

<p>1 Wednesday, 18 January 2017</p> <p>2 (10.35 am)</p> <p>3 THE CHAIRMAN: Mr Beer, I am sorry we are slightly late.</p> <p>4 Mr Stuart Grainger is not yet on the remote link. There</p> <p>5 was a slight delay yesterday, I think at more than one</p> <p>6 stage, in getting him into position so he could see what</p> <p>7 was going on. I am not frankly minded to wait. We are</p> <p>8 not hearing evidence, we are going through opening</p> <p>9 statements, which will be on the website and he can join</p> <p>10 us as and when. A phone call is being made at this</p> <p>11 stage to see what the position is. If it turns out</p> <p>12 there is some specific problem, it may be necessary for</p> <p>13 me to rise but for the time being I think we will just</p> <p>14 get on with it.</p> <p>15 MR BEER: I understand, sir.</p> <p>16 Opening submissions by MR BEER (continued)</p> <p>17 MR BEER: Sir, I was at the beginning of 2 March 2012.</p> <p>18 THE CHAIRMAN: Yes.</p> <p>19 MR BEER: For your note, it is page 85, paragraph 289 of the</p> <p>20 opening note.</p> <p>21 The MASTS operation commenced at 1.00 am on Friday,</p> <p>22 2 March, and concluded without any action being taken</p> <p>23 because of the absence of movement and sightings of the</p> <p>24 subject. Therefore the firearms authority was rescinded</p> <p>25 at 6.30 am, 6.45 am, or 6.40 am, depending on which</p> <p style="text-align: center;">Page 1</p>	<p>1 should review the information and make an assessment</p> <p>2 with tactical advice as to the need for ongoing armed</p> <p>3 deployments.</p> <p>4 At 5.20 pm, this is still on the 2nd, ACC McCormick,</p> <p>5 that is of Cheshire, received an email containing the</p> <p>6 briefing for Operation Shire and the threat assessment</p> <p>7 and operational order associated with it. She was at</p> <p>8 that time made aware that there had been a surveillance</p> <p>9 operation within both force areas and was informed that,</p> <p>10 based on the information, Chief Inspector Brierley</p> <p>11 assessed that armed deployment was not required. The</p> <p>12 email from Chief Inspector Brierley says as follows, and</p> <p>13 I wonder if we could turn this up, it is at bundle M1 at</p> <p>14 page 85.</p> <p>15 THE CHAIRMAN: Yes, thank you. I have it.</p> <p>16 MR BEER: It is an email from Chris Brierley, Cheshire, to</p> <p>17 Jeanette McCormick, Cheshire, 5.20 pm on the 2nd:</p> <p>18 "Ma'am, just to give you the update re the GMP</p> <p>19 operation that has been running since last night,</p> <p>20 a request was made for authority to Mr Gerrard [we</p> <p>21 understand that to be the Deputy Chief Constable of</p> <p>22 Cheshire Police] last night for authorisation for them</p> <p>23 to possibly run a MASTS, see below PowerPoint."</p> <p>24 It seems that a PowerPoint was an attachment to this</p> <p>25 document:</p> <p style="text-align: center;">Page 3</p>
<p>1 document you look at. The operation ended that day at</p> <p>2 7.00 am.</p> <p>3 At 9.00 am on 2 March, Assistant Chief Constable</p> <p>4 Terry Sweeney took over responsibility from Assistant</p> <p>5 Chief Constable Heywood as duty SFC, remember that's</p> <p>6 strategic firearms commander, Superintendent Mark Granby</p> <p>7 was the on call TFC, the tactical firearms commander,</p> <p>8 for GMP that day.</p> <p>9 At 10.30 Superintendent Granby visited the TFU, the</p> <p>10 tactical firearms unit, offices for a briefing about</p> <p>11 a different operation but whilst he was there he was</p> <p>12 briefed about Operation Shire, to the effect that there</p> <p>13 had been an armed operation the previous night but that</p> <p>14 the firearms authority had now been rescinded.</p> <p>15 At 11.30 am, Assistant Chief Constable</p> <p>16 Jeanette McCormick, the duty SFC for Cheshire</p> <p>17 Constabulary, was contacted by the Cheshire force</p> <p>18 incident manager, Inspector Dickinson, who informed her</p> <p>19 that he had received information from GMP in relation to</p> <p>20 an ongoing situation, as a result of which he had</p> <p>21 deployed armed officers to the Culcheth area but that</p> <p>22 the authority had been rescinded and a decision taken to</p> <p>23 further assess the ongoing threat.</p> <p>24 ACC McCormick requested that Chief Inspector</p> <p>25 Brierley, a tactical firearms commander from Cheshire,</p> <p style="text-align: center;">Page 2</p>	<p>1 "The initial intel I have received this morning from</p> <p>2 FIB did not link the two incidents. That came after</p> <p>3 numerous contacts with various members of GMP. I have</p> <p>4 eventually spoken to DI Robert Cousen, who is running</p> <p>5 Operation Shire. He has made no specific request for us</p> <p>6 to do anything with regards to this, as there is no</p> <p>7 victim, location or time and the OCG he has been</p> <p>8 surveying have visited numerous locations as well as</p> <p>9 Culcheth. They also visited Leigh and GMP are putting</p> <p>10 no plans in place for that location. In light of this</p> <p>11 and having discussed what we have at length with</p> <p>12 Detective Superintendent Geraint Jones [he is also</p> <p>13 a Cheshire officer, a duty detective superintendent].</p> <p>14 I feel it is appropriate to adopt a similar position.</p> <p>15 GMP have technical on a vehicle, stolen, that is being</p> <p>16 used by the group and will notify Cheshire via the force</p> <p>17 incident manager if intelligence suggests they are</p> <p>18 coming on to us tonight or any other night over the</p> <p>19 weekend."</p> <p>20 THE CHAIRMAN: This is an internal Cheshire Constabulary</p> <p>21 email?</p> <p>22 MR BEER: Cheshire to Cheshire.</p> <p>23 THE CHAIRMAN: Cheshire to Assistant Chief Constable on</p> <p>24 2 March which includes reference to the fact that there</p> <p>25 is no victim/location/time?</p> <p style="text-align: center;">Page 4</p>

1 MR BEER: Yes.  
 2 THE CHAIRMAN: Yes. I understand, thank you.  
 3 MR BEER: "If that is the case, we can treat it as  
 4 a spontaneous incident and react accordingly, also if  
 5 they do target and enter a premises overnight then,  
 6 according to DI Cousen, a potential MO [modus operandi]  
 7 is for the offenders to await the arrival of staff  
 8 inside the building and strike when the safe is opened,  
 9 but again there is no specific intel. Both Geraint and  
 10 I are on this weekend, as is Paul Williams, so we will  
 11 be familiar with the incident, I hope this meets with  
 12 your approval, regards Chris B."  
 13 Then at the top of this page you will see the ACC's  
 14 reply:  
 15 "Thanks re this. Seems sensible, Jeanette."  
 16 THE CHAIRMAN: Yes.  
 17 MR BEER: It may be necessary -- sorry, sir, that file can  
 18 be put away now.  
 19 THE CHAIRMAN: Thank you.  
 20 MR BEER: It may be necessary to examine what if anything  
 21 Chief Inspector Brierley was seeking to convey in his  
 22 email, in particular whether he was suggesting by it  
 23 that in the absence of intelligence with greater  
 24 specificity, it was an unusual decision to mount a MASTS  
 25 operation focused on Culcheth. In this regard the

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1 Inquiry has obtained a recording of a telephone call  
 2 that Chief Inspector Brierley made to the Cheshire  
 3 police force incident manager, Mr Steed(?), between  
 4 7.14 am and 7.23 am on 3 March, ie later the following  
 5 morning. I wonder whether we could look at that too.  
 6 That is M8, 36 to 40.  
 7 THE CHAIRMAN: Yes, I have it, thank you.  
 8 MR BEER: Thank you.  
 9 You should see this is a transcript of a recording,  
 10 an internal recording, again Cheshire to Cheshire.  
 11 THE CHAIRMAN: Yes.  
 12 MR BEER: 7.14 to 7.25. It is 10 minutes and 42 seconds  
 13 long, lots of it concerned other matters which is why  
 14 the transcript is relatively short, because only the  
 15 parts that concern us have been produced.  
 16 THE CHAIRMAN: Yes.  
 17 MR BEER: You will see from page 36 that it is a call  
 18 between Ian Steed, the Cheshire force incident manager,  
 19 and Chris Brierley, the TFC for Cheshire that day.  
 20 They talk on page 36 about the job, as they call it.  
 21 THE CHAIRMAN: Yes.  
 22 MR BEER: Then over the page at 37, halfway down,  
 23 Mr Brierley says:  
 24 "Yeah, I will be there. Geraint Jones is the super  
 25 on that, he is on cover, I briefed him yesterday. We

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1 discussed it."  
 2 That, "I briefed him yesterday" is a reference back  
 3 to the email in which was contained reference to  
 4 a conversation between Mr Brierley and Mr Jones:  
 5 "If there are going to be any CIT [cash in transits]  
 6 then, yeah, we can do err the hi-vis follows on the cash  
 7 in transits."  
 8 We will explore what that means but we understand  
 9 that to mean high visibility disruption tactics by  
 10 following cash in transit vans to deter potential  
 11 robbers. Ian Steed:  
 12 "We would give authority for that.  
 13 "No, no authority it is just a normal routine."  
 14 Ian Steed:  
 15 "Because authority was given yesterday you know?"  
 16 Mr Brierley:  
 17 "Yes, I know, based on flawed intelligence, I got  
 18 an intel document from them."  
 19 Ian Steed:  
 20 "Yes."  
 21 Chris Brierley:  
 22 "That said, [and I will quote in a second] the intel  
 23 I got before I got operation, before I was told about  
 24 Operation Shire, I got basically intel that there has  
 25 been some suspicious activity in the Culcheth area from

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1 unknown people, unknown location, unknown times, unknown  
 2 vehicles and that is what I got. And may be doing  
 3 a cash in transit. Based on that bit of information  
 4 I spoke to Jeanette McCormick, we authorised -- well it  
 5 was working towards a standing authority. I just said  
 6 authorise while we are doing these cash in transits on  
 7 them, whilst we source or fill in the intelligence  
 8 gaps."  
 9 Ian Steed:  
 10 "Right."  
 11 Chris Brierley:  
 12 "On with some digging and it took most of the day to  
 13 eventually get hold of the DI who was running Operation  
 14 Shire, and I still don't think he has told me  
 15 everything. But there was a PowerPoint presentation  
 16 that they did and they were following them last night,  
 17 on the night before Thursday night and they got  
 18 an authority to do a MASTS on us by Graham Gerrard.  
 19 I think they thought this job was going down on Thursday  
 20 night and they stood everyone down on Friday and they  
 21 were going to pick it back up again on Monday. So they  
 22 have either had some updated intelligence, which they  
 23 have certainly not told us about, or they -- it was  
 24 a belt and braces job, just in case on Thursday night  
 25 when we were with them."

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1 Ian Steed:  
 2 "Right I am with you, but I don't know -- so the  
 3 latest intelligence I've got from the DI was there is no  
 4 intelligence. This is Robin Cousens from GMP."  
 5 Ian Steed:  
 6 "Robin Cousens, he was a skater wasn't he?"  
 7 Chris Brierley:  
 8 "Yes he was. They have been following this Salford  
 9 OCG since 13 January in Cheshire, Lancashire,  
 10 Merseyside, Staffordshire, GMP and Derbyshire, Culcheth  
 11 was just one of the places they stopped. They also  
 12 stopped in Leigh and Manchester yesterday -- sorry,  
 13 stopped in Leigh and Manchester which is only literally  
 14 a couple of miles away from Culcheth so I said, 'Okay,  
 15 what provisions are you putting in in Leigh?' 'None,  
 16 none at all. We have policed it, there is nothing. GMP  
 17 need do nothing'. So on that basis, and rather than  
 18 just put some hi-vis armed patrols outside some of our  
 19 potentially vulnerable premises in Culcheth and scare  
 20 them off if they are doing another recce, we have taken,  
 21 we adopted the same policy. Right."  
 22 That is where the relevant part ends.  
 23 Sir, that can be put away now.  
 24 THE CHAIRMAN: Yes.  
 25 MR BEER: Sir, we will explore whether the transcript of

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1 that telephone conversation shows that Chief Inspector  
 2 Brierley was suggesting that a firearms authority  
 3 granted the previous day was based on flawed  
 4 intelligence and if so why, and whether he was critical  
 5 of the decision, having regard to the availability of  
 6 the tactic of "Putting some hi-vis armed patrols outside  
 7 of our potentially vulnerable premises in Culcheth".  
 8 THE CHAIRMAN: Yes.  
 9 MR BEER: On the evening of 2 March 2012, DI Cousen was  
 10 informed that the VTD, the vehicle tracking device,  
 11 showed that the Audi had again travelled to Culcheth on  
 12 2 March. The VTD showed that it had returned to the  
 13 same location that it had been parked at previously.  
 14 Anthony Grainger had previously been in control of the  
 15 vehicle. These two facts led DI Cousen to believe that  
 16 Anthony Grainger had been in the vehicle when it  
 17 travelled to Culcheth. This resulted in him making  
 18 a further application for a firearms authority to cover  
 19 3 March, the Saturday. He considered that the target  
 20 for the robbery would possibly be within the complex  
 21 where the Sainsbury's store was located in Culcheth and  
 22 he explained that this was due to the location where the  
 23 Audi had been parked and spent time, both on 29 February  
 24 and 1 March which afforded a view of the small precinct  
 25 area.

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1 At about 7.00 pm, still on the 2nd, DI Cousen  
 2 telephoned Superintendent Granby and provided him with  
 3 a briefing about Operation Shire, so this is the SIO  
 4 briefing the GMP on-duty TFC and he said in summary.  
 5 First, that Operation Shire had been running since  
 6 the end of 2011 and was investigating an organised crime  
 7 group which had been planning and committing robberies  
 8 in the north-west region.  
 9 Secondly, an armed operation had been mounted under  
 10 firearms authority 75 of 12 and it had drawn to a close  
 11 without arrests having been made.  
 12 Then, to quote Superintendent Granby:  
 13 "Third, he provided me with information which led me  
 14 to believe that three subjects of the operation,  
 15 David Totton, Anthony Grainger and Robert Rimmer,  
 16 intended to carry out an armed robbery in the Culcheth  
 17 area of Cheshire on Saturday, 3 March. The information  
 18 indicated that the three were in the preparatory stages  
 19 of committing a robbery either against cash in transit  
 20 vehicles or commercial premises. I was informed that  
 21 the CPS had been consulted in relation to the operation  
 22 but at this time whilst there was intelligence there was  
 23 not yet sufficient information to support a charging  
 24 decision."  
 25 Superintendent Granby's entry in his log, I am not

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1 going to take you to this for the moment, sir, reads as  
 2 follows:  
 3 "Telecon SIO, Detective Inspector Cousen,  
 4 information and intelligence recorded in TFC booklet for  
 5 authority, 72/12. Revised intelligence recorded in  
 6 SIO's policy book. Op Shire has been running for  
 7 several months, additional information in email from TFC  
 8 Mike Lawler at 1947. Cross-reference with other  
 9 sources, indicates capability and intent of named  
 10 subject. Subjects have been actively recceing Culcheth  
 11 area, although not clear what target is. Intel flow,  
 12 SIO to TFC."  
 13 Superintendent Granby made contact with the TFC who  
 14 had commanded the previous night's operation, you will  
 15 remember it was Chief Inspector Lawler, and received  
 16 from him the details of the threat assessment that he,  
 17 Chief Inspector Lawler, had conducted and the working  
 18 strategy that he had applied.  
 19 Superintendent Granby states that in the light of  
 20 this and the information provided by DI Cousen:  
 21 "I formed the view that based on the identity and  
 22 capability of the subjects, and taking cognisance of  
 23 their believed intention to commit an armed robbery that  
 24 the overall threat level posed was high. I considered  
 25 the working strategy that had been drawn up by my

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<p>1 colleague and I was of the view that it was still                  2 appropriate given the current intelligence picture.                  3 "Furthermore, I believe that the criteria for the                  4 deployment for armed officers was met. Based on my                  5 assessment of the threat, given the information I had                  6 received in relation to the subjects, I believed that                  7 they had the capability, if in a vehicle, to use it to                  8 either ram police vehicles or evade arrest by driving at                  9 police officers. To mitigate this threat I consider                  10 that special munitions, CS canisters and Hatton rounds                  11 should be available to officers delivering the tactical                  12 option."                  13 At about 8.40 pm, still on the 2nd,                  14 Superintendent Granby telephoned ACC Sweeney and                  15 informed him of the intelligence picture and his                  16 considerations in relation to the high level of threat                  17 and his preferred tactical option. ACC Sweeney asked                  18 Superintendent Granby to enable any intervention to take                  19 place with minimum harm and risk to all parties,                  20 including vehicle and foot interception, direct contact                  21 and containment. Superintendent Granby agreed to                  22 forward for Assistant Chief Constable Sweeney's                  23 consideration Superintendent Granby's own threat                  24 assessment and risk assessment and his initial working                  25 strategy.</p> <p style="text-align: center;">Page 13</p>	<p>1 briefly now.                  2 THE CHAIRMAN: Thank you.                  3 MR BEER: First the handover. Paragraph 5.37 of the                  4 guidance provides:                  5 "The transfer of roles at any level of the command                  6 structure shall be documented and include the time and                  7 date of transfer, confirmation that relevant                  8 intelligence and information has been reviewed and that                  9 the new commander understands the situations and                  10 decisions taken thus far."                  11 ACC Sweeney made the following entry in his log:                  12 "I have received a briefing from ACC Heywood                  13 regarding the recent operational deployments that relate                  14 to the three principal subjects. The                  15 information/intelligence to date indicates that the                  16 intention of the subjects is to commit armed robberies                  17 across north-west England."                  18 It is to be noted that this entry is neither timed                  19 nor dated and appears to confirm that a handover did                  20 take place between ACC Sweeney and ACC Heywood.                  21 Notwithstanding that, it remains unclear to what extent                  22 and for how long ACC Sweeney received an intelligence                  23 briefing. In particular ACC Sweeney does not appear to                  24 acknowledge or review decisions or strategies made by                  25 ACC Heywood in his policy log.</p> <p style="text-align: center;">Page 15</p>
<p>1 In the event, authority to deploy firearms officers                  2 on 3 March was granted by the strategic firearms                  3 commander 10 minutes later at 8.50 pm on 2 March. This                  4 was a critical decision. The following issues arise in                  5 relation to it.                  6 Whether ACC Sweeney had received a sufficient                  7 handover briefing from ACC Heywood? That is SFC to SFC.                  8 Second, whether ACC Sweeney was given accurate                  9 information concerning the involvement of David Totton,                  10 Anthony Grainger and Robert Rimmer in a robbery in                  11 Preston in 2008?                  12 Third, whether the authority to deploy armed police                  13 officer was in accordance with the manual and was                  14 a reasonable decision?                  15 Whether the working strategy set for Operation Shire                  16 by ACC Sweeney was a reasonable one?                  17 Whether the choice of tactics to be employed to                  18 deliver the strategic aims of the operation was                  19 reasonable?                  20 Whether ACC Sweeney's authorisation to deploy                  21 specialist munitions, including CSDC was reasonable?                  22 Lastly, seventh, whether the contingency and                  23 tactical parameters that ACC Sweeney set for the                  24 operation were reasonable?                  25 I propose to examine each of those seven issues very</p> <p style="text-align: center;">Page 14</p>	<p>1 As to this latter point it is fair to note, as the                  2 Inquiry's expert Ian Arundale does, that although it is                  3 good practice to have reasonable records of handovers,                  4 documents which clearly specify intelligence paths in                  5 the course of such handovers and the overall strategy                  6 and any tactical parameters and contingencies that the                  7 SFC had directed, there was no service requirement to                  8 electronically record such handover briefings.                  9 Sometimes this occurred, but often, given the                  10 practicalities of the situation, this could not occur.                  11 There was however he says a must requirement in                  12 relation to recording key exchanges between the SFC and                  13 the TFC relating to the authorisation to use specialists                  14 munitions, and we will come to that in a moment.                  15 Secondly then the robbery in 2008 in Preston.                  16 ACC Sweeney made the following entry in his log:                  17 "The subjects [and I have highlighted that] are                  18 believed to have been responsible for an armed robbery                  19 in Preston in 2008, where they broke into a bank                  20 premises and held staff at gunpoint using a shotgun and                  21 a handgun. Subjects have access to stolen vehicle to                  22 facilitate offences."                  23 This entry in the log accords to some extent with                  24 DI Cousen's understanding of the Preston robbery. He                  25 states:</p> <p style="text-align: center;">Page 16</p>

<p>1 "Following the sighting of Totton in possession of 2 a hacksaw [you will remember we heard about that 3 yesterday] it was considered the OCG were possibly 4 targeting a bank, a previous modus operandi used during 5 a robbery of a bank in Lancashire involved the OCG 6 [I have highlighted that] cutting bars around the 7 windows of the bank to afford them access in the early 8 hours of the morning. The offenders then lay in wait 9 and when staff arrived at the bank in the morning the 10 offenders committed a robbery involving the use of 11 a firearm to enforce threats. Although Totton had never 12 been arrested or convicted for this offence, I consider 13 the intelligence could be relevant due to the recent 14 activity and in particular Totton being in possession of 15 a hacksaw." 16 In fact the circumstances of the Preston robbery 17 appear to have been as follows. It occurred in 2005, 18 not 2008. Albeit this difference of three years is of 19 very limited impact for reasons given by Mr Arundale. 20 More significantly, as far as we can see, there is no 21 evidence, intelligence or even information to suggest 22 that Anthony Grainger or Robert Rimmer were involved in 23 this robbery and the intelligence suggesting that 24 David Totton was one of those responsible for the 25 robbery is limited.</p> <p style="text-align: center;">Page 17</p>	<p>1 to it: 2 "The deployment of AFOs should only be authorised in 3 the following circumstances." 4 The first bullet point is this: 5 "Where the officer authorising the deployment has 6 reason to suppose [and I have highlighted the words 7 'reason to suppose' for you, sir] that officers may have 8 to protect themselves or others from a person, who, 1, 9 is in possession of or has immediate access to a firearm 10 or other potentially lethal weapon or, 2, is otherwise 11 so dangerous that the deployment of armed officers is 12 considered to be appropriate or ..." 13 Then the second bullet point is: 14 "As an operational contingency in a specific 15 operation based on the threat assessment, or ..." 16 Then the third bullet point is: 17 "The destruction of animals which are dangerous or 18 are suffering unnecessarily." 19 In relation to the phrase "Reason to suppose" in 20 paragraph 420 of the manual, the following guidance is 21 given in the following paragraph, 421: 22 "The use of the words 'reason to suppose' sets the 23 level of knowledge required about the existence of 24 a threat justifying the deployment of AFOs at a far 25 lower level than which would actually justify the use of</p> <p style="text-align: center;">Page 19</p>
<p>1 The following issues therefore may arise: where did 2 ACC Sweeney obtain the information from that 3 David Totton, Anthony Grainger and Robert Rimmer were 4 responsible for the Preston robbery? 5 Was it Superintendent Granby? Was it DI Cousen? If 6 it was not them, then who was it? 7 If DI Cousen knew that David Totton had not been 8 arrested, still less convicted of the robbery, did he 9 pass that information to either Superintendent Granby or 10 ACC Sweeney? 11 If DI Cousen knew that Anthony Grainger and 12 Robert Rimmer had not been implicated in the robbery at 13 all, did he pass this information to 14 Superintendent Granby or ACC Sweeney? 15 Third, the authority to deploy armed officers. 16 ACC Sweeney pre-approved the deployment of armed 17 officers for Operation Shire, as I have said, on 3 March 18 at 8.50 pm. That is authority 77 of 12. AFOs are 19 considered as being deployed when they are required to 20 conduct a specific task during which the possession of 21 a firearm with appropriate authorisation is a required 22 element. 23 The manual states that the criteria for the 24 deployment of AFOs is as follows. This is paragraph 420 25 of the manual, I am going to read it without taking you</p> <p style="text-align: center;">Page 18</p>	<p>1 firearms." 2 In terms of his reasons to authorise the deployment 3 of AFOs, ACC Sweeney explains that: 4 "My review of the operation, which included ..." 5 I will pause, sir. 6 THE CHAIRMAN: Yes. 7 Yes. 8 MR BEER: "My review of the operation, which included the 9 current information/intelligence update provided to me 10 by the SIO briefing and the TFC assessment was that 11 three known subjects, David Totton, Anthony Grainger and 12 Robert Rimmer were in the preparatory phase to commit 13 robbery which was believed to be commercial robbery 14 against either cash in transit vehicles or commercial 15 premises. The information and intelligence provided to 16 me was confirmed in my discussions with 17 Superintendent Granby, the TFC. This identified that 18 the assessed threat posed by these individuals was 19 an extreme propensity to violence including the use of 20 firearms with a disregard for the safety of the public, 21 staff within the cash in transit industry and commercial 22 premises and police officers. My assessment was that 23 the threat posed by this group of organised criminals 24 was such that the operation could only be delivered 25 safely to maximise the safety of the public staff and</p> <p style="text-align: center;">Page 20</p>

