

IN THE MATTER OF THE INQUIRIES ACT 2005
AND IN THE MATTER OF THE INQUIRY RULES 2006

THE ANTHONY GRAINGER INQUIRY

**WRITTEN SUBMISSIONS ON BEHALF OF
THE NATIONAL CRIME AGENCY**

Introduction

1. These written submissions are made on behalf of the National Crime Agency (“NCA”)¹.
2. At all stages of this Inquiry (and the preceding Inquest) the NCA has sought to assist and support the Inquiry. The NCA has cooperated fully with all requests made of it by *inter alia* disclosing and making available all relevant material which the NCA holds, ensuring that arrangements are in place to facilitate access to that material (notwithstanding the significant sensitivities of that material) and facilitating the examination of the NCA’s actions and decisions through current and former NCA officers and employees.
3. The Inquiry has explored all aspects of the collation, assessment and dissemination of the intelligence held by the NCA relevant to the Inquiry’s Terms of Reference. Witnesses have given detailed evidence about their actions and decisions. The accounts of those witnesses have been challenged and tested by Counsel to the Inquiry. Wherever possible, evidence given in closed hearings has been disclosed to Core Participants through agreed gists of evidence.
4. Bearing in mind the Inquiry’s Terms of Reference and the limited involvement of the NCA in the Greater Manchester Police operation which ultimately led to Mr Grainger’s death, these written submissions are intentionally brief and focused upon those matters which have been explored by the Inquiry which concern the NCA’s actions.

¹ At the material time, the NCA was the Serious Organised Crime Agency (“SOCA”). For the purposes of these Submissions ‘NCA’ is used throughout to refer to both SOCA and the NCA.

5. These submissions have been drafted in such a way as to avoid the need to also serve closed written submissions². The NCA does not presently consider it necessary to serve closed written submissions nor make a closing statement, however reserves the right to address the Inquiry in closed session if it subsequently becomes necessary to do so.
6. At the invitation of Counsel to the Inquiry, these submissions are addressed to the evidence which has been heard in respect of the NCA's involvement with GMP's Operation Shire from late 2011 to March 2012 rather than any systemic issues which may be considered to arise from that evidence. It is understood that the latter, i.e. any issues of a systemic nature, will be addressed, if necessary, at a later stage. Accordingly, the following issues are addressed within these submissions:
 - a. Collation and assessment of intelligence.
 - b. Dissemination of intelligence.
 - c. Deletion / destruction of material.

Collation and assessment of intelligence

7. The relevant intelligence collated by the NCA during the period 1st – 3rd March 2012 is contained within *Closed File 4A, pages 293 – 346* and *Closed File 4A, pages 55 – 73* (in reverse order). The Inquiry therefore has clear evidence of the intelligence which was in fact available to the NCA. The question for the Inquiry is the assessment of that intelligence³.
8. The receipt and assessment of this intelligence was explored in detail during the evidence of P11 on 25th January 2017. As to P11's assessment of the underlying material, the Chairman is referred to P11's evidence at *Closed Transcript 25.1.17: page 118, line 8 – page 126, line 8 and page 143, lines 11 – 22*.

² Within these submissions we provide references to the closed transcripts. Those references are not necessarily exhaustive of the evidence which was heard on a particular issue or subject. We have sought to identify the key evidence only. For obvious reasons we do not refer herein to the content of any evidence given in closed.

³ I.e. corresponding to §2 of the Inquiry's Terms of Reference, *viz.* the "accuracy, reliability, interpretation, [and] evaluation" of that intelligence.

9. P11's assessment was wholly reasonable based upon: (i) the intelligence available to him; (ii) his experience (see *Closed Transcript 25.1.17: page 3, line 10 – page 5, line 7*); and (iii) his involvement in Operation Shire.

