine the true purpose and intent of the three occupants of the stolen Audi based on all the evidence. The reality of the potential and/or intended criminality should be established as an objective matter of fact as part of its evaluation of this police operation, including the Inquiry's evaluation of the quality and accuracy of the intelligence relied on.

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