5 (Pages 17 to 20)

<p>1 subjects themselves, ie a pre-planned operation                  2 supported by the deployment of police officers protected                  3 by the issue of firearms."                  4 Ian Arundale's opinion is that this decision was                  5 both reasonable in the circumstances and in accordance                  6 with the manual. He says, given the known intelligence                  7 picture, the criteria for the deployment of AFOs was                  8 very much met, despite the intelligence errors accepted                  9 by GMP. The decision to authorise the deployment of                  10 conventional firearms during Operation Shire on                  11 3 March 2012 was both reasonable in the circumstances                  12 and in accordance with the manual. That is the decision                  13 to authorise.                  14 Can I turn then to the working strategy. I wonder                  15 whether we could turn this document up, please, it is                  16 C/537.                  17 THE CHAIRMAN: Yes, I have it, thank you.                  18 MR BEER: This is part of Superintendent Granby's very long                  19 log.                  20 This is a working strategy. An important, as we                  21 will hear from Mr Arundale, part of the decision-making                  22 process.                  23 Superintendent Granby recorded his suggested working                  24 strategy. If you see the rubric at the top of the page                  25 there, it says:</p> <p style="text-align: center;">Page 21</p>	<p>1 evidence of further offences.                  2 9. Continue to develop the intelligence picture to                  3 ensure tactics remain appropriate.                  4 10. Liaise with divisional and force colleagues to                  5 address community issues as appropriate.                  6 11. Return to normality maintaining public                  7 confidence in Greater Manchester Police and Cheshire                  8 Police forces.                  9 This working strategy was recommended by                  10 Superintendent Granby to ACC Sweeney, who in turn                  11 recorded the following as the "agreed working strategy"                  12 in his strategic firearms and command log, and that is                  13 C/493.                  14 THE CHAIRMAN: Yes, I have that. Thank you.                  15 MR BEER: You will see again the rubric at the top of the                  16 page is different. Under the SFC's working strategy it                  17 states:                  18 "Based on the threat and risk assessment, detailed                  19 below, the agreed strategy in priority order ..."                  20 Here there are 10 points. In due course we may                  21 analyse the differences between them but for the moment                  22 I will just read them.                  23 The ten points in the Assistant Chief Constable's                  24 agreed strategy were as follows:                  25 "1, minimise risk to general public.</p> <p style="text-align: center;">Page 23</p>
<p>1 "Based on the threat and risk assessment detailed                  2 below, the working strategy to be recommended to the                  3 strategic commander in priority order."                  4 THE CHAIRMAN: Yes.                  5 MR BEER: I think we will find that there are 11 points.                  6 1. Minimise risk to the general public, especially                  7 in the area of any police intervention.                  8 2. Minimise risk to any cash in transit custodians.                  9 3. Minimise risk to the public in Greater                  10 Manchester and adjoining force areas by preventing this                  11 organised crime group causing harm.                  12 4. Maximise the safety of untasked officers by                  13 ensuring they are briefed in both Cheshire and Greater                  14 Manchester.                  15 5. Maximise the safety of tasked officers by                  16 ensuring that appropriate tactics are used.                  17 6. Maximise --                  18 THE CHAIRMAN: "Minimise" I suspect that is.                  19 MR BEER: I am so sorry.                  20 Minimise risk to subjects by ensuring tasked                  21 officers are trauma trained and have a less lethal                  22 option.                  23 7. When appropriate, arrest the subjects on                  24 suspicion of relevant offences.                  25 8. Recover firearms and other weaponry, recover any</p> <p style="text-align: center;">Page 22</p>	<p>1 "2, minimise risk to any cash in transit and retail                  2 staff.                  3 "3, minimise the risk to the public in Culcheth and                  4 across the north-west region by preventing harm from the                  5 subjects.                  6 "4, maximise the safety of armed tasked officers.                  7 "5, maximise the safety of tasked officers.                  8 "6, minimise the risk to the subjects.                  9 "7, when appropriate arrest the subjects.                  10 "8, recover any firearms and evidence.                  11 "9, continue to develop evidence and intelligence.                  12 "10, return to normality and maintain confidence in                  13 the police response to armed criminality."                  14 That could be put to one side for the moment, sir.                  15 Ian Arundale's opinion --                  16 THE CHAIRMAN: Yes.                  17 MR BEER: -- is that ACC Sweeney's working strategy would                  18 have benefited from being more precise in relation to                  19 the expectations and requirements of the operation. In                  20 particular, ACC Sweeney's expectations in relation to                  21 the tactical plan and the use of specialist munitions.                  22 This is because:                  23 "Working strategies need to demonstrate clarity of                  24 purpose, the wider aims of the overall operation and, in                  25 this case, a reflection of the limitations of MASTS,</p> <p style="text-align: center;">Page 24</p>

<p>1 intervention and interception tactics and potentially                  2 a criminal justice strategy to aid and support decision                  3 making. Overall, working strategies need to give                  4 a clear indication that the SFC is in overall command                  5 and operation specific considerations and constraints.                  6 "In ACC Sweeney's case six of his ten points relate                  7 to human safety issues. This working strategy could                  8 have been enhanced by appropriate reference to the                  9 sustained public protection issue, cross-border                  10 considerations, special munitions and specific                  11 considerations relating to MASTS."                  12 Secondly, he says that ACC Sweeney's tactical plan                  13 as recorded in the log is of insufficient detail to                  14 understand whether ACC Sweeney was briefed in detail by                  15 Superintendent Granby, whether ACC Sweeney provided                  16 direction to Superintendent Granby or to assess what                  17 parameters had been set in relation to the use of                  18 specialist munitions.                  19 This is because, and I quote Ian Arundale again:                  20 "ACC Sweeney's strategy does not give any clarity to                  21 expectations in relation to tipping points, specialist                  22 munitions or seeking alternative tactical options other                  23 than the high end 'interception' and 'intervention' and                  24 the mitigation of risks associated with those options.                  25 It lacks specificity in that some indication of the</p> <p style="text-align: center;">Page 25</p>	<p>1 THE CHAIRMAN: Yes.                  2 MR BEER: The fors and the against. He has crossed through                  3 the words "Accepted", left open the word "Rejected" and                  4 written in that "It exposes tasked officers to                  5 unacceptable risk".                  6 Then the only other option was MASTS. He recorded                  7 in favour of this plan, that it was a flexible tactic,                  8 I have used the word "tactic" in inverted commas, which                  9 would support the working strategy and that staff were                  10 well trained in its use. Against this plan was that it                  11 was an armed tactic which could expose subjects to risk.                  12 Superintendent Granby accepted this tactic as his                  13 preferred option, simply giving as his rationale, as per                  14 the reasons recorded in his for the tactic                  15 considerations, "As per for".                  16 THE CHAIRMAN: "As per for", yes.                  17 MR BEER: Is it a flexible contract and supports the                  18 working strategy.                  19 If we can also go on to page 547, the linked issue                  20 of contingencies to support his tactical plan,                  21 Superintendent Granby recorded four contingencies to                  22 support his tactical plan.                  23 "1, foot or vehicle interception, to provide                  24 flexibility in the event of MASTS not being able to be                  25 delivered.</p> <p style="text-align: center;">Page 27</p>
<p>1 expectations from the TFC to meet the objectives would                  2 be beneficial, as well as providing clear evidence of                  3 influencing and setting out the tactical plan and the                  4 appropriate tactical parameters."                  5 Can I turn then, fifthly, to the choice of tactics.                  6 I wonder whether we can turn up, having asked you to                  7 put it away now, the same bundle, I think it is, C/541.                  8 THE CHAIRMAN: Yes.                  9 MR BEER: So you familiarise yourself with this document,                  10 I know you have seen it before --                  11 THE CHAIRMAN: Yes.                  12 MR BEER: -- at 541, 542, 543 and 544 there are pages and                  13 pages of tactical options or space for tactical options                  14 that could be taken. In fact, it seems that                  15 Superintendent Granby considered two tactical options                  16 and plans to deliver the strategic objectives.                  17 They were, 1, an unarmed tactic. He recorded that                  18 in favour of this plan, it reduced the risk to the                  19 subjects. Against this plan he recorded that it did not                  20 maximise the safety of tasked officers or support the                  21 working strategy requirement to minimise the threat to                  22 the public. Therefore Superintendent Granby rejected                  23 this tactic as in his view it exposed tasked officers to                  24 unacceptable risk.                  25 Sir, can you see the way that works?</p> <p style="text-align: center;">Page 26</p>	<p>1 "2, direct contact in the event that subjects were                  2 contained in a building.                  3 "... containment in the event that the subjects flee                  4 into a building."                  5 "4, pursuit in the event that the operation is                  6 compromised and subjects flee from the scene."                  7 Then if we can go to 549, the tactical commander's                  8 plan. His plan is recorded in three words "Specialist,                  9 munitions, MASTS".                  10 Additionally he records at the foot of that box that                  11 tactical advice had been sought. Do so you see the                  12 tactical advice sought question halfway down the page                  13 with the "Yes" not struck through?                  14 THE CHAIRMAN: Yes.                  15 MR BEER: Ian Arundale has identified for the Inquiry other                  16 tactical options that Superintendent Granby ought to, in                  17 his view, have considered and states that:                  18 "Identifying only one armed tactical option was                  19 a fundamental failure that I would not expect from                  20 a tactical firearms commander of Superintendent Granby's                  21 training and experience."                  22 If this is correct, that it is a fundamental                  23 failure, then plainly the responsibility does not rest                  24 with Superintendent Granby alone. The Inquiry will have                  25 to investigate the role of ACC Sweeney, bearing in mind</p> <p style="text-align: center;">Page 28</p>

<p>1 the strategic firearm commander's responsibility to, and                  2 I am quoting from the manual here, "Ensure that the                  3 firearms strategy complies with the wider strategic aims                  4 of the operation".                  5 Additionally the role of the tactical advisers, Q3                  6 and Y19 is called into question. In a post-incident                  7 review conducted by GMP itself, GMP's chief firearms                  8 instructor identified in relation to Q3 and Y19's                  9 records, that is the TAs' records, that:                  10 "There was no record of the threat assessment of the                  11 TFC, no mention of what tactic has been authorised or by                  12 who, no mention of the tactic being rehearsed before                  13 deployment, as usually happens, or any rationale as to                  14 why this has not happened.                  15 "I am aware of some OFCs using a national firearms                  16 instructor to observe officers during this run through                  17 to ensure compliance with the standard operating                  18 procedure. Unfortunately, no mention of this is made in                  19 the log.                  20 "Mention is made that Cheshire have four ARVs on                  21 standby at a nearby location, but this is not then                  22 recorded in the contingency section nor is there any                  23 reference to advice given regarding those ARVs ..."                  24 THE CHAIRMAN: ARVs being armed response vehicles?                  25 MR BEER: Yes:</p> <p style="text-align: center;">Page 29</p>	<p>1 "Q3 did not propose an appropriate range of tactical                  2 options to the TFC during the morning of 3 March. This                  3 falls below the expectations and standards set in                  4 guidance and training. Y19, the afternoon tactical                  5 adviser during 3 March, was not technically qualified                  6 for the role they undertook and their performance did                  7 not meet the expectations and requirements set out in                  8 the manual.                  9 "The tactical options identified by Y19 and                  10 Superintendent Granby on 3 March were insufficient, not                  11 appropriately recorded and not what I would have                  12 expected to see approved in the circumstances by a TFC                  13 in consultation with a TA. Additionally the examined                  14 documentation and the actions of the TFC do not indicate                  15 the continuous review of tactical options as required by                  16 the NDM and the manual.                  17 "The MASTS method of armed operational support was                  18 an appropriate methodology, there are others, to support                  19 the surveillance section of Operation Shire. There were                  20 however potential alternative tactical options other                  21 than a MASTS intervention or strike available for                  22 consideration in relation to the arrest of the subjects                  23 of Operation Shire.                  24 "In Operation Shire, it appears that the use of the                  25 MASTS intervention tactic was to a significant extent</p> <p style="text-align: center;">Page 31</p>
<p>1 "... or any subsequent policy decisions. Overall                  2 the recordings appear to be lacking substance. There is                  3 no mention of any tipping points for the use of special                  4 munitions or whether they have been authorised. I would                  5 expect the TA to be asking the TFC what thresholds they                  6 would be looking for, in particular around the                  7 deployment of special munitions."                  8 Ian Arundale's view is that these were not mere                  9 recording errors, particularly having regard to the                  10 significant periods of down time in this operation that                  11 were enjoyed, they were instead indicative of                  12 operational errors of substance. In particular he said:                  13 "They indicate fundamental issues relating to the                  14 quality and impact of the tactical advice provided                  15 during the latter stages of Operation Shire."                  16 Central to this issue is Ian Arundale's suggestion                  17 that there is a very clear and understandable difference                  18 between using MASTS as a method to conduct surveillance                  19 on subjects who may be armed or otherwise dangerous, on                  20 the one hand, and using the specialist MASTS strike                  21 tactics to apprehend suspects where there may be                  22 an alternative option or options.                  23 For the very detailed reasons that he gives over 35                  24 paragraphs in his report, Ian Arundale has advised the                  25 Inquiry that:</p> <p style="text-align: center;">Page 30</p>	<p>1 a pre-determined tactic that was not reviewed before the                  2 decision was made to strike. There is no evidence that                  3 consideration was given to the tactical use or                  4 deployment of the four Cheshire ARVs, disruption, ie                  5 mitigation, and alternative arrest options should have                  6 been considered at the outset and throughout                  7 Operation Shire. These options can create time and                  8 space to reduce the rest associated with interception                  9 and intervention tactics.                  10 "On 3 March 2012, sufficient operational resources                  11 were available to consider, practice and have available                  12 alternative tactical options in addition to the MASTS                  13 strike capability."                  14 Can I turn to the sixth issue that I identified,                  15 namely the authorisation for specialist munitions.                  16 I think if we could turn this up, please, it is the                  17 same bundle that you might have open.                  18 THE CHAIRMAN: Yes.                  19 MR BEER: C, at 496, please.                  20 THE CHAIRMAN: I have it.                  21 MR BEER: ACC Sweeney's tactical plan stated as follows,                  22 under the heading "Proposed tactics and contingencies,                  23 including specialist munitions, tactics that require                  24 special authority".                  25 The first was "Mobile armed support to</p> <p style="text-align: center;">Page 32</p>



1 surveillance". And he has ticked "Yes" for that.  
 2 Secondly, "Use of special munitions at the direction  
 3 of the TFC, CS canister Hatton rounds to disable vehicle  
 4 tyres". He has not ticked "Yes" or "No" for that, but  
 5 he explained in a witness statement to the Inquiry the  
 6 rationale for the decision to authorise the use of  
 7 specialist munitions at the direction of the TFC. So  
 8 that should be a yes tick there.  
 9 You will see on that page also the question: was the  
 10 tactical adviser used by the SFC? And the answer is no.  
 11 So the gold commander, the SFC, didn't have the benefit,  
 12 if benefit there was, from the tactical advice given by  
 13 a TA.  
 14 Mr Sweeney has explained his decision to authorise  
 15 special munitions as follows:  
 16 "In terms of considering the proportionality for the  
 17 deployment of special munitions, CS canister and Hatton  
 18 rounds, I have specific personal knowledge of three  
 19 operations where offenders have used the vehicle they  
 20 were in as a weapon, either to ram police vehicles or to  
 21 evade arrest by driving at police officers. Where the  
 22 subjects break out in this manner, high risk is posed to  
 23 nearby members of the public and police officers. To  
 24 help mitigate the threat posed by the subjects in this  
 25 manner, I was comfortable that use of the special

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1 munitions identified would help to mitigate this threat  
 2 and thereby enable the effective arrest of the  
 3 subjects."  
 4 This decision has been the subject of three  
 5 criticisms.  
 6 Firstly, that ACC Sweeney relied on irrelevant  
 7 information, namely his own experience of other OCGs  
 8 which did not include these three subjects, when making  
 9 his decision.  
 10 Secondly, that although the issue of specialist  
 11 munitions could have been reasonable in the  
 12 circumstances if appropriate tactical parameters had  
 13 been set, ACC Sweeney's decision to authorise the issue  
 14 of specialist munitions was not properly considered or  
 15 documented.  
 16 Thirdly, the decision to authorise the deployment of  
 17 CSDC was not appropriate in the circumstances as neither  
 18 its deployment nor use had been authorised by the Home  
 19 Secretary.  
 20 If I could consider those three sub issues now.  
 21 THE CHAIRMAN: Yes.  
 22 MR BEER: Firstly, the use of personal experience. It was  
 23 alleged against GMP in the course of the prosecution of  
 24 Sir Peter Fahy that there did not appear to be  
 25 intelligence to support the assumption that the subjects

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1 would use their vehicle as a weapon and that the  
 2 decision to authorise the deployment of special  
 3 munitions in the absence of such intelligence and  
 4 instead based on the personal experience of other OCGs  
 5 was wrong.  
 6 It was said:  
 7 "On the documents supplied that there does not  
 8 appear to be evidence to support the assumption that  
 9 these individuals would use their subjects. I note  
 10 Superintendent Granby's comments around his experience  
 11 of previous OCGs but am not aware if it relates to the  
 12 three individuals on this operation. A decision around  
 13 the use of Hatton and CS should be based on the  
 14 intelligence available and the threat posed by the named  
 15 individuals, not on experience of previous crime groups.  
 16 Care should be taken around wording as this may cause  
 17 the AFOs on the ground to fear a threat which does not  
 18 exist."  
 19 THE CHAIRMAN: That was the criticism that was put forward,  
 20 one of the criticisms, in the prosecution of  
 21 Sir Peter Fahy?  
 22 MR BEER: Yes.  
 23 Ian Arundale does not support this view, suggesting  
 24 that the criticism is somewhat out of line with the  
 25 guidance contained in the manual which specifically

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1 encourages those in the management of firearms  
 2 operations to consider their own experience of relevant  
 3 matters:  
 4 "In firearms related situations information and  
 5 intelligence, combined with the experience of those  
 6 responsible for directing the police response, will  
 7 assist in determining the most appropriate response to  
 8 a given situation."  
 9 THE CHAIRMAN: Yes.  
 10 MR BEER: Additionally, as Mr Arundale notes, ACC Sweeney  
 11 was only authorising the issue or deployment of  
 12 specialist munitions, not their use, having regard to  
 13 this fact he takes the view that:  
 14 "It is perfectly proper to consider information  
 15 about similar OCGs, as well as specific intelligence  
 16 about the subjects of Operation Shire, in order to make  
 17 decisions such as this. As with the authority to deploy  
 18 armed officers, the decision to deploy is set at a far  
 19 lower level than the decision to use specialist  
 20 munitions."  
 21 You will remember yesterday I did the highlight  
 22 passages of the manual which emphasised the importance  
 23 of using personal experience.  
 24 The second point that has been made relates to the  
 25 decision to deploy specialist munitions and the fact

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<p>1 that it could have been reasonable but in the event was                  2 not properly considered or documented. Mr Arundale's                  3 opinion was:                  4 "There was sufficient information and intelligence                  5 to justify making Home Office approved specialist                  6 munitions available in certain exceptional circumstances                  7 as an operational contingency, in particular there is                  8 intelligence to indicate Mr Totton's potential for                  9 violence and Mr Grainger's use of a vehicle as a weapon.                  10 I am, however, uncertain as to exactly when the SFC and                  11 TFC would have been aware of all these issues. However,                  12 to validate this decision a proper record should have                  13 been kept of the decision-making process, indicating                  14 both benefits and risk, setting appropriate tactical                  15 parameters and indicating the intelligence and                  16 information upon which the decision was made."                  17 It appears from the documents that GMP has made                  18 available to the Inquiry that no record was kept of the                  19 SFC or the TFC setting out the decision-making process                  20 that lay behind the decision to authorise the use of                  21 such specialist munitions, the deployment of such                  22 specialist munitions or which set out the tactical                  23 parameters for the use of such special munitions or                  24 which set out the intelligence on which such a decision                  25 was founded, ie whether for example either of</p> <p style="text-align: center;">Page 37</p>	<p>1 environment, the actions of others involved."                  2 6.5.3:                  3 "The potential for intelligence failures or gaps in                  4 the information known should also be considered. While                  5 it is impractical to identify every possible outcome, to                  6 a given situation, commanders should identify                  7 appropriate contingencies based on the probability of                  8 the outcome occurring, the potential impact of the                  9 outcome on the strategy and tactical plan and the                  10 potential risks to individuals involved in the incident                  11 and the response."                  12 ACC Sweeney authorised three of                  13 Superintendent Granby's suggested contingencies, firstly                  14 vehicle interception, secondly, direct contact and,                  15 thirdly, containment.                  16 In relation to Superintendent Granby's fourth                  17 suggested contingency, remember that was pursuit,                  18 operation is compromised and subjects flee from scene.                  19 ACC Sweeney imposed two tactical parameters on it,                  20 namely any pursuit to be in accordance with force                  21 pursuit policy and no foot pursuit was to be beyond                  22 100 metres.                  23 Ian Arundale has advised that:                  24 "The fact that ACC Sweeney has obviously considered                  25 the proposal put forward by Superintendent Granby and</p> <p style="text-align: center;">Page 39</p>
<p>1 ACC Sweeney or Superintendent Granby even knew about the                  2 incident involving Mr Grainger on 4 December 1997.                  3 Thirdly, sir, and if I may I will continue until the                  4 next section before breaking.                  5 THE CHAIRMAN: Yes.                  6 MR BEER: The seventh issue -- sorry the third part of the                  7 6th issue, the authorisation to deploy a CSDC.                  8 Ian Arundale has advise the Inquiry that:                  9 "The decision to authorise the deployment of CSDC                  10 was not appropriate in the circumstances as neither its                  11 deployment or use had been authorised by the Home                  12 Secretary."                  13 I will address this issue more fully below when we                  14 look at the use of CSDC.                  15 The seventh issue identified earlier was relating to                  16 contingencies and tactical parameters. The manual                  17 states, at paragraph 6.52:                  18 "Operational planning should identify contingencies                  19 at an early stage. These should address what are often                  20 referred to as the what ifs, they should be reviewed as                  21 the situation develops and take account of emerging or                  22 changing circumstances, including the subject's                  23 intention, actions or behaviours, in particular the                  24 likelihood of fight, flight or compliance at the point                  25 of contact, information, the intelligence, the</p> <p style="text-align: center;">Page 38</p>	<p>1 set tactical parameters is an indication that he does                  2 not automatically approve the requests from                  3 Superintendent Granby but has considered the matter and                  4 placed restrictions upon certain operational matters.                  5 This is an indication that the SFC is not                  6 rubber-stamping the TFC's requests but is applying his                  7 knowledge and judgment accordingly."                  8 Notwithstanding that positive appraisal,                  9 Ian Arundale continues:                  10 "I do however suggest that ACC Sweeney's                  11 considerations and deliberations should have been far                  12 more incisive and detailed. Additional contingencies                  13 that could have been identified during Operation Shire                  14 include escape of the subjects, change of vehicle,                  15 a robbery in progress, a siege or hostage situation,                  16 a requirement to disrupt criminal activity, whether                  17 weapons were seen, whether weapons were discharged,                  18 movement into a third force area, the loss of                  19 surveillance.                  20 "Additional tactical parameters that ACC Sweeney                  21 could have considered imposing include: maintain the                  22 secrecy of the use of MASTS, as far as possible; ensure                  23 a consistent review of tactics and seek to use                  24 alternatives other than the MASTS decisive action,                  25 unless unavoidable; ensure these tactical options are</p> <p style="text-align: center;">Page 40</p>