Dissemination of intelligence

10. The NCA focuses upon those issues identified within Gist 1.

David Totton and Aaron Corkovic

11. With regard to the intelligence set out at §5 of Gist 1 and the admission by P24 and P27 recorded at §8 of Gist 1, it is submitted that the intelligence was in fact read and understood as intended.
12. The Chairman is referred to:
 - a. DCI Cousen's evidence (*Closed Transcript 17.2.17: page 92, lines 9 – 24*);
 - b. DS Hurst's evidence (*Closed Transcript 7.4.17: page 31, line 4 – page 32, line 10 and page 44, line 11 – page 45, line 1*); and
 - c. §3 of Gist 6 (summarising DS Hurst's evidence).
13. Furthermore, the operation was in fact split on 22nd February 2012. See:
 - a. DCI Cousen's evidence (*Open Transcript 15.2.17: page 20, line 7 – page 21, line 23*); and
 - b. Mr Talbot's evidence (*Open Transcript 10.2.17: page 34 line 4 – page 36, line 10*).
14. The above, being the clear understanding of the Senior Investigating Officer, GMP's handling of the intelligence should have been managed accordingly and is not something over which the NCA had control.

Item 41 of the Intelligence Chronology

15. With regard to item 41 on the Intelligence Chronology and §§9 and 10 of Gist 1, the NCA refers to DS Hurst's evidence at *Closed Transcript 7.4.17: pages 40, line 14 – page 41, line 20*.

Robbery / Access to Firearms

16. The dissemination of the intelligence by the NCA to GMP during the period 1st – 3rd March 2012 was explored in particular with P11 and C3.
17. P11's relevant evidence is contained at *Closed Transcript 25.1.17: page 81, line 12 – page 86, line 15* and *page 156, line 2 – page 158, line 12*.
18. There is a dispute between C3 and P11 as to the intelligence which was disseminated. This issue was explored with other witnesses, including DCI Cousen, by reference to what C3 disseminated to him. It is apparent from the material in the Open Gists (see §§9 – 15 of the Gist 3 summarising the evidence of DCI Cousen, §2 of the Gist 4 summarising the evidence of Mr Sweeney and §§4 and 5 of the Gist 6 summarising the evidence of DS Hurst) that the evidence of P11 is to be preferred.
19. The NCA also notes:
 - a. In evidence C3 accepted that he did not make verbatim record of intelligence passed to him (§12a of Gist 1).
 - b. C3 does not recall P11 passing him an assessment (§12c of Gist 1). The highest C3 puts his evidence is that he **could not recall** receiving the information (see §17 of Gist 1).
20. C3 gave important evidence on this issue at *Closed Transcript 1.2.17: page 99, line 12 – page 100, line 7* (see also *page 136, line 24 – page 138, line 1* of the same).
21. As to access to firearms more generally, the NCA refers to §15 of Gist 1. In those circumstances, whilst there is arguably a difference of recollection between P11 and C3 as to whether there was a positive assertion that there would not be firearms, the broader point is that, save for that which appears on the Intelligence Chronology, it is common ground that the NCA did not disseminate any

intelligence to GMP that David Totton, Robert Rimmer or Anthony Grainger had access to, or may have access to, firearms.

Deletion / destruction of material

22. The NCA has made available to the Inquiry all relevant material and information which still exists and is in its possession. That material demonstrates clearly the intelligence which was in fact available to the NCA at the material time which is relevant to the Inquiry's Terms of Reference.
23. The intelligence disseminated by the NCA to GMP is broadly identifiable by records held by GMP.
24. The material available from the NCA – which is acknowledged to be incomplete – together with documents available from GMP to which the Inquiry has had full access is extensive. It enables the Inquiry to make findings of fact with confidence.
25. Within the confines of being able to make open submissions, the NCA wishes to state as a matter of public record that any inference that material may have been deliberately destroyed or lost with the intention of frustrating or otherwise impeding the fullest exploration of the issues arising from Mr Grainger's death is unsustainable.

9th May 2017

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