<p>1 prepared and ready to implement; regularly update the 2 SFC on the contents and scope of the tactical plan; only 3 follow the tipping point requests from the SIO if safe 4 and appropriate to do so; do not hesitate to disrupt or 5 intercept prior to an arrest request if necessary; when 6 the evidential tipping point is declared, consider 7 pausing the operation, disrupting criminal activity and 8 utilising alternative arrest options to maximise safety 9 and conceal the investigative and intelligence gathering 10 tactics; special munitions have been authorised but are 11 only to be deployed or used in exceptional circumstances 12 following a written or dynamic risk assessment as 13 appropriate; lastly, maintain regular contact with the 14 SFC and, where time allows, make contact to explain your 15 plans before any decisive action is taken." 16 The Inquiry will have to investigate whether the 17 tactical parameters and contingencies were not incisive 18 and lacked rigour and detail and whether instead they 19 would have benefited from being far more focused on 20 minimising risk and setting parameters to direct and 21 command the tactical operation. It was known after all 22 that specialist munitions had been authorised and so 23 there could have been a particular emphasis on the risk 24 associated with them. 25 Additionally, the tipping points having, subject to</p> <p style="text-align: center;">Page 41</p>	<p>1 informed of ACC Sweeney's amended working strategy and 2 how and where that process was recorded. 3 Sir, might that be a convenient moment. 4 THE CHAIRMAN: I think it would. I don't really want to go 5 on any further because I would like to make an attempt 6 to restore the link if we can. We will take a break 7 until midday and I hope in that time we will be able to 8 get the link working again. 9 MR BEER: Thank you, sir. 10 (11.40 am) 11 (A short adjournment) 12 (12.05 pm) 13 MR BEER: Thank you, I am now turning to 3 March 2012 and 14 section 8 of the opening, before State Red was declared. 15 Early in the day, at the TFU at Openshaw. At 16 5.20 am on 3 March, Superintendent Granby attended the 17 TFU at Openshaw met with DI Cousen, Q3 and X7. At 18 5.30 am, DI Cousen updated Superintendent Granby. 19 Superintendent Granby states that: 20 "I reviewed the new intelligence presented to me and 21 I revisited the threat assessment and working strategy 22 and tactical options. These were then built into 23 a briefing for the officers who would be deployed for 24 the operation. My considerations are documented in my 25 tactical firearms commander policy and decision log."</p> <p style="text-align: center;">Page 43</p>
<p>1 the points made above been agreed, ought ACC Sweeney to 2 have stated that in the event of the tipping point being 3 reached, Superintendent Granby should consider, if at 4 all practicable, arrest or disruption options that 5 presented less risk than a MASTS decisive action. In 6 this way there may have been a check on what might be 7 seen as the inevitable progress to a decisive action 8 using specialist munitions once the tipping point had 9 been reached. 10 Superintendent Granby states that at 8.55 pm he 11 received confirmation from ACC Sweeney that the proposed 12 working strategy was agreed, the deployment of armed 13 officers to support the operation was authorised and 14 that he had set parameters concerning the use of the 15 force pursuit policy, the contact on foot should the 16 subjects break out and the use of specialist munitions. 17 As far as we can see there is no record of the 18 imposition by ACC Sweeney of such parameters in 19 Superintendent Granby's log. Additionally, although 20 Superintendent Granby states that the proposed working 21 strategy was agreed by ACC Sweeney, 22 Superintendent Granby's 11-point working strategy is 23 different from ACC Sweeney's 10-point working strategy. 24 It may be necessary to explore which working strategy 25 was indeed agreed, how Superintendent Granby was</p> <p style="text-align: center;">Page 42</p>	<p>1 Superintendent Granby details what this intelligence 2 was in his additional witness statement. Namely: 3 "This new intelligence was provided to me by 4 DI Cousen and related to up-to-date surveillance from 5 work that had taken place the previous evening and after 6 I had had my last conversation with him. This 7 intelligence related to the movement of a stolen Audi 8 motor vehicle during the course of the evening. This 9 had been driven by the subject Grainger and had been 10 left parked in a street in the Boothtown area of 11 Salford, the vehicle had been observed in the vicinity 12 of several commercial premises in the Culcheth town 13 centre." 14 THE CHAIRMAN: Yes, earlier this morning, Mr Beer, you drew 15 my attention to an internal Cheshire email addressed 16 I think from memory to Assistant Chief Constable 17 McCormick in which reference was made to the fact that 18 there were no known victims or locations that had been 19 identified. Do we know whether GMP had made any time 20 specific enquiries as to potential targets for an armed 21 robbery in Culcheth on the evening of 3 March? In other 22 words, whether, for example, there would be any staff 23 expected to be present on particular commercial premises 24 near the car park or whether cash deliveries or 25 collections were due that evening? If such enquiries</p> <p style="text-align: center;">Page 44</p>

1 were made, do we know what the result was.  
 2 MR BEER: Sir, yes, I certainly think it is going to be  
 3 an issue that we will explore, in particular with  
 4 DI Cousen and Detective Sergeant Hurst in the Inquiry.  
 5 THE CHAIRMAN: I appreciate -- sorry to interrupt,  
 6 I appreciate that the Cheshire email of course referred  
 7 to the 2nd, that was the day before.  
 8 MR BEER: Yes. I think what we have is we have an entry on  
 9 the CLIO system, on 1 March, which would be the  
 10 Thursday, with DI Cousen raising an action, and you  
 11 understand that terminology, raising an action requiring  
 12 some work to be undertaken, I think, if you forgive me  
 13 for a moment, I think G1, 2068.  
 14 THE CHAIRMAN: I have that, yes. G.  
 15 MR BEER: There is an action raised on CLIO I think at 10.02  
 16 in the morning on Thursday, 1 March. Thank you. At the  
 17 top of the page, from Deborah Hurst -- to Deborah Hurst,  
 18 action 166:  
 19 "Obtain cash delivery/collection times for  
 20 St Helens/Culcheth, please liaise with FIB and obtain  
 21 cash delivery/collection times for financial premises in  
 22 St Helens and Culcheth areas as visited by operational  
 23 subjects."  
 24 On the Thursday morning at 10.00 it appears to have  
 25 at least been in DS Hurst's mind. Then I think if we

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1 look at Sergeant Hurst's casebook for the next day, the  
 2 Friday, 2 March, that is P/178.  
 3 THE CHAIRMAN: Yes.  
 4 MR BEER: If you start at 176 you will see that this is  
 5 Friday, 2 March, and then keep flipping forwards to 178,  
 6 still on Friday, 2 March.  
 7 THE CHAIRMAN: Yes.  
 8 MR BEER: Halfway down the page, just between the  
 9 hole-punches, it says:  
 10 "G4S covering Culcheth, Liverpool [then there is  
 11 a phone number], Manchester [then there is a phone  
 12 number which has been blacked out] ..."  
 13 Then at the part that is blacked out on your copy  
 14 but in the unredacted version, less redacted version  
 15 that was released yesterday, there is a note:  
 16 "Tesco ATM on Winwick Road and Burger King/Asda on  
 17 Winwick Road."  
 18 Then over the page on 179, just above the first  
 19 hole-punch, it says "Loomis", and then under the bit  
 20 that has been blacked out but on the less redacted  
 21 version, it says:  
 22 "Sainsbury's ATM, Gemini, Birchwood, St Helens,  
 23 Winwick Road, Longford Bridge, Shell."  
 24 There appear to be some notes that may relate to  
 25 checking things out with either the buildings themselves

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1 or people like Loomis, who may deliver to buildings but  
 2 I don't think what we have is any evidence that -- this  
 3 includes evidence obtained after the event -- that there  
 4 were deliveries by cash in transit vans to any of the  
 5 premises in the small trading area adjacent to the car  
 6 park --  
 7 THE CHAIRMAN: Thank you.  
 8 MR BEER: -- after the time that the subjects arrived there.  
 9 THE CHAIRMAN: Yes.  
 10 MR BEER: In summary, we have Cheshire checking out and  
 11 providing some quite clear evidence as to what the pick  
 12 up times and drop offs were. We have some evidence that  
 13 GMP did the same but no evidence that there were any  
 14 relevant pick ups or drop offs after 6.00 pm.  
 15 THE CHAIRMAN: Yes.  
 16 MR BEER: Moving on, Superintendent Granby's log suggests  
 17 that at 5.40 am on the 3rd he completed the criteria for  
 18 deployment of armed officers section of his log. If we  
 19 can turn this up, please, at C/538.  
 20 THE CHAIRMAN: Yes.  
 21 MR BEER: C/538 and Mr Granby's log, stating:  
 22 "Based on the intelligence information and threat  
 23 assessment, I am satisfied that the criteria is met for  
 24 the deployment of armed officers as I have reason to  
 25 suspect that officers may have to protect themselves or

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1 others from the following subjects."  
 2 That is pre-printed, and then he has written in the  
 3 words "David Totton, Robert James Rimmer and  
 4 Anthony Grainger".  
 5 Then the printing continues:  
 6 "Who I have reason to suppose ..."  
 7 Then there is a series of tick boxes:  
 8 "Is in possession of or has immediate access to  
 9 a firearm or other potentially lethal weapon."  
 10 That is ticked as a yes and then:  
 11 "Is otherwise so dangerous that the deployment of  
 12 armed officers is considered appropriate."  
 13 That is ticked as yes as well.  
 14 The other two options are ticked no.  
 15 THE CHAIRMAN: Yes.  
 16 MR BEER: Between about 5.57 am and 6.15 am, a briefing was  
 17 provided to the tactical firearms unit at GMP's Openshaw  
 18 complex. The briefing was audio recorded and the IPCC  
 19 has kindly produced a transcript of this briefing.  
 20 I wonder whether we could turn that up, it might be in  
 21 a different volume of C/332, please.  
 22 THE CHAIRMAN: I think for me it is in the same one,  
 23 actually.  
 24 MR BEER: C/332 --  
 25 THE CHAIRMAN: Yes, I have it.

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<p>1 MR BEER: -- to 347.                  2 THE CHAIRMAN: Yes.                  3 MR BEER: After a roll call which revealed that                  4 Superintendent Granby, Q3, DI Cousen, Sergeant Hughes                  5 from the DSU and the 16 TFU officers that I am about to                  6 mention were present, the briefing was conducted for the                  7 most part by X7 and Superintendent Granby.                  8 Superintendent Granby began the substance of the                  9 briefing at page C/333 by stating:                  10 "Okay folks, the information we have got at the                  11 moment is that the subject who we will see in a moment                  12 are believed to be engaged in armed robberies in the                  13 north-west region. There is intelligence to suggest                  14 that these subjects were responsible for a robbery in                  15 2008 in Preston, where they broke into a bank and lay in                  16 wait for staff to arrive ..."                  17 I have again emphasised the words by underlining and                  18 emboldening them in the note, "These subjects."                  19 You will remember that is exactly the same phrase as                  20 ACC Sweeney used when speaking about the 2008, which was                  21 in fact 2005, Preston robbery, where there was no                  22 information that Mr Grainger or Mr Rimmer were involved.                  23 THE CHAIRMAN: Yes.                  24 MR BEER: "... that these subjects were responsible for                  25 a robbery in 2008 in Preston, where they broke into</p> <p style="text-align: center;">Page 49</p>	<p>1 Robert Rimmer:                  2 "Subject number 2 is Robert James Rimmer. His                  3 capability and he has warnings for violence and weapons                  4 and linking in with that, he has five and a half years                  5 for a section 18 assault where he stabbed a girlfriend's                  6 ex partner in the abdomen [that's correct]. His intent                  7 again is conspiracy to commit armed robbery."                  8 Subject number 3 is Anthony Grainger, and we are on                  9 to page 335 now.                  10 THE CHAIRMAN: Yes.                  11 MR BEER: "His capability, he has warnings for weapons. He                  12 has previously conspired to commit robberies with                  13 firearms and violence, numerous arrests for section 18                  14 and 20 offences. He is a group 1 offender and his                  15 intent is conspiracy to commit armed robberies."                  16 Superintendent Granby's briefing as to the                  17 background of Anthony Grainger was therefore incorrect.                  18 He stated firstly that he had warnings for weapons, and                  19 he did not. In that he stated that it was                  20 an established fact that he had previously conspired to                  21 commit armed robberies, he had not been convicted of                  22 such offences. Thirdly, in that it was stated as                  23 an established fact that he had previously committed                  24 robberies with firearms, but he had not been convicted                  25 of such offences.</p> <p style="text-align: center;">Page 51</p>
<p>1 a bank and lay in wait for staff to arrive. On their                  2 arrival, they were held at gunpoint using a shotgun,                  3 handgun, tied up and forced to hand over keys to the                  4 strong room. Subjects made good their escape with                  5 a substantial amount of money."                  6 Again the issue arises as to where the information                  7 came from, that these subjects, ie Mr Totton,                  8 Mr Grainger and Mr Rimmer, were responsible for the                  9 robbery in 2008. Superintendent Granby then briefed                  10 those present as to the identity, capability and                  11 intention of the three subjects and he said as follows                  12 in relation to each of them, starting with Mr Totton on                  13 page 334:                  14 "Subject number 1 is David Totton. In relation to                  15 his capability, he has warnings for firearms [that was                  16 not on the PNC but was on GMP's local system],                  17 possession of a shotgun in 1999 [he was not in fact                  18 charged with that offence] weapons, he used an iron bar                  19 during a section 47 assault in 2001 [that bit was                  20 correct], and violence, 10 incidents of assault in the                  21 past five years."                  22 That is a mixture it seems of intelligence, arrest                  23 and charge and conviction data. His intent is                  24 conspiracy to commit robbery, is what was said.                  25 Also on page 334, Superintendent Granby turned to</p> <p style="text-align: center;">Page 50</p>	<p>1 It appears that the briefing was based on                  2 a PowerPoint presentation prepared on 1 March 2012 on                  3 the instructions of Chief Inspector Lawler by X7 for the                  4 firearms operation on 2 March 2012, which PowerPoint was                  5 amended early in the morning of 3 March 2012, shortly                  6 before it was delivered.                  7 I have given a catalogue of references as to where                  8 we get all of that from.                  9 THE CHAIRMAN: Yes.                  10 MR BEER: As to the amendments made, Superintendent Granby                  11 states:                  12 "When I oversaw the preparation of the content of                  13 the information and intelligence section of the                  14 presentation, I was mindful that the operation on                  15 3 March 2012 was one of a series of operations that had                  16 been planned as a result of an investigation into                  17 a number of organised crime group members who were                  18 believed to be committing robberies in the north-west                  19 region. Consequently my starting point had been the                  20 briefing presentation that had been used for the                  21 previous operation, authority 75 of 12.                  22 "I then directed that it be edited so it provided                  23 the following information: 1, the context of the                  24 offending of the three subjects to indicate                  25 cross-boundary offending; intelligence indicating their</p> <p style="text-align: center;">Page 52</p>

<p>1 capability to commit armed robberies; intelligence                  2 relating to the vehicle that was believed to be employed                  3 in committing the offence in its current location;                  4 information relating to the reconnaissance that had been                  5 undertaken in the Culcheth area; and that the intended                  6 target was not yet known. The source of this                  7 information was the SIO."                  8 Of course the Inquiry will examine how it came to be                  9 that the PowerPoint presentation prepared for the                  10 previous under the direction of Chief Inspector Lawler                  11 said to be by X7 contained the mistakes that it did and                  12 whether they were there originally or came to be made by                  13 amendment and why they were not spotted by those that                  14 knew, if they did know, the true factual position.                  15 Superintendent Granby then briefed the AFOs on the                  16 tipping points. I wonder whether we can go to that at                  17 336, please.                  18 THE CHAIRMAN: Yes. I have that.                  19 MR BEER: About two-thirds of the way down, he says:                  20 "Okay in relation to tipping points. Firstly, if                  21 two or more [I have highlighted two or more] of the                  22 subjects are seen in the stolen Audi, taking into                  23 account the circumstances at the time or [underlined]                  24 (2) further information or intelligence [which I have                  25 underlined] to corroborate previous intelligence, the</p> <p style="text-align: center;">Page 53</p>	<p>1 Third, if it was the case that it was sufficient if                  2 two or more subjects were seen in the Audi anywhere,                  3 then why that was a sufficient tipping point. It was no                  4 more than had been seen previously, after all.                  5 Fourth, if it was the case that it was sufficient                  6 that two or more subjects were seen in the Audi                  7 anywhere, then why the operation waited until the Audi                  8 was parked in the car park in Culcheth before striking.                  9 This could have been done while the Audi was in                  10 Boothtown.                  11 Fifth, why further corroboratory information or                  12 intelligence, as opposed to evidence, would be                  13 a sufficient tipping point.                  14 Sixth, whether the third tipping point required                  15 an assessment from both the SIO and the TFC, as on its                  16 face it states.                  17 Seventh, why the fourth tipping point that had been                  18 included in Chief Inspector Lawler's PowerPoint                  19 presentation had been omitted, whether                  20 Superintendent Granby and DI Cousen had discussed this                  21 issue and whether this fourth tipping point was                  22 operative on the night of 3 March. In this regard it is                  23 to be noted that Y19, the TA, has stated that there were                  24 four tipping points not three in the operation on                  25 3 March. But Superintendent Granby has explained in</p> <p style="text-align: center;">Page 55</p>
<p>1 subjects are committing acts which are more than                  2 preparation for the commission of the robbery and                  3 [underlined] thirdly, assessment from the SIO and TFC                  4 that the subjects are engaged in a significant criminal                  5 enterprise and their behaviour is indicative of this.                  6 The tipping points can be applied individually or                  7 together."                  8 In Inspector Lawler's PowerPoint presentation of the                  9 previous night there was a fourth tipping point, namely,                  10 "The proximity of the subjects to Culcheth Parade                  11 Warrington."                  12 This tipping point was omitted from                  13 Superintendent Granby's PowerPoint presentation and was                  14 not read out in the course of his briefing. A number of                  15 issues may arise into the explanation of tipping points                  16 given in this briefing, including, first, whether what                  17 was in fact meant was that more than two subjects should                  18 be in the vehicle. You will see that it says "If two or                  19 more ..." The question is whether in fact it meant more                  20 than two subjects were in the vehicle or whether only                  21 two subjects in the vehicle was sufficient as a tipping                  22 point.                  23 Secondly, whether it was sufficient if the two or                  24 more subjects in the Audi were seen anywhere, or whether                  25 it was necessary for them to be in or near Culcheth.</p> <p style="text-align: center;">Page 54</p>	<p>1 a statement his rationale for deliberately excluding the                  2 fourth point as follows:                  3 "Whilst it was apparent that a reconnoitre had taken                  4 place in the centre of Culcheth, the intelligence                  5 picture had not revealed the subjects' intended target."                  6 DI Cousen says that he had discussed with                  7 Superintendent Granby his evidential requirements prior                  8 to any arrest being made. He explains this in his                  9 statement of 30 May 2012 as follows:                  10 "I had discussed my evidential requirements prior to                  11 any arrest being made with the SFC, Mr Granby. This                  12 involved two or more persons, including the subjects,                  13 being together in the stolen Audi and potentially                  14 another vehicle. Essentially I did not believe                  15 an offence would occur with only two of the subjects                  16 being in the vehicle together. But I was conscious that                  17 another vehicle may be present with other persons to                  18 assist during the act of any robbery. I believe that                  19 there should be two or more persons in the stolen Audi                  20 or in additional vehicles and if they were to attend the                  21 Culcheth area that they would be doing so with the                  22 intention of committing a robbery. I also believed that                  23 given the additional reconnaissance that had taken place                  24 that this would be sufficient to pass the threshold for                  25 a charging decision to be made."</p> <p style="text-align: center;">Page 56</p>

<p>1 A number of issues may arise from this explanation                  2 of the decision. Including first as with                  3 Superintendent Granby whether DI Cousen meant more than                  4 two people were required to be present in one or more                  5 vehicles rather than two or more people being present,                  6 which is in fact what he says.                  7 Second, whether it was a necessary condition of                  8 DI Cousen's evidential requirements that the people in                  9 the vehicle or vehicles should be doing anything more                  10 than being in the vehicle or vehicles, and on its face                  11 this is what DI Cousen's statement says.                  12 Thirdly, and relatedly, whether it was necessary for                  13 the people in the vehicle or vehicles to be at or in the                  14 vicinity of Culcheth.                  15 Fourth, if this was a complete explanation of the                  16 tipping points that had been agreed between DI Cousen                  17 and Superintendent Granby, why Superintendent Granby                  18 gave three tipping points and not one when he briefed                  19 the AFOs.                  20 Fifth, how DI Cousen came to the view that the                  21 evidential sufficiency test for charging had been met in                  22 the circumstances he describes, where nothing evidential                  23 had changed since the CPS had last advised and the CPS                  24 were not themselves involved in advising on such                  25 evidential sufficiency.</p> <p style="text-align: center;">Page 57</p>	<p>1 four cars in this tactic, the reason being on previous                  2 occasions when they have done recces, they have had two                  3 stolen cars at their disposal. They are aware of police                  4 surveillance tactics and they are doing surveillance                  5 tactics all the time, so we need to be cute if we are                  6 coming up behind them.                  7 "In respect of pursuits, these people have been seen                  8 driving aggressively and at speed on several occasions.                  9 We must prevent any pursuit taking place. In that case                  10 we are going to have to start looking at any tactical                  11 contact to prevent the pursuit taking place. While we                  12 are on the subject of the shotgun, this a very powerful                  13 car. We need to be looking at disabling it at the                  14 earliest opportunity, okay?"                  15 It is to be noted that in the briefing that had been                  16 given on 2 March, the AFOs were explicitly told the                  17 following:                  18 "There is no current intelligence to say the                  19 subjects have either possession or immediate access to                  20 firearms or other less lethal options. However, my                  21 assumption is that they are about to commit armed                  22 robbery based on their previous criminal behaviour.                  23 They will either have firearms or less lethal weapons."                  24 That is to be compared with the briefing given to                  25 the AFOs on 3 March where no such express and clear</p> <p style="text-align: center;">Page 59</p>
<p>1 There may in this regard be a difference in                  2 understanding between DI Cousen and ACC Sweeney                  3 concerning the CPS's involvement in developing the                  4 tipping points. DI Cousen says:                  5 "The tipping points were agreed between me and                  6 Superintendent Granby prior to the deployment on                  7 3 March. The CPS had no involvement in this process or                  8 are aware of these points."                  9 Whereas ACC Sweeney states:                  10 "The arrest strategy was to intervene if the                  11 evidential tipping points were reached. The SIO,                  12 DI Cousen, would indicate to Superintendent Granby when                  13 he was satisfied that the evidential threshold agreed                  14 with CPS colleagues had been reached to enable                  15 prosecution of the subjects for conspiracy to commit                  16 robbery."                  17 Back to the briefing, X7, the OFC, operational                  18 firearms commander, took over the briefing and explained                  19 that:                  20 "Today's tactic is a MASTS. We have contingencies                  21 for foot, vehicle interception, direct controls and any                  22 containments. Primary tactic is that of a MASTS.                  23 Before we go into the MASTS, just to orientate you, the                  24 subject had been seen conducting recces in Culcheth.                  25 The stolen car is currently in Boothtown. We have got</p> <p style="text-align: center;">Page 58</p>	<p>1 statement was made, notwithstanding that it is accepted                  2 by GMP that there was no specific intelligence received                  3 between the briefings that indicated that any of the                  4 subjects was armed.                  5 The members of the TFU were directed to go to Leigh                  6 police station to await further instructions, where they                  7 remained on State Green. Superintendent Granby located                  8 himself at the GMP DSU control room where he had access                  9 to DI Cousen and a firearms TA. At 8.10 in the morning,                  10 Superintendent Granby contacted Cheshire Police's force                  11 incident manager to inform them of the operation and to                  12 ask for Cheshire Constabulary's duty firearms commander                  13 to contact him. He also ascertained that the duty ACC                  14 in Cheshire was ACC McCormick.                  15 At 8.15 Superintendent Granby spoke with the                  16 Cheshire TFC, Chief Inspector Brierley and briefed him                  17 on the circumstances. He made arrangements for                  18 ACC McCormick to contact him to agree a cross-border                  19 protocol.                  20 At 8.30 am Superintendent Granby spoke with                  21 ACC McCormick and briefed her on the operation and                  22 agreed that command and control of the operation would                  23 remain with GMP. ACC McCormick adds that:                  24 "I agreed that only in the event of an armed                  25 containment would a phased and agreed handover of</p> <p style="text-align: center;">Page 60</p>

1 command to Cheshire take place."  
 2 At 8.45 am ACC Sweeney conducted a review of the  
 3 operation by telephone with Superintendent Granby. ACC  
 4 Sweeney explains this as follows:  
 5 "It included an update of the intelligence picture  
 6 and then revisiting the NDM to confirm the operational  
 7 strategy remained consistent with the threat assessment,  
 8 the deployment position of staff and ensured  
 9 cross-border protocols were in place with the Cheshire  
 10 Constabulary should the operation move outside the GMP  
 11 area."  
 12 At 9.45 Superintendent Granby again spoke to Chief  
 13 Inspector Brierley and was made aware that the Cheshire  
 14 Constabulary had four ARVs, armed response vehicles, on  
 15 standby at Risley police station.  
 16 At 10.45 Superintendent Granby reviewed the  
 17 situation again with ACC Sweeney. According to  
 18 Superintendent Granby they discussed what the possible  
 19 targets were and what "the potential risk period was."  
 20 At 10.53 in the morning Superintendent Granby  
 21 confirmed to ACC Sweeney that the AFOs were resting on  
 22 standby.  
 23 Superintendent Granby states that between 10.55 and  
 24 12.30 he received information from DI Cousen relating to  
 25 David Totton and Robert Rimmer. This he said, "Did not

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1 change the threat assessment". It will be necessary to  
 2 explore, perhaps partially in closed hearings, what this  
 3 information was.  
 4 ACC Sweeney then again reviewed the operation at  
 5 12.43 and 12.45 with Superintendent Granby.  
 6 At 12.55 pursuant Granby updated Brierley with "the  
 7 current picture".  
 8 Superintendent Granby says that between 1.00 pm and  
 9 1.50 pm he received further information from the  
 10 surveillance team. This did not change the threat  
 11 assessment he says. It may be necessary to explore  
 12 again perhaps partially in closed hearings, what this  
 13 information was.  
 14 At 1.30 pm, Y19, a TA, came on duty at the TFU, he  
 15 was aware that a pre-planned firearms operation was in  
 16 progress and that a number of AFOs had been deployed  
 17 under a firearms authority to undertake a MASTS tactic,  
 18 as he describes it.  
 19 At 2.00 Superintendent Granby spoke to X7 and  
 20 updated him on the current position. He was told that  
 21 the AFOs were relaxing at Leigh police station.  
 22 Superintendent Granby says that between 2.20 and  
 23 2.30 pm he received further information in relation to  
 24 the subjects from DI Cousen. It will be necessary to  
 25 explore, again perhaps partially in closed hearings,

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1 what this information was.  
 2 At 2.35 pm Superintendent Granby spoke to X7 again  
 3 and found out that the AFOs had been at Leigh police  
 4 station since 6.30 am and were "relaxed".  
 5 Superintendent Granby and X7 had no concerns about them  
 6 working into the early evening.  
 7 ACC Sweeney says that at 2.40 pm  
 8 Superintendent Granby's, "Considered assessment was that  
 9 the subjects may be targeting a late-opening commercial  
 10 premises, such as a supermarket or betting office".  
 11 Superintendent Sweeney's log suggests that at  
 12 2.40 pm he reviewed the tipping points with  
 13 Superintendent Granby and DI Cousen:  
 14 "Tipping points consistent with original proposals,  
 15 subjects together in stolen vehicle. Criminal  
 16 enterprise, subject of further intelligence."  
 17 At 3.15 pm, Y19, that is the TA, attended the  
 18 command suite in the TFU and familiarised himself with  
 19 the Operation Shire briefing document. He also received  
 20 a situation report from Superintendent Granby and Q3 in  
 21 relation to the location of police and firearms  
 22 resources and the subjects of the operation.  
 23 Q3 stood down as the TFA, the tactical adviser, and  
 24 Y19 assumed that role from that time.  
 25 Superintendent Granby says he reviewed the information,

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1 threat assessment and working strategy with Y19. Y19  
 2 and Superintendent Granby recorded at 3.15 that their  
 3 preferred tactical option was MASTS, including the use  
 4 of special munitions.  
 5 It is to be noted that in Y19's log, the only MASTS  
 6 option given is that of MASTS including the use of  
 7 special munitions. It appears from the log that  
 8 consideration was not given to using MASTS by Y19  
 9 without the use of special munitions.  
 10 At 3.20 pm Superintendent Granby spoke with Chief  
 11 Inspector Brierley and outlined the then current  
 12 situation.  
 13 Superintendent Granby states that between 4.50 pm  
 14 and 5.50 pm he received information from the  
 15 surveillance teams relating to Anthony Grainger and  
 16 David Totton. It may be necessary to ascertain what  
 17 exactly this information was.  
 18 At 5.50 pm, ACC Sweeney again reviewed the operation  
 19 with Superintendent Granby. They agreed that they would  
 20 allow the operation to run with the existing staff  
 21 deployed until 8.00 pm, given the long period that the  
 22 AFOs had rested for at stand by during the day.  
 23 Superintendent Granby states that he told ACC Sweeney  
 24 that in his view the subjects were now preparing to  
 25 commit a robbery.

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<p>1 Superintendent Granby explains that his rationale                  2 for this view was the information that he was receiving                  3 from DI Cousen, the information from the DSU relating to                  4 the current movements of the subjects, David Totton and                  5 Anthony Grainger and the actions of Anthony Grainger in                  6 the stolen Audi. It may be necessary to ascertain what                  7 the "current movements" of David Totton and                  8 Anthony Grainger were. The surveillance log does not                  9 show any relevant movements at this time, nor does the                  10 schedule of amalgamated surveillance evidence.</p> <p>11 At 6.10 pm the AFOs moved to sit in their vehicles,                  12 still at Leigh police station. At 6.15 pm, with the                  13 permission of Superintendent Granby and under direction                  14 of X7, the AFOs left Leigh police station and made their                  15 way to the A580 East Lancashire Road and then on to                  16 Warrington Road. Whilst on Warrington Road, X9 directed                  17 the team to a lay up point approximately 1 mile from                  18 Culcheth.</p> <p>19 The next stage, 6.27 pm, Superintendent Granby                  20 receives information from the DSU.</p> <p>21 Superintendent Granby states that at 6.27 pm he received                  22 information from the DSU that indicated to him that                  23 David Totton, Anthony Grainger and a third unknown male                  24 were in the advanced stages of preparing to commit                  25 a robbery. He says the three subjects were now together</p> <p style="text-align: center;">Page 65</p>	<p>1 by Anthony Grainger and David Totton in Salford in                  2 Anthony Grainger's Golf was in the rear seat.</p> <p>3 Superintendent Granby again states that he reviewed                  4 the situation with DI Cousen and felt at this stage that                  5 the tipping point to arrest the subjects had not been                  6 reached.</p> <p>7 A number of issues may arise in relation to this,                  8 including why it was assessed that the three subjects                  9 were together in the stolen Audi, when on                  10 Superintendent Granby's account the information passed                  11 by the DSU was that David Totton, Anthony Grainger and                  12 a third unknown male were in the stolen Audi and why the                  13 officers assessed that the tipping point to arrest had                  14 not been reached as at least two of the subjects were                  15 present in the stolen Audi along with a third unknown                  16 male and that the three men were wearing bland jogging                  17 suits.</p> <p>18 The next stage, Superintendent Granby and/or                  19 DI Cousen consult and decide that the tipping point had                  20 been reached.</p> <p>21 Between 6.40 pm and 6.50 pm Superintendent Granby                  22 received further information from the DSU in relation to                  23 the movement of the subjects. They were now in Culcheth                  24 town centre. The movements of the stolen Audi as it                  25 entered Culcheth were observed by the DSU officers.</p> <p style="text-align: center;">Page 67</p>
<p>1 in an Audi motor vehicle which had been confirmed as                  2 being a stolen vehicle. The information indicated that                  3 all three subjects were wearing gloves.</p> <p>4 The surveillance evidence suggests that the first                  5 directly relevant observation was at 6.29 pm when                  6 DC Clark was only able to observe that Anthony Grainger                  7 was driving the vehicle, that David Totton was the front                  8 seat passenger and, "An unknown male had got into the                  9 rear passenger seat".</p> <p>10 At 6.29 pm DC Evans saw the stolen red Audi as it                  11 travelled along Sandringham Road towards its exit with                  12 Leigh Road and then left forwards onto the A580 East                  13 Lancashire Road, he saw that the driver was                  14 Anthony Grainger and the front seat passenger was                  15 David Totton.</p> <p>16 It is to be noted that DC Evans and the surveillance                  17 log only record that the stolen Audi contained two                  18 suspects, Anthony Grainger driving and David Totton the                  19 front seat passenger, not three subjects.</p> <p>20 Superintendent Granby adds that those in the vehicle                  21 were wearing bland jogging suits and that                  22 Anthony Grainger was driving the vehicle, which was                  23 consistent with him driving around Culcheth the previous                  24 evening and that David Totton was the front seat                  25 passenger and that the third male who had been picked up</p> <p style="text-align: center;">Page 66</p>	<p>1 Suffice it to say in summary that at 6.45 pm it                  2 entered the small car park off Jackson Avenue in                  3 Culcheth and reversed into a parking bay with the rear                  4 of the vehicle against the perimeter fence and its                  5 offside adjacent to a tall hedge, which also marked the                  6 perimeter of the car park. This spot was two parking                  7 bays away from where it had previously been on the                  8 evening of 29 February 2012.</p> <p>9 X7 states that due to intelligence updates that he                  10 received, he liaised with Superintendent Granby and                  11 after a brief conversation he directed the delta vehicle                  12 to move closer to the town centre and to lay up. This                  13 was a contingency to reduce any response time should                  14 Superintendent Granby require officers to deploy a foot                  15 strike or foot strike officers whilst maintaining the                  16 covert nature of the operation.</p> <p>17 At 7.00 pm Superintendent Granby contacted X7 and                  18 asked for the AFOs to be moved closer to the town                  19 centre. X7 mobilised the alpha, bravo and charlie                  20 vehicles on to Warrington Road, as he did so X7 remained                  21 on the phone with Superintendent Granby.</p> <p>22 At 7.03, having consulted with DI Cousen and                  23 assessed the information available to him,                  24 Superintendent Granby considered that the tipping point                  25 had been reached and that the subjects could now be</p> <p style="text-align: center;">Page 68</p>

<p>1 arrested for conspiracy to commit robbery. This was 2 because: 3 "The three subjects were in a stolen motor vehicle 4 in an area where I understood them to have undertaken 5 previous reconnaissance, were wearing gloves and now 6 appeared to be ready to leave the vehicle." 7 In a supplemental statement Superintendent Granby 8 clarifies his rationale for making this decision as 9 follows: 10 "Point one, the prior intelligence in relation to 11 the offending of the subjects. 12 "Point two, the fact that all three subjects were in 13 the stolen Audi. 14 "Point three, the fact that all three subjects were 15 wearing jogging suits and gloves. 16 "Point four, the fact that the three subjects had 17 spent several minutes driving around the centre of 18 Culcheth, carrying out what I considered to be counter 19 surveillance manoeuvres. 20 "Point five, the fact that the subject Grainger had 21 driven around Culcheth town centre the previous evening 22 in the vehicle in what I considered to be measures to 23 familiarise himself with the area and potential target 24 premises. 25 "Point six, the fact that the Audi had now been</p> <p style="text-align: center;">Page 69</p>	<p>1 It will be noted that on any view 2 Superintendent Granby decided that the tipping point had 3 been reached and then provided authority to X7 to effect 4 arrests before the subjects had made any observably 5 hostile move towards any intended crime target, such as 6 a bank or Post Office. 7 Mr Arundale notes that: 8 "In this case the MASTS interception, as opposed to 9 intervention, was authorised before the subject went 10 into the act of committing a crime beyond a tenuous 11 conspiracy to rob, suggesting that the SIO TFC were 12 erring on the side of public protection and article 2 13 obligations rather than 'Pushing the boundaries in 14 an attempt to gather evidence to secure a prosecution or 15 conviction for a substantive offence'. 16 The next stage, Superintendent Granby contacts X7 17 and provides authority to arrest. As I have said, at 18 about 7.03 pm, Superintendent Granby contacted X7 and 19 provided authority to effect the arrest of the subjects. 20 This is so-called State Amber. X7 states that: 21 "This direction effectively handed the operation 22 over to my control for the strike phase." 23 Ian Arundale observed that: 24 "It appears that at this point the MASTS specialist 25 munitions option was somewhat pre-determined."</p> <p style="text-align: center;">Page 71</p>
<p>1 parked in a car park close to a small number of premise, 2 including a Sainsbury's supermarket. 3 "Point seven, the fact that at this time there would 4 have been considerable amounts of money in the 5 commercial premises as a result of having a full day's 6 trading in a prosperous Cheshire town. 7 "Taking these factors into consideration, I believe 8 that there was now sufficient evidence in place to 9 secure convictions for the subjects that would result in 10 a substantial prison sentence, which would in turn 11 protect the public from their criminal activity." 12 It may be necessary to examine which of the 13 additional reasons given by Superintendent Granby, as 14 I have just set out, were in his mind on 3 March 2012. 15 THE CHAIRMAN: Hmm. 16 MR BEER: Which of Superintendent Granby or DI Cousen made 17 the determination that the tipping point had been 18 reached. 19 Thirdly, on what basis it was decided by him or them 20 that all three subjects, ie Messrs Totton, Grainger and 21 Rimmer were in the stolen Audi. The surveillance 22 disclosed that only two of the subjects were in the 23 vehicle. 24 Fourthly, what had led to change the decision that 25 the tipping point to make arrests had been reached.</p> <p style="text-align: center;">Page 70</p>	<p>1 He suggests however that at a key point in the 2 operation such as this a pause, a reconsideration of the 3 options to reduce threat and risk and an effective 4 briefing of staff would have been beneficial. 5 This was because there was nothing in the unredacted 6 material that he had seen to indicate that there was 7 a critical need for Superintendent Granby immediately to 8 deploy the MASTS team when the tipping point had been 9 reached. As he puts it, "Even at this late stage, there 10 were other tactical options available". 11 X7 immediately informed the rest of the team by 12 radio that they were now at State Amber and each team 13 confirmed they had receive the radio message. X7 was 14 aware that the Audi was facing outwards in a corner plot 15 of the car park off Jackson Avenue in Culcheth. At 16 7.05 pm DC Evans drove on to the small car park off 17 Jackson Avenue in Culcheth and saw the stolen Audi park 18 in the bottom right-hand corner of the car park. It was 19 parked backed into the corner space facing outwards, 20 ie outwards towards the other car park exit into 21 Thompson Avenue. 22 DC Evans parked his vehicle almost directly in front 23 of the Audi about 10 feet away and saw that there were 24 occupants of the vehicle sat within the driver's seat 25 and in the front passenger seat of the vehicle.</p> <p style="text-align: center;">Page 72</p>

<p>1 The evidence available to the Inquiry suggests that                  2 16 AFOs were deployed. They were contained in four                  3 unmarked vehicles. I have described them already,                  4 alpha, bravo, charlie and delta, four officers in each                  5 vehicle. They carried the following weapons, and I have                  6 set them out in a table for everyone's benefit.                  7 THE CHAIRMAN: Yes.                  8 MR BEER: Alpha vehicle, this was an Audi A6 estate.                  9 W4 was the driver. He carried a MP5 carbine, a self                  10 loading pistol and a Taser.                  11 X7 was the front near side passenger. He carried                  12 a MP5 carbine, a self loading pistol and a Taser.                  13 Q9 was the rear offside passenger. He carried an                  14 MP5 carbine, a self loading pistol and a Taser.                  15 W9 was in the rear nearside passenger seat, he                  16 carried the same three weapons, MP5 carbine, an SLP and                  17 a Taser.                  18 The bravo vehicle, this was a Ford S-Max, the driver                  19 of the vehicle was U2, he carried the same three                  20 weapons, MP5 carbine, a self loading pistol and a Taser.                  21 G6 was the front nearside passenger, he carried                  22 an MP5 carbine, a self loading pistol and a Taser.                  23 U9 was the rear offside passenger. He carried an                  24 MP5 carbine, a self loading pistol and a Taser.                  25 X9 was the rear nearside passenger. He carried</p> <p style="text-align: center;">Page 73</p>	<p>1 Moving to section 9 of the opening, after State Red.                  2 As the three police vehicles, alpha, bravo and charlie                  3 approached the roundabout, the junction of Warrington                  4 Road and Common Lane, X7 called State Red, this                  5 indicates that a strike is imminent and that the                  6 officers were about to enter the overt stage of the                  7 operation. The police vehicles turned right at the                  8 roundabout into Common Lane and then left into                  9 Jackson Avenue.                  10 As the AFOs approached the car park, X7 informed                  11 them over the radio that the alpha vehicle would effect                  12 a block and deal with the driver's side of the stolen                  13 Audi and that the bravo vehicle would have                  14 responsibility for the passenger side of the stolen                  15 Audi. That the charlie and delta vehicle were "to fill                  16 in where necessary".                  17 Whilst X7 was communicating his tactical plan to the                  18 AFOs over the radio, he heard Q9, who you will remember                  19 was in the same vehicle as him, say that he would cover                  20 the stolen Audi from his seat. X7 states that he                  21 considered this to be a sound tactical option as it                  22 provided cover for the team as they approached the                  23 subject vehicle. The approach would be a vulnerable                  24 time for the team as the subject vehicle was pointing                  25 nose out and the team would be on clear view to the</p> <p style="text-align: center;">Page 75</p>
<p>1 an MP5 carbine, a self loading pistol, a shotgun, CS                  2 canisters and a Taser.                  3 The charlie vehicle, this was a Ford Mondeo.                  4 H9 was the driver, he carried an MP5 carbine, a self                  5 loading pistol and Taser.                  6 J4 was the front seat nearside passenger. He                  7 carried an MP5 carbine, a self loading pistol and                  8 a Taser.                  9 G11 was the rear offside passenger. He carried                  10 an MP5 carbine, a self loading pistol, a baton gun and                  11 a Taser.                  12 Z15 was the rear nearside passenger. He carried an                  13 MP5 carbine, a self loading pistol, a shotgun, five ram                  14 rounds and two CSDC canisters and a Taser.                  15 The delta vehicle, which was a Volkswagen                  16 Transporter.                  17 N7 was the driver, he carried an MP5 carbine, a self                  18 loading pistol and a Taser.                  19 G1, the front seat passenger, carried an MP5                  20 carbine, a self loading pistol and a Taser.                  21 B3, the rear offside passenger, carried an MP5                  22 carbine, a self loading pistol and a Taser.                  23 And Philip Higgins was the rear nearside passenger.                  24 He carried an MP5 carbine, a self loading pistol and                  25 a Taser.</p> <p style="text-align: center;">Page 74</p>	<p>1 subjects within the vehicle.                  2 Sir, I am now turning to accounts from each of those                  3 in the three vehicles, alpha, bravo and charlie, not                  4 delta because which is parked elsewhere. I wonder if                  5 that would be a convenient moment.                  6 THE CHAIRMAN: It probably is.                  7 MR BEER: For 2.00 maybe?                  8 THE CHAIRMAN: Yes. I am going to say 2.05 because it can                  9 take time to get people sorted out and up and down the                  10 building lifts and so on.                  11 MR BEER: Yes.                  12 THE CHAIRMAN: Thank you.                  13 (12.59 pm)                  14 (The Luncheon Adjournment)                  15                  16 (2.05 pm)                  17 THE CHAIRMAN: Mr Beer, before we continue, I gather that                  18 the remote television link is not available this                  19 afternoon. There is nothing we can do about it,                  20 I propose we simply carry on.                  21 MR BEER: I understand.                  22 THE CHAIRMAN: Mr Thomas?                  23 MR THOMAS: Sir, I agree. We are just concerned for when it                  24 comes to obviously Thursday and Friday, so if what can                  25 be done be done to sort the problem out before then.</p> <p style="text-align: center;">Page 76</p>

1 THE CHAIRMAN: I am sure that those instructing him will be  
 2 doing everything they can behind the scenes and we will  
 3 cooperate as far as we are able. I don't understand  
 4 this to be a long-term problem.  
 5 THE CLERK OF THE COURT: It is just this afternoon and  
 6 tomorrow afternoon there are no booths available at  
 7 Forest Bank. It is not a technical issue; it is  
 8 an availability issue.  
 9 THE CHAIRMAN: Thank you both.  
 10 MR BEER: Sir, I was turning to the accounts of the four  
 11 people in each of the three vehicles, alpha, bravo and  
 12 charlie.  
 13 The accounts of those in the alpha vehicle, Q9, the  
 14 rear offside passenger.  
 15 Q9 has given four accounts of the events in the car  
 16 park. An initial account given on the morning of  
 17 4 March 2012 and written down by his solicitor,  
 18 a witness statement made on 9 March, an interview under  
 19 caution on 10 April and an interview under caution on  
 20 13 June.  
 21 I am going to summarise and read from each of those  
 22 accounts.  
 23 The initial account of 4 March, Q9 states:  
 24 "As a result of a discussion in the alpha car it was  
 25 agreed that as officers deployed from the police

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1 vehicles I would provide cover from the open rear window  
 2 of the alpha car. As we neared the car park where the  
 3 subject car was parked, we were given the condition red.  
 4 The alpha car drove across the front of the subject  
 5 vehicle, which had three occupants. I was wearing  
 6 a police baseball cap. I pointed my carbine into the  
 7 subject vehicle. I shouted, 'Armed police, show me your  
 8 hands'.  
 9 "The driver and front seat passenger did 'show me  
 10 their hands'. I could see they were wearing gloves.  
 11 Officers were deploying to the vehicle. I saw the  
 12 driver lower his right hand to his groin area. It was  
 13 a deliberate movement, as if to grab a firearm. I felt  
 14 that this was a threat to the oncoming team and so  
 15 I discharged one shot. I then kept cover into the  
 16 subject vehicle until the CS canister had been deployed  
 17 and the officers had the occupants out of the vehicle."  
 18 In his witness statement of 9 March 2012, Q9 states:  
 19 "I had already put my baseball cap on and was  
 20 altering my position on the seat so I could cover from  
 21 the offside rear window. As W4 turned on to the car  
 22 park off Jackson Avenue, X7 declared State Red over the  
 23 radio. I had hold of my MP5 by the pistol grip in my  
 24 right hand and my left hand on the electric window  
 25 button on the door. W4 increased the speed of our

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1 vehicle when we were halfway along the car park.  
 2 I activated the electric window so it came fully down.  
 3 When the vehicle stopped I levelled my MP5 towards the  
 4 front windscreen of the subject's vehicle, taking hold  
 5 of the foregrip. I illuminated the torch on the front  
 6 of my MP5 and switched the safety catch to 'fire'. From  
 7 my position I was about three metres from the  
 8 windscreen. I shouted to the vehicle occupants, 'Armed  
 9 police, show me your hands'. I could see the driver and  
 10 front seat passenger. I could not see the rear seat  
 11 passenger.  
 12 "Both the driver and the front seat passenger raised  
 13 their hands above the vehicle's dashboard, they were  
 14 both wearing gloves. I was aware that the rest of the  
 15 firearms teams would now be deploying on foot towards  
 16 the vehicle. As I covered into the vehicle I saw the  
 17 driver make a sudden and deliberate movement of his  
 18 right hand from my view and down towards his lap.  
 19 I thought he was reaching for a firearm. I quickly  
 20 realised that the approaching officers were in extreme  
 21 danger, so I placed my finger on the trigger,  
 22 illuminated the laser aiming device and fired one round  
 23 to the centre mass of the driver. The driver slumped  
 24 back in his seat having been shot in the chest.  
 25 "I could see the front seat passenger still had his

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1 hands over the dashboard. I focused my cover back on to  
 2 the driver. I couldn't see his hands so I was watching  
 3 for any movement and assessing what threat he still  
 4 posed to the approaching officers. I then saw the front  
 5 seat passenger had started to get out of the vehicle.  
 6 I knew that the approaching officers would be on aim  
 7 with their weapons and would be able to see the  
 8 passenger getting out and deal with any threat that he  
 9 posed. I was then aware that the front seat passenger  
 10 window smashed and a split second later the whole of the  
 11 front cab fogged with CS. I can recall the shotgun  
 12 being discharged twice, but cannot say at exactly what  
 13 point this was during the incident."  
 14 In his first interview under caution on  
 15 10 April 2012, Q9 relevantly added the following to his  
 16 previous accounts in relation to the events in the car  
 17 park, and I summarise.  
 18 Firstly, that when Anthony Grainger's right hand  
 19 went down to his groin area, he could not actually see  
 20 from where he was positioned Anthony Grainger's groin  
 21 area.  
 22 Second, that he did not see a firearm when  
 23 Anthony Grainger made a movement towards his groin.  
 24 Third, that when he, Q9, was looking through the  
 25 front windscreen of the stolen Audi he could not see

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1 where his colleagues, X7 and W9, had gone. He  
 2 remembered that W4, the driver, stayed in the driver's  
 3 seat.  
 4 Fourthly, that the CS canister was deployed about 10  
 5 seconds after he had shot Anthony Grainger.  
 6 In his second interview under caution on  
 7 13 June 2012, Q9 relevantly added the following to his  
 8 previous account in relation to the events in the car  
 9 park. That when the alpha vehicle drove on to the car  
 10 park, his right knee was on the rear of the alpha  
 11 vehicle, the rear seat of the alpha vehicle, and his  
 12 left foot was in the rear footwell of the alpha vehicle,  
 13 so that in short he was kneeling on one knee.  
 14 That when the alpha vehicle came to a stop he  
 15 levelled his MP5. That the occupants of the stolen Audi  
 16 were at a similar level to him, not least because he was  
 17 also in a similar Audi to them. That he lowered the  
 18 rear window of the alpha vehicle when it was  
 19 approximately halfway along the car park, that he saw  
 20 two subjects sitting in the front of the vehicle. He  
 21 levelled his MP5, he illuminated the torch on the MP5.  
 22 He switched the safety catch to "fire". He shouted at  
 23 the occupants, both the driver and front seat passenger  
 24 raised their hands above the dashboard for about  
 25 a second or so or two seconds and then the driver

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1 dropped his hand in a deliberate motion down to his lap.  
 2 He illuminated the laser aiming device and fired one  
 3 shot. That there was about a three- to four-second gap  
 4 between the alpha vehicle stopping and his shot.  
 5 That after he had shot Anthony Grainger, he,  
 6 Anthony Grainger, slumped backwards and his hands did  
 7 not come above the dashboard again, at least as far as  
 8 he could see. That he, Q9 was in a better position than  
 9 X7 to cover the driver of the stolen Audi as opposed to  
 10 just the passenger in the vehicle, because X7 was  
 11 getting out of the nearside of the alpha vehicle and  
 12 would have been unsighted as he came round the front of  
 13 the alpha vehicle.  
 14 Lastly, that in his view it was not reasonable to  
 15 wait in and see what if anything Anthony Grainger had in  
 16 his hand as this would have given Anthony Grainger the  
 17 opportunity to fire on the approaching officers.  
 18 W4, the driver of the alpha vehicle, he gave four  
 19 accounts in relation to the events in the car park, in  
 20 a witness statement of 9 March, a witness statement of  
 21 22 May, a witness statement of 26 August 2014 and  
 22 a witness statement of 12 September 2014.  
 23 Dealing with each of those in turn.  
 24 In the witness statement of 9 March 2012, W4 stated  
 25 that:

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1 "I drove slowly on to the car park, whereupon I saw  
 2 the red Audi A6 parked in the last space on the offside  
 3 facing outside. Once I confirmed its position  
 4 I accelerated towards the red Audi and upon doing so  
 5 heard X7 shout 'Strike, strike, strike', I then  
 6 positioned the alpha vehicle directly behind the front  
 7 of the red Audi A6, so that my offside was directly  
 8 against the bonnet of the red Audi, which in turn  
 9 blocked the driver's door and rear offside door of the  
 10 alpha vehicle.  
 11 "I then brought my vehicle to a complete stop. As  
 12 my vehicle came to a standstill I heard Q9 shout, 'Armed  
 13 police show me your hands, show me your hands'.  
 14 "Both males in the front seat put up their hands.  
 15 However I cannot say what the person in the rear seat  
 16 did at this point as my concentration was on the front  
 17 two males, who I could see were being covered by the  
 18 ultra dot from a MP5. I then saw the driver of the red  
 19 Audi drop down his right hand towards his lap, and this  
 20 was closely followed by a loud bang which I knew to be  
 21 a gunshot, I could see that the windscreen had been  
 22 penetrated and I saw the driver of the vehicle was  
 23 starting to slump to his left-hand side."  
 24 In his witness statement of 22 May 2012 W4  
 25 relevantly added the following to his previous accounts

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1 in relation to events in the car park. That when Q9  
 2 illuminated the front of the Audi, he, W4, could clearly  
 3 see the front two occupants of the vehicle and that  
 4 there was a further person in the rear nearside of the  
 5 vehicle. That from his vehicle stopping to the shot  
 6 being fired by Q9, this was about three or four seconds  
 7 and that at this point no officer had reached or  
 8 deployed on to the Audi. That seconds after the shot  
 9 being fired, he saw officers begin to deploy on to the  
 10 Audi, which was very quickly followed by the gas  
 11 canister being deployed.  
 12 In his witness statement of 26 August 2014 W4  
 13 confirmed that he was not wearing any clothing or other  
 14 item to identify himself as a police officer. In his  
 15 witness statement of 12 September two 2014, W4 confirmed  
 16 that because of the use by Q9 of his Tac light, the  
 17 lighting conditions at the relevant time in the car park  
 18 were not difficult to operate in and that he could see  
 19 Q9's green strobe laser light used to target the weapon  
 20 being operated towards the front seat passengers, as he  
 21 put it, in the plural, but that looks like a mistake for  
 22 "passenger".  
 23 X7, he was the front seat passenger in the alpha  
 24 vehicle. He has given five accounts of events in the  
 25 car park. In his initial account, in his witness

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<p>1 statement of 9 March 2012, and in witness statements of 2 28 June 2012, 21 January 2013 and in his witness 3 statement of 24 October 2014.</p> <p>4 In his initial account, X7 stated:</p> <p>5 "I passed on various instructions to the team and as 6 my vehicle pulled across the front of the Audi I called 7 the strike. I got out of my car, I was the front seat 8 passenger. I got out and ran straight over to the 9 driver. Around this time -- I cannot be specific -- 10 I heard a noise. I am unsure if it was the sound of 11 a firearm being discharged or if it was the sound of 12 vehicles colliding. I ran to the driver. The window 13 was open. I was not in uniform and I immediately 14 identified myself as armed police and I ordered the 15 driver to show me his hands. I saw the driver lift up 16 his hands and noticed that he appeared to be wearing 17 gloves. Seconds later I saw a CS gas canister activate 18 inside the cabin of the vehicle, which quickly filled 19 with CS powder. I continued to identify myself as armed 20 police and for the driver to show me his hands. The 21 driver started to lower his hands towards his lap out of 22 my sight and this gave me concern as I did not know why 23 he was not complying. Using the muzzle/torch of my 24 firearm I made contact with the driver's upper right arm 25 in an effort to gain compliance. At this point I saw</p> <p style="text-align: center;">Page 85</p>	<p>1 the sequence of events that took place on 3 March 2012 2 is correct in my mind. I can add nothing further to 3 that account."</p> <p>4 W9, the rear nearside passenger. W9 has given three 5 accounts of events in the car park. His witness 6 statements of 9 March 2012 and 28 May 2012 and in his 7 witness statement of 29 October 2014.</p> <p>8 In the witness statement of 9 March 2012, W9 stated: 9 "As we entered the village of Culcheth and headed to 10 the car park, X7 related to the team that we were on 11 State Red. As we drove on to the car park I could see 12 the front of the stolen red Audi at the top right of the 13 car. The car was facing outwards. I got my respirator 14 ready and as we got near the Audi I saw a hedgerow 15 running near to the driver's side of the car. I turned 16 my body towards the nearside of the alpha car and put my 17 respirator on.</p> <p>18 "I heard X7 say 'Strike, strike' as W4 drove the 19 alpha car across the front of the red Audi. I alighted 20 from the alpha car. My SLP and Taser were holstered, I 21 had my MP5 loaded and ready with the safety in. As 22 I ran round the back of the alpha car I heard someone 23 shouting, 'Armed police, show me your hands'. As 24 I began to shout 'armed police' I heard a crack like ice 25 breaking and a bang from a weapon being fired. I had my</p> <p style="text-align: center;">Page 87</p>
<p>1 his eyes roll back and he slumped to his right-hand 2 side. I assumed that he had fainted.</p> <p>3 "At that point other officers joined me and other 4 officers leant right into the vehicle from the front 5 passenger door and pulled the driver towards them. At 6 this stage his clothing had ridden up and I saw blood on 7 his tummy area. I was shocked as I could not understand 8 where the blood had come from."</p> <p>9 In his witness statement of 9 March 2012, X7 added 10 the following to his account, that as he ran from his 11 vehicle towards the driver, he heard a noise which he 12 assumed was the sound of vehicles colliding and that 13 after he saw the CS dispersal canister activate within 14 the Audi, the driver reacted to this by flinching 15 slightly to his right.</p> <p>16 In his witness statement of 28 June, X7 did not 17 materially add to his previous account, nor in his 18 witness statement of 21 January 2013.</p> <p>19 In his witness statement of 24 October 2014, X7 20 materially stated:</p> <p>21 "The defence intend to adduce evidence that 22 Anthony Grainger was shot almost immediately the alpha 23 vehicle came to a stop. This is consistent with the 24 evidence from officer Q9, W4 and the IPCC analysis of 25 events. My initial account dated on 9 March 2012 as to</p> <p style="text-align: center;">Page 86</p>	<p>1 MP5 up as I was in fear for the safety of myself and my 2 colleague I put my safety catch to fire.</p> <p>3 "As I ran towards the car my attention was 4 immediately drawn to a male in all grey wearing a black 5 woollen hat. He had his back to me facing the rear of 6 the red Audi. I was unaware of what was happening in 7 the red Audi, but knew my colleague Q9 had cover on the 8 car. I do not recall seeing any other officers around 9 the red Audi. I had put my weapon on aim at the time 10 shouting 'armed police, show me your hands'."</p> <p>11 In his witness statement of 28 May 2012, W9 added 12 that although he was wearing a respirator, he had a good 13 field of view through a clear single piece of plastic 14 lens, and although it was early evening there was some 15 lighting on the car park coming from vehicles, officers' 16 Tac lights and lighting coming from premises behind the 17 Audi vehicle. That although he heard the smashing of 18 glass he cannot recall when the CS canister was deployed 19 as he had the majority of his back to the main body of 20 the vehicle as he was dealing with David Totton.</p> <p>21 In his witness statement of 29 October 2014, W9 22 materially added as follows: 23 "During the operation on 3 March, it was discussed 24 that myself and X7 would run down the nearside of the 25 alpha vehicle towards the front of the car, turn right,</p> <p style="text-align: center;">Page 88</p>

1 and run towards the driver's side of the subject. Due  
 2 to the alpha car having to block the Audi, very close to  
 3 the hedge line, I decided that the best course of action  
 4 to approach the subject vehicle would be to run around  
 5 the rear of the alpha and approach the Audi from its  
 6 nearside. I was quite clear as to this decision and my  
 7 reasons for it. This decision would be an example of  
 8 a dynamic risk assessment I had to undertake at the  
 9 time. The MASTS tactic is fluid and dynamic and I had  
 10 to make a split second decision to change direction to  
 11 reach the vehicle. We were aware that there was a third  
 12 person in the rear of the subject vehicle but as to the  
 13 exact position of that person in the rear seat, was not  
 14 known as we approached. I knew that other MASTS  
 15 vehicles were following behind."  
 16 Accounts of those in the bravo vehicle.  
 17 U2, the driver. He gave three accounts as to the  
 18 events in the car park. In a witness statement dated  
 19 9 March 2012, 18 May 2012 and a witness statement dated  
 20 11 September 2012.  
 21 In his witness statement dated 9 March 2012, U2  
 22 stated:  
 23 "As I entered the car park I saw the stolen Audi in  
 24 the far right-hand corner as described. It was  
 25 approximately 30 metres away parked next to the other

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1 vehicles facing out of the bay. Our vehicles approached  
 2 the Audi from its nearside. The alpha vehicle stopped  
 3 in front of the Audi with its offside touching the front  
 4 bumper of the stolen vehicle, blocking any forward  
 5 movement. I stopped my vehicle directly behind the  
 6 alpha, but turned the nose of it slightly into the empty  
 7 space, which was to the nearside of the stolen vehicle.  
 8 "The officers in my vehicle got out and ran towards  
 9 the car. I then applied the handbrake of the vehicle  
 10 and got out. As I opened my door I heard a loud crack,  
 11 which through experience sounded like a conventional  
 12 firearm report. As I believed a shot had been fired my  
 13 personal threat assessment of the situation was at its  
 14 highest level. I approached the nearside of the Audi  
 15 with my MP5 on aim at the cabin of the vehicle, and  
 16 observed other members of my team to my right-hand side  
 17 struggling with two subjects who appeared to be  
 18 resisting arrest. I kicked the thigh area of the leg of  
 19 one of the subjects to stop him getting up and noticed  
 20 immediately that this had the desired effect, allowing  
 21 other officers to gain control.  
 22 "I looked into the stolen Audi and noticed that the  
 23 cabin was full of CS irritant from the CS canister.  
 24 Both the front and rear nearside doors were open on the  
 25 vehicle and I could see in and clearly see that the car

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1 was empty, with the exception of the driver who appeared  
 2 to be struggling with the officers at the window of the  
 3 driver's door on the offside.  
 4 "I moved on aim around the vehicle in  
 5 an anticlockwise direction until I got to G6, who was  
 6 covering the door on the rear offside and shouting  
 7 'Locked doors', as he couldn't open the door he was  
 8 covering.  
 9 "I shouted to him that I had clear of the rear of  
 10 the vehicle from the nearside and he acknowledged this.  
 11 Whilst this was happening I was aware of two distinct  
 12 bangs, which experience told me was ram rounds from the  
 13 shotgun. I made my way back around the rear of the Audi  
 14 to the nearside front passenger's door to help detain  
 15 the subject in the driver's seat, who still appeared to  
 16 be struggling with officers at his door. I pointed my  
 17 MP5 at him and illuminated my weapon's torch. I shouted  
 18 'armed police' and then due to officers on that side  
 19 struggling to extract him from the car I shouted 'Get  
 20 him out this side', as the passenger door was wide open.  
 21 "Officers at the driver's door released their grip  
 22 on the subject and he fell back into the seat. My  
 23 attention was drawn immediately to his left hand as it  
 24 appeared that he had something black in it. I shouted  
 25 'Show me your hands' again and instinctively pointed my

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1 torch at his left hand. The weapon's light illuminated  
 2 his hand and I realised it was in fact a short black  
 3 glove that the subject was wearing. I was only  
 4 approximately three feet away from the driver at this  
 5 point.  
 6 "I then heard someone shout, 'He has been shot',  
 7 I immediately let go of my MP5 on its sling and leant  
 8 into the car and grabbed the subject, who I now know to  
 9 be Anthony Grainger. I took hold of his upper clothing  
 10 and started to pull him across the passenger seat.  
 11 Grainger was completely lifeless and his weight was  
 12 causing me difficulty. I shouted 'support' and  
 13 an officer's arm appeared over my right shoulder and  
 14 helped me pull him out. This was V3, and G11 was also  
 15 helping.  
 16 "Between us we pulled Grainger across the front seat  
 17 and laid him on his back to the nearside of the  
 18 vehicle."  
 19 In his witness statement of 18 May U2 explained  
 20 that:  
 21 "The officer at the driver's window of the Audi was  
 22 pulling at Grainger's arm and appeared to be trying to  
 23 pull him out of the car window, and although it was  
 24 dimly lit in the car by the windscreen I could clearly  
 25 see through the car. It was later clear that Grainger

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<p>1 was incapacitated due to his gunshot injury and was                  2 unable to comply with the officers once they had reached                  3 the driver's door. I believe that the officer at the                  4 driver's door did not realise the extent of Grainger's                  5 injury and appeared to be trying to extract him out of                  6 the open driver's window by pulling his arms. On                  7 initial assessment this looked like Grainger was                  8 struggling with his arms up and out of the window."                  9 In his third witness statement U2 stated at the                  10 point of interception on the car park in Culcheth his                  11 bravo vehicle did not collide with any other police                  12 vehicle on the car park and he did not see or hear any                  13 collision between any police vehicles on the car park.                  14 G6, the front nearside passenger, he gave three                  15 accounts. In a witness statement dated 9 March 2012,                  16 again on 21 May 2012 and again on 27 September 2012.                  17 In the first of those, on 9 March 2012, G6 stated                  18 that:                  19 "At 1912 hours, that same day, I heard X7 call State                  20 Red over the radio, which means that the interception is                  21 imminent and we turned right from Jackson Avenue on to                  22 the car park where the stolen red Audi and offenders                  23 were parked up. At this point I then put on my                  24 respirator. It was dark with very little artificial                  25 lighting. The weather was dry but it had been raining</p> <p style="text-align: center;">Page 93</p>	<p>1 arrived I then tried the rear offside door as I was                  2 pretty sure there was no person in that seat.                  3 "I then found that the door was locked and shouted                  4 'Locked doors', almost immediately U2 arrived from my                  5 left and told me the rear was clear. I then dropped my                  6 carbine on to its sling and turned to assist with the                  7 driver. I could seat the driver's hands were under                  8 control and being held out of the driver's door window.                  9 I then tried the door and found it also locked. I then                  10 reached inside of the cabin and took hold of Grainger's                  11 head, puling him up towards the steering wheel in order                  12 to then reach inside and release the door using the                  13 handle inside.                  14 "Before I could get to the handle I heard another                  15 officer shout from inside the cabin 'Pass him through',                  16 I then pushed Grainger towards the passenger side of the                  17 vehicle and U2 who was waiting to grab him."                  18 In his statement of 21 May G6 added that when he                  19 rounded the front of the Audi vehicle during the strike,                  20 it was stationary and parked across the front of the red                  21 Audi. The alpha's vehicle's front was close to bushes                  22 which ran along the far side of the car park but                  23 provided him with enough space around the front in order                  24 to approach the subject vehicle's offside. He clarified                  25 the details relating to the shots he heard. On</p> <p style="text-align: center;">Page 95</p>
<p>1 and the floor was wet. The alpha vehicle then                  2 accelerated slightly in a straight line and I saw the                  3 front of the red Audi momentarily lit up by the lights                  4 of the alpha vehicle when it came to rest across the                  5 front of the red Audi.                  6 "I then alighted from the front passenger seat of                  7 the bravo vehicle and began moving towards the Audi.                  8 I saw that there was only one officer going round the                  9 front of the alpha vehicle and then on to the driver's                  10 side of the Audi and decided to follow. As I rounded                  11 the front of the alpha vehicle I could see X7 in front                  12 of me challenging the male in the driver's seat. This                  13 male I know to be Anthony Grainger, 35 years.                  14 "I then went along the driver's side of the Audi to                  15 get to the rear offside door and cover it. As I reached                  16 the front offside wheel arch of the Audi I was right                  17 behind X7 and heard a shot. I then passed X7 and began                  18 to cover the rear offside door. I heard a second shot,                  19 I then lit up the rear offside door window with the                  20 torch on my carbine. The window was tinted, but there                  21 was light coming into the window from the opposite side.                  22 I then saw the CSDC fill the front of the car and                  23 I shouted to open the doors. At this time I was aware                  24 I was on my own on that door and shouted for support.                  25 I then heard a third shot, when no immediate support</p> <p style="text-align: center;">Page 94</p>	<p>1 reflection he realised he had made an error in his                  2 initial statement and should have said there were three                  3 bangs as opposed to three shots being fired. He said                  4 that following reflection he now believed that as he                  5 approached the alpha vehicle, the first bang he heard he                  6 thought was a shot. On further reflection this initial                  7 pop was not as loud as the second or third and came from                  8 the nearside of the vehicle and came in front of him.                  9 He initially thought it was a shot being discharged.                  10 Now he believed it was the window being smashed when the                  11 CSDC was deployed.                  12 The second and third bangs came from the opposite                  13 side of the vehicle and were louder he believed. He                  14 believed these shots to be from a shotgun. He stated                  15 that during the few seconds he dealt with                  16 Anthony Grainger at the driver's window he did not                  17 appear to be struggling and was being moved by officers                  18 attempting to either open the door or pass him through                  19 the vehicle.                  20 In his statement of 27 September 2012, his third                  21 statement, G6 clarified that he got out of the front                  22 passenger door of the bravo vehicle, ran alongside the                  23 nearside of the alpha vehicle, ran around the front of                  24 the alpha vehicle and approached the Audi on its                  25 offside.</p> <p style="text-align: center;">Page 96</p>



1 U9, the rear offside passenger of the bravo vehicle.  
 2 He gave two accounts, in witness statements dated  
 3 9 March and 28 May 2012.  
 4 In the first of those, U9 said:  
 5 "The vehicle I was in was second in the convoy and  
 6 I saw the ..."  
 7 THE CHAIRMAN: Pause a moment.  
 8 MR BEER: "The vehicle I was in was second in the convoy and  
 9 I saw the alpha vehicle turn right on to the car park.  
 10 At this point I donned my C50 respirator just in case  
 11 the CS canister was deployed. I knew that the red Audi  
 12 was parked at the far end of the car park and I saw our  
 13 lead vehicle head directly to that area.  
 14 "As we came to a stop I alighted from the vehicle  
 15 and made my way towards the red Audi. The car park was  
 16 partially lit but it was still dark. As I approached  
 17 the car on foot I could see that the front passenger  
 18 side was empty and knowing that there were three  
 19 subjects I made to the rear nearside passenger door. At  
 20 this point I was aware that the CS canister had been  
 21 deployed by X9. I then opened the door and saw a male  
 22 sitting inside. I identified myself as an armed police  
 23 officer and aided another officer, G11, to take him out  
 24 of the vehicle and put him on the ground.  
 25 "As I kept physical control of the male, who I now

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1 know to be Joseph Travers, G11 applied the handcuffs.  
 2 As this was happening I heard two large reports, which  
 3 I thought at the time was the shotgun being discharged.  
 4 I then heard someone, I am not sure who, shout  
 5 'trauma'.  
 6 In his statement dated 28 May 2012, his second  
 7 statement, U9 said that although he was wearing  
 8 a respirator, there was minimal impairment of the  
 9 peripheral vision and that the overall vision is good.  
 10 X9, the rear inside passenger of the bravo vehicle,  
 11 he gave two accounts in relation to events in the car  
 12 park. A witness statement of 9 March 2012 and one dated  
 13 28 May 2012.  
 14 In the first of these he said that at 7.12 pm State  
 15 Red was declared by X7. That as the bravo vehicle  
 16 turned into the car park where the subject vehicle was  
 17 located, he noted that the car park was poorly lit. He  
 18 then saw the alpha vehicle conduct a block of the  
 19 subject vehicle with the alpha vehicle's offside  
 20 contacting the subject vehicle's bonnet. The bravo  
 21 vehicle slowed to a point, where although not at a stand  
 22 still he was able to exit the vehicle via the nearside  
 23 passenger door carrying his shotgun, window breaker and  
 24 CS dispersal canister which he had made ready by  
 25 removing the pin upon notification of State Red.

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1 He continued:  
 2 "I then ran between the front of the bravo car and  
 3 the rear of the alpha car and made directly to the front  
 4 passenger window of the subject vehicle. I remained  
 5 focused on the nearside of the car and without delay  
 6 I smashed the passenger window and deployed the CS  
 7 canister into the vehicle. As I did so, I looked into  
 8 the car and saw one male in the rear of the car and the  
 9 driver, Anthony Grainger, who upon the window smashing  
 10 appeared to me to raise his hands from below the  
 11 dashboard towards chest height. I believe either  
 12 through shock of being challenged or to capitulate.  
 13 "The CS canister deployed instantly, filling the cab  
 14 with CS gas. I became aware of other firearms officers  
 15 surrounding the vehicle and heard a bang behind me,  
 16 which I believe was the first shotgun round being  
 17 discharged. Looking around I saw a male dressed in a  
 18 grey tracksuit, who I now know to be David Totton,  
 19 moving from a standing position to a prone position,  
 20 hands raised outside the vehicle at the rear nearside  
 21 corner.  
 22 "I saw him being challenged by W9, who was pointing  
 23 an MP5 at him and challenging him with shouts of 'armed  
 24 police, show me your hands'. Recognising W9 required  
 25 support to restrain David Totton, I made my way to his

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1 location and assisted W9 in placing handcuffs on  
 2 David Totton. As I did so I heard another bang  
 3 immediately behind me, which I believe was the second  
 4 shotgun round being fired.  
 5 "Once David Totton was secured I turned and saw  
 6 Anthony Grainger being pulled out of the subject vehicle  
 7 via the rear nearside passenger door. I then saw blood  
 8 on his chest and heard officers shout, 'He is shot, he  
 9 is shot', recognising for the first time he was injured  
 10 and now needing first aid to be administered where he  
 11 lay next to David Totton. I moved David Totton away  
 12 from his current location."  
 13 In his further statement of 28 May, X9 stated that  
 14 in respect of the deployment of CSDC, that even though  
 15 this was an operational contingency authorised prior to  
 16 the deployment, he had decided to deploy the canister  
 17 based on a number of factors.  
 18 First, he had previously witnessed officers injured  
 19 and members of the public put at risk where  
 20 non-compliance was encountered and the subject vehicle  
 21 was not brought under control.  
 22 Second, his knowledge of the intent and capability  
 23 of the individuals involved based on the earlier  
 24 briefing he had received and on previous deployments on  
 25 Operation Shire.

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1 Third, the intelligence updates he had been provided  
 2 with that day indicated that an armed robbery would take  
 3 place.  
 4 Fourth, the picture painted by the surveillance team  
 5 regarding the subjects' movements and behaviours,  
 6 indicated to him that the subjects were in the final  
 7 stages of preparation for an offence.  
 8 X9 said that as he approached the subject vehicle he  
 9 formed the opinion from the circumstances that the  
 10 driver and occupants were not under control and  
 11 therefore posed a real threat to colleagues either  
 12 through their actions or weaponry or by use of the  
 13 vehicle. So he deployed the CSDC to afford the maximum  
 14 advantage in controlling any of the occupants. He said  
 15 he noted the effect of the CS canister activation by the  
 16 instantaneous and comprehensive covering of the vehicle  
 17 by CS powder.  
 18 Accounts of those in the charlie vehicle.  
 19 H9, the driver, he gave three accounts of events in  
 20 the car park in his witness statement of 9 March,  
 21 another one on 28 May and another one on 25 August 2012.  
 22 In the first of those, H9 stated:  
 23 "I accelerated into the car park and brought my  
 24 vehicle to a stop directly behind bravo vehicle, which  
 25 in turn was behind the alpha vehicle. I could see that

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1 the officers were already starting to get out of bravo  
 2 vehicle as I was coming to a halt. As soon as we had  
 3 come to a stop I shouted 'out, out, out' to let the  
 4 occupants of my vehicle know that it was safe for them  
 5 to deploy.  
 6 "Once they had deployed I also exited and ran  
 7 towards the subject vehicle. It was at this point that  
 8 I could see the subjects of the red Audi had been  
 9 blocked in by the alpha car and a majority of officers  
 10 appeared to be running towards the nearside of the  
 11 subject vehicle. As a result of this I decided to  
 12 squeeze round the front of the alpha vehicle in order to  
 13 support officers on the offside.  
 14 "As I got to the subject vehicle, I could see X7 was  
 15 pointing his MP5 at the driver and shouting at him to  
 16 show him his hands. There was no glass in the driver's  
 17 door. I am unable to say if this was because it was  
 18 open or because it had been smashed. I could see that  
 19 G6 was still at the rear offside door of the car and was  
 20 shouting for support. I made the decision that it was  
 21 more important to assist X7 as it was paramount that we  
 22 got control of the driver in order to prevent the  
 23 vehicle moving. I could see that the driver was not  
 24 complying with the instructions that were being shouted  
 25 at him. He had his hands on his laps and his eyes shut.

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1 "I attempted to open the driver's door, but found  
 2 that it was locked. As a result I tried to reach inside  
 3 but was unable to locate the handle. At this point  
 4 other officers joined myself and X7 at the driver's door  
 5 and also attempted to open the door.  
 6 "Due to being unsure why the driver was still  
 7 failing to comply, I drew my Taser and pointed it at  
 8 him, whilst other officers continued to try and open the  
 9 door. I then heard U2 shout that we should take the  
 10 driver out via the front nearside door. As he was being  
 11 taken out I saw he had bloodstains on the chest area of  
 12 his T-shirt. I immediately shouted for trauma to make  
 13 other officers aware there had been an injury and there  
 14 was a requirement for the trauma kit."  
 15 In his statement of 28 May 2012 H9 materially stated  
 16 that whilst he was at the subject vehicle he only  
 17 remembers hearing a shotgun being deployed at least  
 18 once, he did not hear or see any other shots apart from  
 19 that.  
 20 In his statement of 25 August H9 confirms that at no  
 21 point in the course of the interception did his vehicle  
 22 collide with anything else and he did not witness or  
 23 hear any other vehicle collide.  
 24 J4, the front nearside passenger, J4 gave a single  
 25 account of events in the car park in a statement dated

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1 9 March 2012. He said:  
 2 "I was front seat passenger in the third vehicle.  
 3 We turned right off Jackson Avenue into the car park.  
 4 I said to the driver of our vehicle, H9, 'Hold back  
 5 slightly'. This was to protect the covert approach of  
 6 the team on to the subject vehicle and also to enable  
 7 our vehicle position to be adjusted to respond to any  
 8 subject vehicle movements.  
 9 "I saw the alpha vehicle pull across the front of  
 10 the red Audi. The offside facing the front of the  
 11 subject vehicle which was parked in the far right of the  
 12 car park. Our vehicle came to a stop behind the bravo  
 13 vehicle. I then alighted from my door and made my way  
 14 towards the rear nearside front passenger window of the  
 15 subject vehicle, which was either open or had been  
 16 smashed, covering the vehicle by pointing my MP5 towards  
 17 the cabin.  
 18 "I noticed the person in the driver's seat of the  
 19 vehicle and shouted out 'armed police, show me your  
 20 hands, show me your hands!'"  
 21 J4 continued that he was aware CS gas had been  
 22 deployed into the vehicle and he pulled down his  
 23 respirator. He again challenged the person in the  
 24 driver's seat, who he noticed was a male, he said, "He  
 25 was not responding to my shouts and appeared to be

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1 asleep". He noticed that there were no other subjects  
 2 appearing to be in the vehicle.  
 3 The subject vehicle's engine was running, he went  
 4 around to the driver's side of the subject vehicle to  
 5 support officers on that side. He saw that officers had  
 6 armed cover on the male. He then attempted to open the  
 7 driver's door which was locked. The window was either  
 8 open or broken and he saw the male in the seat:  
 9 "He was slumped slightly forward and both his arms  
 10 were by his side. I could not see his hands. He was  
 11 not responding. My initial thought was that he was  
 12 pretending to be asleep. I then leant in and grabbed  
 13 his left arm exposing his hand. He was wearing a tight  
 14 black glove. Another officer then assisted trying to  
 15 remove the male from the vehicle via the open window,  
 16 during this time I was aware of two shots being fired,  
 17 which I believed to be the use of the shotgun to  
 18 immobilise the vehicle. At this U2 opened the nearside  
 19 passenger door and we decided that the male would alight  
 20 from that side.  
 21 "I then heard an officer say, 'He is shot, he is  
 22 shot'. As the male was placed back in the seat prior to  
 23 removal from the vehicle his outer jacket fell open and  
 24 I noticed the stream of blood coming from his upper left  
 25 chest area. The male was removed from the vehicle by U2

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1 and another male."  
 2 G11, the rear nearside passenger.  
 3 He gave two accounts in statements dated 9 March and  
 4 28 May 2012. In the first of these G11 stated that  
 5 around 7.12 pm he was informed that the operation was  
 6 now State Red, that he was driven on to a car park at  
 7 Jackson Avenue and that he was informed that the subject  
 8 vehicle was parked in the far right corner of the car  
 9 park and continued that:  
 10 "... charlie vehicle was the third vehicle to enter  
 11 the car park and came to a stop between bravo and alpha  
 12 vehicles. As [then there is a word missing from the  
 13 statement] stopped I heard H9 shout, 'Out, out, out',  
 14 I opened my door and exited the vehicle. The car park  
 15 was dark, with very little street lighting, visibility  
 16 was clear, I could see a parked vehicle directly in  
 17 front of me and the subject car in a parking space  
 18 beyond this vehicle. I ran down the side of the first  
 19 vehicle and approached the subject vehicle from the rear  
 20 to cut off any escape routes. As I approached the  
 21 subject vehicle, I could see that the CS canister had  
 22 been deployed into the vehicle. U9 was at the rear  
 23 nearside of the subject vehicle and had opened his door.  
 24 I saw him pointing his MP5 at a subject in the vehicle.  
 25 I approached this subject and placed my MP5 towards my

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1 left side to free my hands. I shouted at the subject,  
 2 'Armed police, get out of the car'.  
 3 "I stepped to the side of U9 and took hold of the  
 4 subject, who later identified himself as Joseph Travers.  
 5 As I took hold of Travers I pulled him out of the car  
 6 and took him to the floor, shouting 'Down, down'. He  
 7 was placed about three feet from the vehicle face down.  
 8 I was aware of other officers around and U9 still had  
 9 aim on Travers with his MP5. I placed my left knee on  
 10 to Travers back and took hold of his right arm with his  
 11 hands. I shouted, 'put your hands behind your back',  
 12 whilst levering his right arm out from his side and  
 13 towards his back. I took hold of both his hands and  
 14 placed them into a rear back to back handcuff position."  
 15 G11 states that he was aware of another subject on  
 16 the floor who was being dealt with by other officers and  
 17 that this subject was later identified to him as  
 18 David Totton. He had heard Z15 discharge a shotgun  
 19 round into the rear tyre of the subject vehicle. He  
 20 could see that U2 was leaning into the front nearside  
 21 passenger door and appeared to be struggling with the  
 22 subject, who was later identified to him as Anthony and  
 23 he described him as "Granger". He went to assist U2, he  
 24 stated:  
 25 "As I approached the vehicle my first impression was

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1 that Granger was being uncooperative and refusing to  
 2 exit via the driver's door. It was only at this point  
 3 as I leant in and took hold of one of his arms that  
 4 I became aware of blood in the front of his chest and  
 5 I could see his eyes were looking upward and appeared  
 6 unresponsive. I heard someone shouting, 'Support, he  
 7 has been shot'. I pulled Granger from the vehicle with  
 8 the help of others and placed him on the floor next to  
 9 the vehicle."  
 10 In his further witness statement G11 stated that  
 11 whilst wearing his respirator he had an unobstructed  
 12 clear view of Joseph Travers and the vehicle and that  
 13 Joseph Travers identified himself to him when he  
 14 requested his name.  
 15 Z15, the rear offside passenger. He gave four  
 16 accounts of events in the car park. His initial  
 17 account, which was handwritten, a witness statement of  
 18 9 March 2012, a witness statement of 28 May 2012 and  
 19 a witness statement of 28 October 2014.  
 20 In his initial account, Z15 stated as follows:  
 21 "As soon as we drove on to the car park, the first  
 22 police vehicle attempted to block the suspect vehicle by  
 23 going across it. The subsequent police vehicles had  
 24 positioned themselves behind the first one. From there  
 25 I alighted my car and went round the back of my vehicle

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<p>1 and made my way towards the subject vehicle. As I got                  2 there, I assessed the scene and I could see that the                  3 engine was still running and the driver was in position                  4 being challenged. As the engine was running and the                  5 driver was in position and appeared not to be                  6 responding, I took the decision to immobilise the                  7 vehicle by deflating the tyres. In order to do this,                  8 I discharged one round from my firearm into the front                  9 nearside tyre. I then made my way to the rear nearside                  10 tyre. Again I assessed the scene and could see that the                  11 engine was still running and that the driver was still                  12 in position. I therefore took the decision to deflate                  13 the rear nearside tyre using a single round into the                  14 tyre using my firearm. I was not aware if any other                  15 firearms had been discharged. I then stowed my firearm                  16 and went to the front passenger door to assist                  17 colleagues in extracting the driver from the suspect                  18 vehicle. We managed to extract him."                  19 In his further witness statement of 9 March 2012,                  20 Z15 states that when his vehicle turned into                  21 Jackson Avenue X7 called State Red indicating that they                  22 were about to be deployed on an overt tactical option.                  23 The vehicle drove on to the car park which he described                  24 as poorly lit with light from the police vehicles and                  25 some ambient light from the residential properties to</p> <p style="text-align: center;">Page 109</p>	<p>1 deflated the tyre when it was safe to do so.                  2 Z15 stowed his shotgun securely and made his way to                  3 the nearside passenger door where U2 was attempting to                  4 extract Mr Grainger from the vehicle. At that point                  5 somebody shouted "He has been shot, he has been shot".                  6 Together with V3, he assisted in removing                  7 Mr Grainger and placed him onto the floor, where                  8 officers began to administer trauma care.                  9 In his witness statement of 28 May 2012 Z15 stated                  10 that both David Totton and Joseph Travers had been                  11 extracted from the vehicle by the time that he reached                  12 it and when he deflated the front nearside tyre of the                  13 vehicle, the front passenger seat was empty as                  14 Joseph Travers had already been extracted from the                  15 vehicle.                  16 In his witness statement of 24 October 2012 Z15                  17 stated:                  18 "When I arrived at the stolen Audi the engine was                  19 still running, I was of the impression that                  20 Anthony Grainger was the only person remaining in the                  21 vehicle. An officer was positioned at the side of the                  22 driver's side window and was blocked in between the                  23 subject window and the hedgerow. If the vehicle was to                  24 start manoeuvring I feared for the officer's safety.                  25 "In addition Grainger was not responding to</p> <p style="text-align: center;">Page 111</p>
<p>1 the right. He got out of the vehicle and moved around                  2 the rear of his vehicle. He saw that the subject                  3 vehicle was positioned next to a hedge line with its                  4 rear wheels on to a grass embankment, enabling the                  5 vehicle to reverse 10, 15 feet.                  6 Z15 could see that the driver, Mr Grainger, was                  7 still sat at the driver's seat and the engine was                  8 running. He went to the front nearside tyre, because he                  9 was aware that the vehicle was a front-wheel drive. He                  10 said that he was aware that an officer was at the                  11 driver's side window of the subject vehicle challenging                  12 the driver. At that point he believed the officer was                  13 blocked in between the subject vehicle and the hedge and                  14 feared for his safety as the vehicle moved suddenly.                  15 Mr Grainger was not responding to the challenges, due to                  16 this he believed he was formulating a plan to use the                  17 vehicle to effect an escape. As a result he checked the                  18 area and discharged one round from his shotgun to                  19 deflate the front nearside tyre to immobilise the                  20 vehicle.                  21 He then moved to the rear nearside tyre, Mr Grainger                  22 was still sat on the driver's seat being challenged.                  23 Again he feared for his safety if the vehicle suddenly                  24 moved and also that the driver was of the same mindset                  25 to escape. He then discharged a further round and</p> <p style="text-align: center;">Page 110</p>	<p>1 challenges and I formed the impression that he was                  2 formulating a plan to use the vehicle to effect his                  3 escape and as a result I placed one shot into the front                  4 nearside tyre. I then reassessed the scene whereby                  5 Anthony Grainger was still in the driver's seat and was                  6 still being challenged by an officer. In my opinion the                  7 officer was still in a vulnerable position and I still                  8 fear for his safety if the vehicle was to suddenly                  9 manoeuvre. I was still of the same opinion                  10 Anthony Grainger was formulating a plan to effect his                  11 escape using the Audi, and as a result I placed the                  12 second shot into the rear nearside tyre."                  13 Given the position of the delta vehicle at the time                  14 of Q9's discharge I do not propose to deal with the                  15 accounts of the four officers in that vehicle.                  16 THE CHAIRMAN: It was not on the car park, I don't think.                  17 MR BEER: No.                  18 N7, G1, V3 and Philip Higgins, I have set out the                  19 references to where their various accounts can be found                  20 in the opening note.                  21 THE CHAIRMAN: Yes.                  22 MR BEER: The accounts of other witnesses.                  23 David Totton gave a witness statement to the IPCC on                  24 22 April 2012. In it he gave an account of the events                  25 in the car park from the moment that the alpha car</p> <p style="text-align: center;">Page 112</p>

1 entered it. He said:  
 2 "I then remember hearing a car and a rev of  
 3 an engine coming in at speed. It sounded like it was in  
 4 first gear, as you could hear high revs. The car must  
 5 have come from the entrance to the left of us, at this  
 6 time we were just sat in the car chatting away and  
 7 I think Anthony jumped to attention. What I mean he was  
 8 relaxed at first but then he looked in the direction of  
 9 the car when it screeched up in front of us.  
 10 "There was no other noise in the car from what I can  
 11 remember and I don't think the radio was on but if it  
 12 was it was on very low as you could not hear it over our  
 13 voices. I am not sure but I think the car window on my  
 14 passenger side might have been down a little bit. It  
 15 was down at some point to clear the windows, but I can't  
 16 remember whether it was left down or whether I put it  
 17 back up. I can't really remember the position of the  
 18 other car windows but I would say that they were up.  
 19 "I remember hearing the car coming screeching up  
 20 before I saw it. At this time I was sat facing the  
 21 front and I remember the car pulled up right in front of  
 22 our car. Although it was close there was no contact  
 23 with our car. I was trying to get a grip on the  
 24 situation and to see what was actually happening as  
 25 I didn't know what was going on. I assumed that it

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1 could have been the police but I didn't know for sure.  
 2 The car was a silver estate car. I am not sure what the  
 3 model was but it could have been a Toyota Avensis,  
 4 I don't think the car had its headlights on but I am not  
 5 too sure. I could not see who was in the car because  
 6 I didn't have time to see because it was all so quick.  
 7 I also remember seeing a light at the back end of the  
 8 silver car which prevented me from seeing anything,  
 9 though I don't know where the light was coming from.  
 10 "After realising what was going on and trying to  
 11 think what to do next, I remember shards of glass in my  
 12 face. I thought something had penetrated the car and  
 13 I knew that something had come through the windscreen  
 14 but I was not too sure what it was. I knew it was not  
 15 at me because it would have gone in a different  
 16 direction from me. I say that because I couldn't feel  
 17 anything on me but I did feel quite a force on the right  
 18 side of my face, on my cheek from the shards of glass.  
 19 I don't remember hearing anything before the shards of  
 20 glass hit my face. After a second or two I realised we  
 21 had been blocked in and I went for the door after that.  
 22 The windscreen was still intact and I don't know about  
 23 all the other windows as I didn't see anything after  
 24 that as I had gone to get out of the car."  
 25 He stated he could not recall what Joseph Travers

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1 was doing at the time and from what he could remember  
 2 Anthony Grainger was still in the driver's seat as he  
 3 started to get out of the car. He could not remember  
 4 anything being said between them in the car. He said  
 5 that he did not say anything and he did not hear  
 6 anything being said by anybody giving him instructions  
 7 as there was no time as he was out of the car by then.  
 8 He remembered the door opening on the back of the  
 9 silver estate car, however he could not remember if it  
 10 was the back driver's or the passenger side and he could  
 11 not describe the person that got out. He said that  
 12 after a couple of seconds he got out of the car, he  
 13 thought it must have been the police.  
 14 He said, as he left the car, he remembered a lot of  
 15 screaming and shouting without being able to remember  
 16 what was being said. He would reach across himself to  
 17 open the car door with his right hand but he did not get  
 18 a chance to run because as he pushed the car door open  
 19 he fell to the floor and he was scrambling on the floor  
 20 towards the back of the car before being jumped on and  
 21 pinned down. He could not see who was pinning him down,  
 22 he realised at this point it was the police because of  
 23 the situation.  
 24 Joseph Travers gave two witness statements to the  
 25 IPCC on 27 April 2012. He stated that:

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1 "The three cars that entered the car park did so  
 2 from the left. Once they had entered the car park, they  
 3 put the power on and moved at speed towards us. The  
 4 front car was a silver Zafira, people carrier. The  
 5 second car was a black Focus and the third car was  
 6 a Mercedes Vito van ..."  
 7 All three of those things are wrong incidentally:  
 8 "When I first saw these cars come into the car park  
 9 I was not aware that they were police cars, but I became  
 10 aware when I saw the red beams coming from the scopes of  
 11 the gun in the Zafira. There was around two or three  
 12 beams coming from the Zafira and the beams were directed  
 13 at the Audi car we were sat in. I could see a beam  
 14 coming from the back seat of the Zafira behind the  
 15 driver. The first car stopped in front of us and as  
 16 soon as the driver had slammed on, the police officer in  
 17 the back of the Zafira behind the driver shot through  
 18 the windscreen of the car we were in. I could see that  
 19 this officer had the window in the back wound down most  
 20 of the way and he only shot once.  
 21 "When the first police car slammed on Mr Grainger  
 22 was just sat in the front seat normally. I do not know  
 23 where he had his hands but I think he would have had  
 24 them near the steering wheel. The police gave no  
 25 warnings prior to shooting through the windscreen. As

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<p>1 soon as the officer in the rear had shot, the police                  2 jumped out of the cars behind and surrounded the car we                  3 were in. I saw the officer from the back of Zafira get                  4 out of the car and another officer who I think was in                  5 the front passenger seat of the Zafira went to the                  6 driver's side of the car we were in. I was aware that                  7 Mr Totton got out of the passenger seat and had gone                  8 round to the back of the Audi.                  9 "A police officer shot out the front passenger tyre                  10 of the Audi. I was still in the back seat and a flash                  11 grenade was thrown into the car through the passenger                  12 door of the Audi that Mr Totton got out of. CS from the                  13 grenade began to choke me and I got out of the Audi.                  14 The police then dragged me to the floor and handcuffed                  15 me from behind. I was then searched and moved to                  16 a grass area behind the Audi."                  17 In an additional witness statement Joseph Travers                  18 stated that when the Zafira slammed on, he meant the                  19 Zafira stopped sharply in an emergency brake and that he                  20 had heard the sound of tyres skidding. He saw the                  21 windscreen of the car and the police officer shot                  22 through the middle of the windscreen towards the                  23 driver's side. He had heard a crash when this happened,                  24 similar to when a window is smashed. He said:                  25 "I did not actually see Mr Grainger being shot.</p> <p style="text-align: center;">Page 117</p>	<p>1 about the occupants of the Audi before he shot                  2 Anthony Grainger and the use of the CSDC in any event.                  3 X7's tactics, the lead police vehicle, the alpha                  4 vehicle, drove across the front of the Audi and stopped                  5 effectively blocking it in. The front offside of the                  6 alpha vehicle made low speed contact with the Audi                  7 vehicle. TFU personnel deployed from the police                  8 vehicles wearing respirators and carrying their personal                  9 issue weapons.                  10 A number of issues may arise from the tactics                  11 deployed by X7, including the time at which the plan was                  12 developed, ie very proximately to State Red being                  13 declared and whether the tactic adopted, which may have                  14 exposed W4 and Q9, ie the occupants of the offside seats                  15 in the alpha vehicle, to greater risk and therefore                  16 perhaps heightened Q9's sense of perception of being at                  17 risk and therefore his decision to discharge his weapon.                  18 Dealing with both of those shortly, it appears from                  19 the evidence available to us that X7 decided that the                  20 offer from Q9 to provide static cover came in the last                  21 few moments of Operation Shire, potentially after State                  22 Red had been called. This could indicate poor planning                  23 and briefing. Additionally this required an instant                  24 decision to accept or reject the cover offer from Q9                  25 that may not have allowed X7 the time to consider both</p> <p style="text-align: center;">Page 119</p>
<p>1 I could see the front barrel of the gun and the stock,                  2 the officer was partly out of the window but was not                  3 leaning out. Once he had shot there were shards of                  4 glass all over the car and I moved back."                  5 The Independent Police Complaints Commission                  6 conducted house-to-house enquiries in the local area but                  7 no witness who could give direct evidence of the                  8 relevant events was identified.                  9 The Inquiry will however hear evidence from                  10 Stephen Delaney, a member of the public, who was walking                  11 from the fish and chip shop to the Village Club in                  12 Culcheth and saw a limited part of the incident unfold.                  13 The issues arising from the events in the car park                  14 up to the point of Q9's discharge. The issues which may                  15 arise from the events in the car park may include the                  16 following.                  17 Firstly, whether the tactics deployed by X7 to                  18 implement the vehicle strike were reasonable. In                  19 particular, whether they heightened Q9's sense of the                  20 threat to him in the event of an attack by the subjects.                  21 Which heightened sense may have impacted on his decision                  22 to discharge his weapon. Whether X9 deployed the CSDC                  23 before or after Q9's discharge of his weapon. The                  24 movement of Anthony Grainger, if any, which led to Q9                  25 discharging his weapon. The information which Q9 had</p> <p style="text-align: center;">Page 118</p>	<p>1 the positive and negative aspects of providing static                  2 cover from a vehicle in these circumstances.                  3 Secondly, whether the tactics were reasonable or                  4 whether they created a heightened sense of risk in Q9.                  5 It was alleged in the Fahy prosecution that the                  6 deployment of the alpha car broadside as opposed to nose                  7 to nose so as to block the Audi, resulted in the offside                  8 of the alpha vehicle being positioned alongside the                  9 bonnet of the stolen Audi, thereby exposing W4 in the                  10 driver's seat and Q9 in the rear offside passenger seat                  11 to greater risk and that any increase in the exposure to                  12 risk had the potential to affect the protection of those                  13 exposed and their judgment as to the developing                  14 situation.                  15 In its defence GMP suggested that the deployment of                  16 the alpha vehicle was positive, as it reduced the                  17 subject's reaction time and the prospects of escape and                  18 best use of a stable platform for firearms cover into                  19 the subject vehicle.                  20 THE CHAIRMAN: Mr Beer, at some point fairly soon I think we                  21 should take a short break.                  22 MR BEER: May I reach C on page 153, please?                  23 THE CHAIRMAN: Yes.                  24 MR BEER: Thank you, sir.                  25 Ian Arundale has advised the Inquiry that there are</p> <p style="text-align: center;">Page 120</p>

<p>1 limitations as well as benefits to consider in relation                  2 to providing static cover as opposed to an AFO who can                  3 move to react to a situation and, as far as is possible,                  4 ensure appropriate lines of sight and arcs of fire.                  5 Additionally, the positioning of the alpha vehicle                  6 presented both benefits and risks that the operational                  7 commander and AFOs needed to be aware of. These                  8 situations do increase AFO's exposure to and their                  9 perception of risk. Perhaps a key question to be asked                  10 at this point was the necessity of the MASTS strike at                  11 that particular moment and the ability of the TFC and                  12 OFC to have time or to create time to consider                  13 alternative and potentially less risky tactical options.                  14 That given the speed of the deployment after State                  15 Amber was called, the actual deployment and positioning                  16 of the alpha car was understandable, given the                  17 collapsing timeframe, the one-way system and the public                  18 nature of the car park. He therefore agrees with the                  19 general comments of other observers in relation to the                  20 positioning of the alpha vehicle.                  21 In general terms, within the framework of the                  22 circumstances which X7's decision to call State Red at                  23 that time created, Ian Arundale supports the broadside                  24 boxing in tactic that X7 adopted.                  25 That of course raises the additional issue as to why</p> <p style="text-align: center;">Page 121</p>	<p>1 the strategy could be achieved whilst their                  2 location/activities remained unknown.                  3 "Also of concern to me was the proximity of the                  4 subjects and their vehicle to premises or persons likely                  5 to be attacked. After a number of minutes I received                  6 intelligence that all three subjects were located within                  7 the vehicle. I had been granted authority to conduct                  8 the strike phase of the operation by the TFC. It was my                  9 view that this was the optimum time to conduct the                  10 strike as it was the best scenario to achieve the                  11 strategy at that time."                  12 He suggests that the reality of the situation was                  13 that unless there were dramatic developments that once                  14 TFC called State Amber the OFC was authorised and to                  15 a great extent expected to move forward to carry out the                  16 strike.                  17 An additional issue may arise as to whether Y19 was                  18 consulted about these tactics. It is noteworthy that                  19 Y19 suggests that having approved the tactic of using                  20 MASTS and special munitions at 3.15 pm, Y19 played no                  21 further part in the provision of tactical advice. The                  22 next entry is at 7.15 pm, when he recorded that there                  23 had been a casualty.                  24 Sir, might that be a convenient moment?                  25 THE CHAIRMAN: Certainly.</p> <p style="text-align: center;">Page 123</p>
<p>1 State Red was called at that time, so shortly after                  2 Amber was reached. X7 explains in his statement of                  3 21 January 2013 his rationale behind the decision to                  4 call the MASTS strike when he did:                  5 "There were a number of factors which influenced my                  6 decision. I had to take into account the working                  7 strategy as set out by the TFC and my responsibility to                  8 minimise risks as much as possible to the public, police                  9 and subjects. Another important factor was I had to                  10 prevent where possible any offence taking place as this                  11 would have placed the public at unacceptable risk.                  12 "It was my view that the most appropriate                  13 opportunity to achieve the above would be to conduct the                  14 strike phase when all known subjects were together,                  15 preferably in a vehicle, that the vehicle was                  16 stationary, they were isolated from the public and prior                  17 to any offence taking place. For a short period of time                  18 the intelligence feed prior to the strike being                  19 conducted was incomplete. I was aware of the exact                  20 location of the stolen Audi within the car park, however                  21 the surveillance team were unable to provide any                  22 information in relation to the subject's locations or                  23 activity. My concern was the subjects may have left the                  24 vehicle and were on their way to commit an offence.                  25 I was not able to make any informed judgment on whether</p> <p style="text-align: center;">Page 122</p>	<p>1 Just one other point, Mr Beer. You are going to be                  2 covering at some point, I think towards the very end of                  3 your opening statements, the post mortem. That may be                  4 a part of your opening statement which some people                  5 present will find distressing and will not want to                  6 remain present during. I am quite happy to take a short                  7 break at that point as well but I thought it right to                  8 raise it now, so that they know that it is something                  9 they may want to consider.                  10 MR BEER: Sir, yes, of course. We had alerted core                  11 participants to that in footnote 76 --                  12 THE CHAIRMAN: Thank you.                  13 MR BEER: -- for everyone's note it is paragraph 539 when                  14 I turn to that. I know that family members will have                  15 heard what you have said and their legal representatives                  16 will give them assistance in that regard.                  17 THE CHAIRMAN: Thank you very much.                  18 (3.18 pm)                  19 (A short adjournment)                  20 (3.28 pm)                  21 MR BEER: Sir, thank you.                  22 The second issue that I identified as being                  23 a possible issue for exploration by the Inquiry in its                  24 hearings is whether the CSDC was discharged before or                  25 after Q9's shot.</p> <p style="text-align: center;">Page 124</p>

<p>1 THE CHAIRMAN: Yes.</p> <p>2 MR BEER: If Q9 was not the first officer to discharge his</p> <p>3 firearm, which is a possibility on some of the evidence</p> <p>4 that I have just summarised, then the issue arises as to</p> <p>5 whether the actions of X9 in firing the CSDC could have</p> <p>6 caused Anthony Grainger to react in the way that Q9</p> <p>7 describes.</p> <p>8 Conversely, if Q9 did shoot Anthony Grainger first</p> <p>9 that may account for his being unresponsive to the</p> <p>10 commands of other officers while sitting in the driver's</p> <p>11 seat and therefore perhaps grounds for using the</p> <p>12 specialist munitions by X9 and Z15. It will be seen</p> <p>13 from the evidence that I have summarised and read that</p> <p>14 there are a large number of issues to explore in</p> <p>15 relation to the resolution of this issue, relating to</p> <p>16 the lighting conditions, the lines of sight, the</p> <p>17 recollection of the officers and the differences in</p> <p>18 accounts between officers on issues of substance.</p> <p>19 I am not going to prestage them now.</p> <p>20 The movements, if any, of Anthony Grainger.</p> <p>21 It will be necessary to explore in detail the</p> <p>22 accounts of the AFOs that saw Anthony Grainger in the</p> <p>23 driver's seat of the Audi and of the occupants of the</p> <p>24 Audi as to their accounts of Anthony Grainger's</p> <p>25 movements, if any, in the moments before Q9 shot him.</p> <p style="text-align: center;">Page 125</p>	<p>1 said once already, it may be necessary for one issue to</p> <p>2 be explored in the Inquiry as to the use within the</p> <p>3 context of a MASTS operation of a CSDC, a CS dispersal</p> <p>4 canister. This may raise issues for GMP which extend</p> <p>5 beyond the use of CSDC on 3 March, including, first,</p> <p>6 whether GMP knew that its use of the CSDC between 2007</p> <p>7 and 2012 was without the approval of the Home Secretary.</p> <p>8 Second, why GMP introduced the use of the CSDC</p> <p>9 without the approval of the Home Secretary, without</p> <p>10 taking any of the steps required by the statutory code</p> <p>11 of practice to secure such approval and in breach of the</p> <p>12 statutory code of practice.</p> <p>13 Third, what steps GMP took after a member of the</p> <p>14 National Police Improvement Agency advised GMP in 2009</p> <p>15 that its use of the CSDC was dangerous. By way of</p> <p>16 background, it will be recalled that the code of</p> <p>17 practice provides as follows, at paragraph 4.3.1:</p> <p>18 "It is important that the continuing development of</p> <p>19 weapon systems, including their related operating</p> <p>20 procedures, should be centrally coordinated. That is to</p> <p>21 ensure that emerging requirements of the police service</p> <p>22 may be properly identified and met, that weapon systems</p> <p>23 may be adequately tested and evaluated for police use</p> <p>24 and that good practice may be promulgated and adopted</p> <p>25 within the service."</p> <p style="text-align: center;">Page 127</p>
<p>1 This is plainly a central factual issue for the</p> <p>2 Inquiry and I similarly will not foreshadow the areas of</p> <p>3 exploration that will be pursued in the questioning of</p> <p>4 witnesses.</p> <p>5 It may be that the expert evidence of Dr Seaman will</p> <p>6 assist you in your determination in relation to</p> <p>7 Mr Grainger's body position at the point when he was</p> <p>8 shot.</p> <p>9 The fourth issue was the information which Q9 had</p> <p>10 about the occupants of the Audi before he shot</p> <p>11 Anthony Grainger.</p> <p>12 Q9 has given an account as to what he was told about</p> <p>13 the capabilities and intent of the subjects and the</p> <p>14 impact of what he was told on his decisions to discharge</p> <p>15 his weapon, taken together with Anthony Grainger's</p> <p>16 movements. It will be necessary to examine carefully</p> <p>17 Q9's accounts of what he says that he was told and</p> <p>18 compare them to the available evidence. It will be</p> <p>19 necessary to explore what Q9 says that he learned about</p> <p>20 the subjects outside of the formal briefing process and</p> <p>21 if it was the case that Q9 was given a false or</p> <p>22 an inaccurate picture of the background of and the</p> <p>23 intelligence on the subjects, then it would be necessary</p> <p>24 to explore how that arose.</p> <p>25 Lastly, the use of CSDC in any event. As I have</p> <p style="text-align: center;">Page 126</p>	<p>1 Paragraph 4.3.3:</p> <p>2 "Where ACPO regard new weapon systems as suitable</p> <p>3 for further evaluation and testing, they should consult</p> <p>4 the Secretary of State to obtain the Secretary of</p> <p>5 State's views on the suitability and independence of</p> <p>6 bodies to be invited to carry out technical and medical</p> <p>7 evaluations of new weapon systems and the procedures to</p> <p>8 be adopted for those evaluations."</p> <p>9 Lastly, at 4.3.3:</p> <p>10 "The process for evaluating, assessing and adopting</p> <p>11 new weapon systems and tactics and arranging for any</p> <p>12 related training to accredited standards must be</p> <p>13 completed before such weapons and tactics are to be</p> <p>14 regarded as available generally for use by police</p> <p>15 forces."</p> <p>16 In short, one of the specific requirements of the</p> <p>17 code of practice was to ensure that any weapon or device</p> <p>18 that was subject to the code had been researched,</p> <p>19 evaluated and approved by the Home Secretary in line</p> <p>20 with the established national procedure in good</p> <p>21 practice.</p> <p>22 It is clear that the CSDC first introduced by GMP in</p> <p>23 2007 was not approved for use by the Home Secretary.</p> <p>24 That much is now admitted by GMP as we may hear.</p> <p>25 Nor were the Secretary of State's views on the</p> <p style="text-align: center;">Page 128</p>



<p>1 suitability and independence of bodies to be invited to 2 carry out technical and medical evaluations of the new 3 weapon systems and the procedures to be adopted for 4 those evaluations sought. Nor were the processes for 5 evaluating, assessing and adopting new weapon systems 6 and tactics and arranging for any related training to 7 accredited standards required by the code of practice 8 undertaken by GMP.</p> <p>9 An issue may fall to be determined as to whether GMP 10 consciously breached the code of practice, knowing what 11 it was required to do by the law but deciding not to do 12 it, or whether GMP did not know of the requirements of 13 the code of practice or whether GMP believed that it had 14 acted in accordance with the law.</p> <p>15 In this regard it is to be noted that A6, GMP's 16 force armourer, said in a witness statement dated 17 17 September 2014 and prepared for the purposes of the 18 defence of Sir Peter Fahy in the criminal proceedings 19 that:</p> <p>20 "The evaluation and acquisition process outlined in 21 the Police Use of Firearms-manual of guidance and the 22 code of practice 2003 was adhered to."</p> <p>23 That assertion was wrong.</p> <p>24 Similarly in its defence case statement, a document 25 setting out Sir Peter's Fahy's defence to the criminal</p> <p style="text-align: center;">Page 129</p>	<p>1 enable me to comment on their suitability for your 2 application."</p> <p>3 It seems that what had happened was that GMP had 4 obtained data sheets setting out the specification of 5 the CSDC, described as "a grenade" here, from the 6 manufacturer in Pennsylvania in the United States and 7 that these did not give enough information for the 8 scientific development branch to comment on them.</p> <p>9 The author continues:</p> <p>10 "On the intended injury side, there could be 11 problems ..."</p> <p>12 THE CHAIRMAN: That is "unintended injury side".</p> <p>13 MR BEER: Sorry:</p> <p>14 "On the unintended injury side, there could be 15 problems caused by excessively high concentrations of CS 16 or problems with the particle size or purity of the CS. 17 These would need to be assessed medically, probably by 18 Porton Down."</p> <p>19 Then he concludes his email:</p> <p>20 "Before we could start any work on this we would 21 need a clear requirement and request from ACPO and would 22 need to fit the project in with our other work, which 23 may require some reprioritisation of our existing 24 projects. The first step will be to raise the issue at 25 ACPO, PUOF or WAF(?) and get their support to pursue it.</p> <p style="text-align: center;">Page 131</p>
<p>1 charge laid against him, it was said that:</p> <p>2 "The equipment used within Operation Shire was 3 procured from approved suppliers and manufacturers and 4 was fit for purpose and is approved by the Home Office. 5 Such equipment includes CS canisters."</p> <p>6 That assertion was wrong.</p> <p>7 The evidence available to the Inquiry suggests 8 however that at least in 2007, when authorisation was 9 given by ACC Thompson, as he then was, for the adoption 10 of CSDC by GMP, it was known that the process required 11 by law had not been undertaken.</p> <p>12 Can I take you to a small number of documents, 13 please.</p> <p>14 THE CHAIRMAN: Yes.</p> <p>15 MR BEER: - in what I am describing as the CSDC bundle, at 16 tab 9, please.</p> <p>17 THE CHAIRMAN: Yes.</p> <p>18 MR BEER: It seems that as early as 18 January 2005 GMP had 19 made an enquiry of the police scientific development 20 branch about the possibility of introducing CSDC. This 21 is an email from a member of the scientific development 22 branch to a member of GMP with the subject heading "CS 23 grenades for vehicle immobilisation". He says: 24 "Thanks for sending the grenade data sheets. 25 Unfortunately they don't give me enough information to</p> <p style="text-align: center;">Page 130</p>	<p>1 There may also be policy issues associated with the use 2 of this type of weapon that will need to be addressed by 3 ACPO or Home Office policy units. We would check this 4 prior to starting any work."</p> <p>5 The next document that we have been relevantly 6 provided with concerning authorisation is dated 7 11 June 2007, when a paper was prepared for the GMP 8 firearms policy group to discuss at a meeting the next 9 day. This is tab 21, please, sir.</p> <p>10 THE CHAIRMAN: I have it.</p> <p>11 MR BEER: It is a paper for discussion by the firearms 12 policy group on 12 June 2007 and you will see from the 13 date at the foot of it, it was created on 11 June 2007.</p> <p>14 THE CHAIRMAN: Yes.</p> <p>15 MR BEER: You will see, sir, that at A one of the 16 references, ie the annexes to the paper, was the code of 17 practice on the use of police firearms.</p> <p>18 At paragraph 3, sir, you will see that the author of 19 the paper suggests that the Home Office scientific 20 development branch had been consulted. On the evidence 21 that we have currently seen that suggestion is 22 incorrect. Certainly if it was meant to refer to the 23 email of 18 January 2005 that I have referred you to, 24 then it misstated the position entirely. The PSDB had 25 set out what needed to be done in order to get approval</p> <p style="text-align: center;">Page 132</p>

1 for the device and had told GMP how to go about it.  
 2 The paper set out the local research, ie GMP's own  
 3 research and trialling that had been conducted and at  
 4 paragraph 13, says:  
 5 "This review and research [ie this is officers  
 6 trying it out for themselves] is within the spirit of  
 7 the code of practice on the Police Use of Firearms."  
 8 This rather suggests that the author knew of the  
 9 requirements of the code of practice and knew that GMP  
 10 had not complied with such requirements.  
 11 The paper was duly presented to the committee of the  
 12 firearms policy group within GMP the next day. The  
 13 minutes of the meeting are following, in tab 23.  
 14 THE CHAIRMAN: Yes.  
 15 MR BEER: You will see that then Assistant Chief Constable  
 16 Thompson of GMP was the chairman of the meeting and you  
 17 will see the list of attendees.  
 18 THE CHAIRMAN: Yes.  
 19 MR BEER: The CS expulsion canister as it is called is  
 20 addressed on page 5 of the minutes at paragraph 10.  
 21 THE CHAIRMAN: Yes.  
 22 MR BEER: Where it is said that a chief inspector presented  
 23 a briefing paper to support the use of a new development  
 24 of CS canister as an alternative to Rip rounds in MASTS  
 25 tactics. Rip rounds were a shotgun based CS discharged

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1 option. ACC Thompson approved the use with the  
 2 following provisos: (a) a detailed risk assessment is  
 3 conducted and documented; (b) Home Office scientific  
 4 development branch have been consulted, and that this is  
 5 documented in terms of their written response; and gold  
 6 and silver commanders have a briefing sheet for their  
 7 information regarding the canister's use.  
 8 Then the chief inspector stated that before the  
 9 canister is brought into service, in addition to the  
 10 above, a presentation will be given at the next firearms  
 11 user group.  
 12 The next day, 13 June that is tab 25, please --  
 13 THE CHAIRMAN: Sorry, just looking back at the section we  
 14 have were just looking at, B in paragraph 10.  
 15 MR BEER: It is ambiguous.  
 16 THE CHAIRMAN: It is ambiguous, isn't it.  
 17 MR BEER: It reads again:  
 18 "The Home Office scientific development branch have  
 19 been consulted and that this is documented in terms of  
 20 their written response."  
 21 It seems to me that that could mean a written  
 22 statement explaining that what has already occurred is  
 23 that HOSDB have been consulted and it is already  
 24 documented, their written response is already  
 25 documented. Therefore I am happy to give approval.

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1 That is not consistent with this being a proviso --  
 2 THE CHAIRMAN: Quite.  
 3 MR BEER: -- or being described as a proviso.  
 4 THE CHAIRMAN: Because a proviso would mean I am prepared  
 5 to --  
 6 MR BEER: As long as this is done.  
 7 THE CHAIRMAN: -- on the basis this must be done. Exactly.  
 8 MR BEER: Yes. That is secondly consistent with the email  
 9 that was sent the next day.  
 10 THE CHAIRMAN: Right.  
 11 MR BEER: So meeting on 12 June 2007, and then an email  
 12 makes contact with the HOSDB the next day, which is what  
 13 we are going to go to in tab 25.  
 14 THE CHAIRMAN: Right, thank you.  
 15 MR BEER: 13 June, do you have that?  
 16 THE CHAIRMAN: Yes, I have it, thank you.  
 17 MR BEER: From the Home Office scientific branch, back to  
 18 GMP:  
 19 "As I said at the outset, Home Office scientific  
 20 branch cannot support or sanction the use of less lethal  
 21 weapons that do not have the support of central Home  
 22 Office or ACPO. I have attached a copy of the Home  
 23 Office codes of practice that outlines the full  
 24 procedure. Ultimately, it is the responsibility of the  
 25 Chief Constable to ensure that sufficient information is

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1 available to conduct a comprehensive risk assessment.  
 2 "Having stated that, I will give you my views on the  
 3 information provided by the manufacturers, the main  
 4 parameters that HOSDB would look at in assessing the  
 5 device you have described would be the particle size,  
 6 purity and concentration of the CS."  
 7 Then he goes on and speaks to those issues.  
 8 But it would appear on a reading of this email that  
 9 the headline point is that we cannot take this forward  
 10 because it doesn't have the support of central Home  
 11 Office or ACPO, you need to act in accordance with the  
 12 Home Office codes of practice which I attach for your  
 13 benefit.  
 14 It is presently unclear to the Inquiry what action  
 15 was taken in the light of the proviso imposed by  
 16 ACC Thompson that the Home Office scientific development  
 17 branch should be consulted and that their written  
 18 response is documented and an email from HOSDB saying  
 19 that they could not support or sanction the use of this  
 20 device and setting out the steps that need to be taken  
 21 in order for such a device to be authorised for use.  
 22 That may be a matter that the Inquiry will examine.  
 23 THE CHAIRMAN: Yes.  
 24 MR BEER: The next steps appear to be that on 9 July GMP  
 25 purchased seven CSDC canisters, another 24 on 23 August

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<p>1 and then more and more again in 2008, 2009, 2010, and 2 2011.</p> <p>3 In October 2007, concern was raised by other 4 emergency service partners following an incident in 5 which CSDC had been used. It was established that, 6 contrary to an agreement that had been reached with the 7 manufacturer, there was excessive irritant in the 8 canister. Their use was suspended by GMP pending 9 resupply by the US manufacturers with the correct and 10 lower amount of irritant in them, but it seems their use 11 was thereafter recommenced by GMP.</p> <p>12 At the next meeting of the firearms policy group, 13 which was in October of that year, there is no reference 14 in the minutes of that meeting to the progress that had 15 been made in relation to the three provisos that 16 ACC Thompson had imposed at the last meeting, nor of the 17 significant email that had been received the day after 18 the last meeting from HOSDB.</p> <p>19 On the information provided to us by GMP there 20 wasn't another firearms policy group meeting that 21 considered the introduction of the CSDC.</p> <p>22 Following the fatal shooting of PC Ian Terry 23 in June 2008 in the course of a GMP firearms training 24 exercise, the NPIA, the National Police Improvement 25 Agency, undertook a review which considered amongst</p> <p style="text-align: center;">Page 137</p>	<p>1 that this could be a prosecution, it needs to be 2 rewritten. My main concentration has been with the 3 MASTS SOP. At best the document is poor and is most 4 definitely not fit for purpose. Bearing in mind the 5 tragic event that happened in GMP [it is there referring 6 to the shooting of PC Ian Terry using a Rip round] 7 I would have expected this particular document to have 8 been completed to a good standard. I cannot believe 9 that anyone from senior management, legal services or 10 health and safety have even had sight of it. You will 11 be only too aware of the audit trail required to use 12 special munitions in a MASTS operation. There needs to 13 be deployment and resolution data to support the extreme 14 circumstances where it might have to be authorised.</p> <p>15 "To me the SOP is written in a way that the use of 16 these extreme tactics is quite acceptable. This is one 17 of the reasons why the whole document needs to be 18 rewritten. My personal recommendation is to stop this 19 tactic. No other force does it and to be honest it does 20 nothing to enhance the reputation of GMP. I know I need 21 to be careful with personal recommendations, this is 22 a tactic used by your force and as such my role is to 23 assist you but unless you get the audit, SOPs and 24 particularly the risk assessments and control measures 25 in place the possibility of another accident is high.</p> <p style="text-align: center;">Page 139</p>
<p>1 other things whether GMP's firearm training licence 2 should be revoked. In the course of that review, 3 John Alder of the NPIA reviewed GMP's standard operating 4 procedures for the use of MASTS and on 6 February 2009 5 informed GMP, and if I could ask you, if you would, 6 please, sir, to turn up tab 44.</p> <p>7 THE CHAIRMAN: Yes. Thank you. I have it. 8 MR BEER: Can you see an email in there? 9 THE CHAIRMAN: Yes, I can see more than one. 10 MR BEER: Yes. That is the problem. 11 Dated 6 February 2009, at 17.53. 12 THE CHAIRMAN: Yes, I have it. 13 MR BEER: Looks like it is written in Courier New script 14 from John Alder. 15 THE CHAIRMAN: I have it. 16 MR BEER: He says, first paragraph, third line: 17 "I fully understand that someone has taken the time 18 to write the MASTS standard operating procedure. 19 However my feedback is given as your critical friend 20 [this is NPIA writing to GMP]. In other words, I need 21 to be honest and protect the interests of GMP. The 22 comments are not intended to cause offence. 23 "The MASTS rationale document is not fit for 24 purpose. To quote one single incident that happened 25 seven years ago is not a rationale. Bearing in mind</p> <p style="text-align: center;">Page 138</p>	<p>1 "I have looked at the tactic purely from an audit 2 point of view. To be quite honest, it looks dangerous." 3 The steps that GMP took after receipt of this 4 communication from the NPIA, in particular the rewriting 5 of the MASTS SOP, are a matter that the Inquiry may 6 examine. 7 THE CHAIRMAN: Yes. 8 MR BEER: Can I return after that excursion into the CSDC to 9 the events after Q9's discharge. 10 THE CHAIRMAN: Will I need this bundle? 11 MR BEER: No, thank you, sir. 12 THE CHAIRMAN: Thank you. 13 MR BEER: Firstly, removal of Anthony Grainger from the 14 Audi. 15 When it was realised that Mr Grainger had been shot 16 he was removed from the vehicle by U2, G6 and G11, who 17 pulled him across the front seat and out through the 18 front nearside door. He was placed on the floor where 19 V3, G6, H9, U2, J4 and Z15 in turn began to administer 20 trauma care, which continued until arrival of the 21 paramedics. 22 Both David Totton and Joseph Travers were arrested 23 at the scene. Both men were wearing rolled up 24 balaclavas on their heads. 25 The IPCC investigation verified that there was no</p> <p style="text-align: center;">Page 140</p>

1 video footage which captured the details of the incident  
 2 in the car park.  
 3 THE CHAIRMAN: So, apparently no officer equipped with any  
 4 form of body camera or anything like that or no footage  
 5 from any such device?  
 6 MR BEER: I think it probably goes a bit further than that,  
 7 sir. The IPCC investigators examined whether any police  
 8 officer was deployed using body worn video -- BWV as it  
 9 is called in the police service -- and they established  
 10 that they were not wearing body worn video. Similarly  
 11 they investigated whether any of the alpha to delta  
 12 vehicles had video recorders in them, and they  
 13 established that they did not.  
 14 I think unlike was the position in the Azelle Rodney  
 15 case, no officer took along his own personal video  
 16 camera on the operation. In the Azelle Rodney Inquiry,  
 17 there Sir Christopher Holland benefited from some  
 18 footage taken on a personal camera that an officer had  
 19 decided on his own to take on the deployment.  
 20 THE CHAIRMAN: Yes.  
 21 MR BEER: There is no aerial footage of the incident, as far  
 22 as the Inquiry or indeed the IPCC is aware of having  
 23 made enquiries to that effect. Unlike the case of  
 24 Mark Duggan, we do not seem to benefit from any members  
 25 of the public who took footage on their own camera,

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1 perhaps on a phone camera of the incident or its  
 2 immediate aftermath.  
 3 THE CHAIRMAN: Thank you.  
 4 MR BEER: Looking at the wider issue of whether officers  
 5 should have been wearing body worn video, it is our  
 6 understanding that body worn video had not been  
 7 introduced for any officers in GMP at this time  
 8 in March 2012, still less AFOs in the TFU. Still  
 9 further, if we were at a later stage of the Inquiry to  
 10 examine whether armed officers should wear video cameras  
 11 when deployed, it may be necessary to receive in  
 12 evidence, for example, information about a trial  
 13 conducted by Met Police officers following the death of  
 14 Mark Duggan in 2011, the IPCC's investigation into  
 15 a non-fatal shooting of a man called Nathan Brophy  
 16 in August 2015 when it was found in summary that the  
 17 body worn video issued to Metropolitan officers was not  
 18 fit for purposes, in short because when they raised  
 19 their weapons they obscured the camera's view.  
 20 Possibly looking at the use of third eye cameras  
 21 worn on officers, which are effectively a head torch  
 22 placed in the middle of their forehead. Large scale  
 23 scientific and academic research conducted at Cambridge  
 24 University by the institute of criminology on BWV. It  
 25 is a broad topic but the simple answer is we do not have

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1 any video. It may be necessary to look at the broader  
 2 issues of that at the subsequent part of the Inquiry on  
 3 whether officers should wear such cameras.  
 4 THE CHAIRMAN: Thank you.  
 5 MR BEER: Paramedic care, an ambulance was called at  
 6 7.13 pm. It was dispatched to Culcheth at 7.15 pm,  
 7 arriving at 7.28 and was crewed by paramedics  
 8 Kenneth Fitzpatrick and Patricia Goulding. On arrival  
 9 officers found Anthony Grainger being attended to by  
 10 police officers who were performing basic life support  
 11 techniques. The paramedics asked the officers to  
 12 continue with their resuscitation methods while  
 13 Mr Fitzpatrick connected defibrillator pads, the monitor  
 14 showed that Anthony Grainger was asystole, meaning that  
 15 there was no electrical activity in his heart.  
 16 Mr Fitzpatrick established that there were no other  
 17 vital signs, in particular no pulse or respiratory  
 18 effort. Mr Fitzpatrick decided that further attempts to  
 19 revive Anthony Grainger would be futile and diagnosed  
 20 that he was dead at 7.33 pm.  
 21 The aftermath.  
 22 The immediate response. The scene was secured by  
 23 the TFU.  
 24 At 7.24 pm Detective Superintendent Geraint Jones,  
 25 and I think I mentioned him once before, the on call

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1 senior detective in Cheshire Police, was contacted by  
 2 Inspector Alan Fairclough, the Cheshire force incident  
 3 manager, and informed that there had been a police  
 4 related shooting in Culcheth.  
 5 Detective Superintendent Jones took up the role of  
 6 initial investigator. He maintained a contemporaneous  
 7 record of his activities and decisions and a policy file  
 8 in which he recorded some of the key initial policy  
 9 decisions for the incident. These reveal in summary  
 10 that he travelled to Cheshire Police headquarters and  
 11 managed the incident from there. Once there, amongst  
 12 the decisions he took was a decision that the  
 13 post-incident management process for the TFU should  
 14 occur at GMP and not Cheshire. All TFU officers  
 15 involved in the incident were directed to make their way  
 16 to GMP's Claytonbrook complex in Manchester.  
 17 Q9 arrived at 8.15 pm and had his weapons retrieved  
 18 from him. Chief Inspector Simpson, the post-incident  
 19 manager, or PIM, gave Q9 guidance in relation to  
 20 conferring -- he does not actually say what this  
 21 guidance was in his statement -- and took him to the  
 22 firearms training facility at Claytonbrook.  
 23 Detective Inspector Helen Spooner was the senior  
 24 investigating officer cover for Cheshire Police on  
 25 3 March. At 8.20 pm she was called by

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<p>1 Superintendent Jones and informed about the shooting 2 incident. Requested to attend Warrington police station 3 before attending the scene. Informed that the GMP 4 officers involved in the incident had left the scene for 5 a post-incident debrief in their force area and that the 6 IPCC and the coroner had been notified of the incident. 7 At. 8 9.22 pm, Detective Superintendent Jones informed the 9 IPCC's on call senior investigator Peter Orr of the 10 shooting incident. Peter Orr informed Detective 11 Superintendent Jones that at that time the IPCC: 12 "Was not in a position to manage this matter. Staff 13 will be deployed but in the meantime I will manage the 14 investigation until handed over." 15 Peter Orr suggested in the course of this call he 16 was informed that all of the firearms officers and the 17 surveillance officers involved in the incident were 18 returning to a location in Manchester to conduct 19 a post-incident process, sometimes called a PIP or 20 a PIM, which was being conducted by GMP officers. 21 Peter Orr suggests that he ensured that DSU Jones 22 was familiar with the PIM process and: 23 "The expectation in the way the process should be 24 carried out, particularly in relation to officers 25 conferring and providing accounts, and he stated that he</p> <p style="text-align: center;">Page 145</p>	<p>1 Upon her arrival at Warrington police station, 2 DI Spooner established from Inspector Griffiths, the 3 bronze commander at the scene, that an inner and outer 4 cordon had been established and that Anthony Grainger 5 and the vehicles involved in the incident had remained 6 in situ. She instructed that a tent should be erected 7 in case of inclement weather and to protect the dignity 8 of Anthony Grainger. 9 At 10.10 pm DI Spooner arrived at the scene and 10 reviewed the cordons with the crime scene manager 11 Brian Watson, she agreed amongst other things that the 12 vehicle should remain in situ until first light when 13 aerial photographs could be taken. 14 At 10.40 pm Catherine Bates arrived at the PIM 15 suite. The firearms officers arrived shortly after 16 them. 17 At 11.00 pm she received a briefing from 18 Anthony Simpson, the PIM, and his deputy Tony Hughes. 19 In the course of the briefing she was informed that two 20 solicitors had arrived for the TFU officers. 21 At 11.25 pm the police federation representative, 22 Karl Thurgood, informed Catherine Bates that the 23 officers' solicitors were, "Resistant to all officers 24 providing initial accounts". 25 Ms Bates called Peter Orr, the IPCC senior</p> <p style="text-align: center;">Page 147</p>
<p>1 was." 2 Detective Superintendent Jones does not mention this 3 conversation in his witness statement or in his two 4 contemporaneous notes. 5 As we understand it, would have known that GMP were 6 conducting the PIP and PIM process at the time, not 7 Cheshire Police and also would not have known much of 8 the information contained in Peter Orr's witness 9 statement that Peter Orr suggests was discussed. 10 In any case, Peter Orr of the IPCC asked an IPCC 11 investigator, Catherine Bates, to attend the PIP at 12 GMP's Openshaw complex at 10.00 pm. 13 At 9.15 pm Chief Inspector Simpson the post-incident 14 manager opened a post incident management suite at the 15 Claytonbrook complex in Manchester. 16 At 9.45, Catherine Bates received a telephone call 17 from Chief Inspector John Brennan of GMP's Professional 18 Standards Bureau to inform her that the location of the 19 post-incident procedure had moved to the Claytonbrook 20 complex in Manchester and, more importantly, that: 21 "GMP would be complying with the ACPO manual of 22 guidance, chapter 7, that initial accounts would be 23 secured from the officers and that the weapons would be 24 made safe and the ammunition counted and that this 25 process would be audio and visually recorded."</p> <p style="text-align: center;">Page 146</p>	<p>1 investigator. He spoke directly to Tony Hughes, the 2 deputy PIM and agreed that: 3 "The principal officers, the officer who discharged 4 his weapon and the silver commander should provide 5 initial individual accounts in accordance with chapter 7 6 of the ACPO manual. None of the officers should be 7 treated as principals unless they were standing next to 8 the officer who discharged his weapon." 9 Peter Orr omits mention of this agreement in his 10 witness statement. 11 At 11.35 pm Chief Inspector Simpson briefed all of 12 the TFU officers involved in the incident and "Outlined 13 the guidance in relation to conferring with others 14 before making their initial or subsequent accounts. 15 At 11.55 pm Ms Bates and Chris Clark, another IPCC 16 investigator who had by then arrived, received a more 17 detailed briefing from Chief Inspector Brennan, he was 18 from GMP's PSD, and other GMP officers which she sets 19 out in her witness statement. 20 In the course of the briefing Jim Donaghy of the 21 IPCC arrived and took the IPCC lead in providing 22 directions to GMP. Jim Donaghy states that when he 23 arrived at the PIM suite he was informed by Chief 24 Inspector Simpson that the officers had been briefed not 25 to confer. At 12.00, midnight, Detective Superintendent</p> <p style="text-align: center;">Page 148</p>

<p>1 Jones was informed by Peter Orr of the IPCC that he was                  2 deploying an investigator, Jim Donaghy to the                  3 post-incident suite, that had already in fact happened.                  4 But that the IPCC was not in a position to manage the                  5 scene and therefore requested that Cheshire Police                  6 should retain ownership of the scene. Detective                  7 Superintendent Jones agreed to do so and developed                  8 an initial forensic strategy for the scene.                  9 At 12.20 am, on behalf of the IPCC, DI Spooner                  10 contacted Dr Brian Rodgers, an on call pathologist, and                  11 asked him to attend the scene. Dr Rodgers refused to                  12 attend the scene as he felt that it was not necessary                  13 but said he would be available to conduct a post mortem                  14 examination at 10.00 the next morning at the Royal                  15 Liverpool Hospital.                  16 At 12.35 am Anthony Simpson, the post-incident                  17 manager, Tony Hughes, the deputy post-incident manager,                  18 Karl Thurgood, the federation representative, agreed                  19 with Jim Donaghy, the IPCC lead, that rather than the                  20 agreement which had been reached earlier, the three                  21 officers who would provide initial accounts would be X7,                  22 Q9 and Z15. They are, it will be noted, the three                  23 officers that discharged weapons.                  24 Ms Bates records that Anthony Simpson again                  25 confirmed that the PIP would be compliant with the ACPO</p> <p style="text-align: center;">Page 149</p>	<p>1 call at 7.00 am in which the initial accounts of the                  2 three principal TFU officers were outlined to him                  3 commenced an examination of the alpha vehicle in situ.                  4 He found that on examination the alpha vehicle had boxed                  5 in the stolen red Audi. I wonder whether we might see                  6 this in some photographs to assist.                  7 I think it is in bundle O1 --                  8 THE CHAIRMAN: Yes.                  9 MR BEER: -- starting at page 314.                  10 THE CHAIRMAN: Thank you.                  11 MR BEER: It should be a photograph like that. (Indicated)                  12 THE CHAIRMAN: Yes.                  13 MR BEER: Which is a shot from a helicopter, an aerial shot,                  14 that we heard about earlier being taken.                  15 THE CHAIRMAN: Yes.                  16 MR BEER: On examination he found that the alpha vehicle had                  17 boxed in the stolen red Audi and just orientate yourself                  18 sir, I know you know this very well indeed. Having                  19 looked at these photographs carefully and attended the                  20 scene on a number of occasions.                  21 We can see Thompson Avenue --                  22 THE CHAIRMAN: Yes.                  23 MR BEER: -- at the foot of the photograph.                  24 THE CHAIRMAN: Running from left to right.                  25 MR BEER: Running from left to right in front of the medical</p> <p style="text-align: center;">Page 151</p>
<p>1 guidance in respect of conferring.                  2 At 4.45 pm, on 4 March, Jim Donaghy received X7's                  3 written account and at 4.44 pm also received Q9 and                  4 Z15's written accounts. It seems that these accounts                  5 were made in the course of the night by the officers,                  6 commencing at about 2.30 am, in the presence of                  7 representatives of the police federation and their legal                  8 advisers.                  9 It may be necessary to explore the extent to which                  10 the post-incident procedures set out in chapter 7 of the                  11 manual were complied with in this operation. In                  12 particular whether a conferring warning was in fact                  13 given in accordance with paragraph 7.99 of the manual.                  14 If so, when it was given by whom and to which                  15 officers.                  16 Thirdly, whether by that time the officers or some                  17 of them had already conferred.                  18 The circumstances in which each of Q9, X7 and Z15                  19 came to give their initial accounts.                  20 And, lastly, whether the AFOs or some of them                  21 conferred when they wrote their first MG11, their first                  22 witness statements, on or about 9 March 2012.                  23 Examination of the scene.                  24 At 6.45 am on 4 March, a ballistics expert,                  25 Andre Botha, attended the scene and after a conference</p> <p style="text-align: center;">Page 150</p>	<p>1 centre. At the top of the photograph we can see                  2 Common Lane running left to right, almost parallel                  3 across the top in a horizontal position. Connecting                  4 those two roads running, I don't know whether it is                  5 compass north to south, but as this picture shows north                  6 to south, Jackson Avenue, you can see the two entrances                  7 to the small car park, one from Jackson Avenue and one                  8 from Thompson Avenue, the in entrance being on                  9 Jackson Avenue and the out entrance being on                  10 Thompson Avenue.                  11 THE CHAIRMAN: Yes.                  12 MR BEER: You can see the hedge bordering the left-hand side                  13 of the car park, about which we have heard and a small                  14 dwarf brick wall with a wire mesh fence on it to the                  15 rear of the red Audi, next to which is depicted a police                  16 scenes of crime tent. You can see the silver police                  17 Audi in front of it and the bravo and charlie cars                  18 behind that, still.                  19 Moving more closely, can you skip forward, please,                  20 to page 337.                  21 THE CHAIRMAN: Yes.                  22 MR BEER: Where you can see a closer image of the alpha car                  23 effectively making a T shape at the bonnet of the Audi                  24 A6. Mr Botha found that the nose of the stolen Audi was                  25 in contact with the driver's door on the offside of the</p> <p style="text-align: center;">Page 152</p>

<p>1 alpha vehicle.                  2 Then to show that more closely, can you look,                  3 please, at page 381, which should look like that.                  4 (Indicated)                  5 THE CHAIRMAN: Yes. I've got monochrome but it doesn't                  6 matter, it is clearly the same photograph.                  7 MR BEER: Yes, showing the two vehicles in contact.                  8 THE CHAIRMAN: Yes.                  9 MR BEER: Those can be put to one side for the moment, sir.                  10 THE CHAIRMAN: Thank you.                  11 MR BEER: A bullet hole was located 630 millimetres from the                  12 nearside and 540 millimetres from the top of the                  13 windscreen, and small glass particles were visible on                  14 the dashboard of the stolen Audi as a result of the                  15 perforation of the vehicle.                  16 With the information relating to the circumstances                  17 of the incident and evidence pertaining to the location                  18 and trajectory of the gunshot wound, a reconstruction                  19 was performed and a likely trajectory was extrapolated.                  20 This indicated to Mr Botha that Anthony Grainger was                  21 seated in the driver's seat, most likely leaning                  22 forwards and turned slightly to his right when the shot                  23 was discharged.                  24 The extrapolated bullet trajectory indicated that                  25 the shot was most likely discharged with Q9 on the back</p> <p style="text-align: center;">Page 153</p>	<p>1 considered necessary to assume a particular firing                  2 position before the victim's posture can be accurately                  3 assessed, the reported firing location would imply that                  4 the victim had been turned slightly to his right and                  5 leaning slightly forwards when struck. On this basis                  6 there is no significant disagreement with the original                  7 trajectory work conducted."                  8 That is by Mr Botha.                  9 Nothing has been found to dispute the sequence of                  10 events indicated by the accounts provided, although the                  11 physical evidence does not specifically provide support                  12 for this particular sequence.                  13 I am now going to turn, bearing in mind the warning                  14 you gave earlier, sir, to the post mortem examination.                  15 THE CHAIRMAN: Yes.                  16 MR BEER: Dr Brian Rodgers, a consultant forensic                  17 pathologist, conducted a post mortem examination on                  18 4 March. In summary Dr Rodgers found that a bullet,                  19 which was a 9-millimetre hollow point, hit Anthony                  20 Grainger's left chest, went through his left lung, his                  21 pulmonary artery, his right lung and embedded itself in                  22 his right chest wall.                  23 His conclusions were as follows.                  24 First, autopsy did not reveal any evidence of                  25 natural death which could have contributed to or</p> <p style="text-align: center;">Page 155</p>
<p>1 seat of the alpha vehicle firing through its open                  2 offside rear window.                  3 The Inquiry, as I have indicated, has instructed                  4 Dr Philip Seaman. He has received a very considerable                  5 quantity of material and a very detailed letter of                  6 instruction. In high level summary he was asked to                  7 examine the available physical evidence in order to                  8 investigate the incident and give expert evidence as to                  9 the trajectory of the bullet, the positions of Q9 and                  10 Anthony Grainger and the sequence of events.                  11 He concluded as follows:                  12 "Independent assessment has been made by test firing                  13 the police carbine and ammunition at test windscreens.                  14 This has allowed comparison with the physical evidence                  15 available following the incident in relation to the                  16 windscreen damage, the fired bullet and the deflection                  17 caused by passage through the windscreen. The test                  18 results provide support for the reported locations of                  19 the firer and the victim. Rear offside alpha vehicle                  20 and driver's seat of red Audi respectively. With the                  21 two vehicles positioned as shown by the post-incident                  22 photographs. The position/posture of the victim when                  23 struck by the bullet has been investigated by physical                  24 tests considering the bullet trajectory in conjunction                  25 with the reported autopsy information. Although it is</p> <p style="text-align: center;">Page 154</p>	<p>1 resulted in his death.                  2 Two, the deformed lead core of the bullet showed                  3 evidence of glass damage and had deformed due to                  4 penetration through the vehicle windscreen.                  5 Three, the bullet had passed into Anthony Grainger                  6 damaging soft tissues and organs only, there was no bony                  7 damage. The bullet had entered the left anterior upper                  8 chest at an angle of between 10 and 20 degrees,                  9 downwards from the horizontal, passing left to right                  10 through the chest cavity at an angle of 45 degrees                  11 backwards.                  12 On entering the chest it had passed between the                  13 second and third ribs penetrating the upper lobe of the                  14 left lung, before entering the mediastinal tissues and                  15 passing clean through the pulmonary trunk into the right                  16 chest cavity, where it struck posterior right chest wall                  17 internally before entering the posterior aspect of the                  18 lower lobe of the right lung.                  19 Five, the gunshot damage to the pulmonary trunk had                  20 led to massive internal bleeding. The depth of the                  21 overall penetration was 23.5 centimetres from the skin                  22 surface. Anthony Grainger would have died rapidly as                  23 a result of shock and haemorrhage.                  24 Six, the entry wound to the left chest did not show                  25 any evidence of sooting or tattooing and there were no</p> <p style="text-align: center;">Page 156</p>

<p>1 close range effects. The entry wound possessed                  2 an abrasion ring consistent with a distance shot.                  3 Results of toxicological investigations indicated that                  4 Anthony Grainger was not under the influence of alcohol                  5 or illicit or abused drugs at the time of his death.                  6 Dr Rodgers answered a series of questions posed to                  7 him as follows.                  8 First, it was impossible to determine from the                  9 autopsy whether or not Anthony Grainger's arms were in                  10 the raised or lowered position at the time that the                  11 gunshot wound was delivered to his chest.                  12 Second, Anthony Grainger had not suffered from any                  13 form of anaphylactic reaction to the CSDC discharge into                  14 the stolen Audi, but the post mortem cell tryptase level                  15 does not prove one way or the other whether                  16 Anthony Grainger was shot prior to the delivery of the                  17 CSDC or afterwards. He added that any residue on                  18 clothing would also not elucidate the situation any                  19 further, and essentially the interpretation of this                  20 issue is down to witness evidence.                  21 By "this issue" he means whether the CSDC was                  22 discharged before or after Mr Grainger was shot.                  23 THE CHAIRMAN: Yes.                  24 MR BEER: Lastly Anthony Grainger would not have died                  25 instantly as a result of the gunshot wound. He suspects</p> <p style="text-align: center;">Page 157</p>	<p>1 MR BEER: Even with that we will not go over with a 10.30                  2 start.                  3 THE CHAIRMAN: We will leave it at 10.30.                  4 MR BEER: It may even be substantially less. It might have                  5 been possible to hear the personal statements from                  6 Mrs Schofield and Ms Hadfield-Grainger tomorrow                  7 afternoon, but that may be dependent on whether we can                  8 get the video-link for Mr Grainger, that is a matter for                  9 discussion that we will look at overnight and come back                  10 to tomorrow morning.                  11 THE CHAIRMAN: Thank you very much. We will leave it at                  12 a 10.30 start then.                  13 MR BEER: Thank you.                  14 (4.26 pm)                  15 (The Inquiry adjourned until 10.30 am the following day)                  16                  17                  18                  19                  20                  21                  22                  23                  24                  25</p> <p style="text-align: center;">Page 159</p>
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<p>1 that Anthony Grainger would have lost consciousness                  2 fairly rapidly, within a minute or so of being shot, but                  3 within seconds after the shot was delivered he would                  4 still be able to respond to a certain degree and may                  5 have been able to still move about.                  6 Dr Rodgers gave the cause of death as 1A shock and                  7 haemorrhage, 1B wound to chest penetrating both lungs                  8 and pulmonary trunk.                  9 Sir, that is the opening statement of counsel to the                  10 Inquiry.                  11 THE CHAIRMAN: Thank you, Mr Beer, thank you very much.                  12 That is obviously the point at which we could end                  13 today's proceedings.                  14 Tomorrow --                  15 MR BEER: Tomorrow we are moving to opening statements on                  16 behalf of four of the five core participants. Mr and                  17 Mrs Schofield first, I think, from Mr Thomas. Then                  18 Ms Hadfield-Grainger from Mr Weatherby. Then I think                  19 Ms Whyte on behalf of GMP and then Mr Davies on behalf                  20 of Q9.                  21 THE CHAIRMAN: Has there been any discussion about start                  22 time tomorrow. I am happy to start at 10.00 or 10.30.                  23 MR BEER: I have taken a straw poll on time estimates and                  24 added the usual 10 to 20 per cent.                  25 THE CHAIRMAN: Yes.</p> <p style="text-align: center;">Page 158</p>	<p>1                  2                  3                  4 Opening submissions by MR BEER .....1                  (continued)                  5                  6                  7                  8                  9                  10                  11                  12                  13                  14                  15                  16                  17                  18                  19                  20                  21                  22                  23                  24                  25</p> <p style="text-align: center;">Page 160</p>
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