

<p>1 Wednesday, 29 March 2017 2 (10.30 am) 3 THE CHAIRMAN: Mr Thomas. 4 MR THOMAS: Good morning, sir. 5 THE CHAIRMAN: Thank you for your message of yesterday, 6 which I have caused to be circulated -- as you know -- 7 among the other core participants. 8 I think, with the greatest of respect, that you and 9 I may be at cross purposes. 10 MR THOMAS: I am sure that is probably right. 11 THE CHAIRMAN: There is no issue as to the correct test for 12 the duty that arises under article 2, had I disagreed 13 with your formulation of it last Wednesday I would have 14 said so at the time. 15 The problem is simply that having made the point 16 that the formulation you were putting is not, and 17 I quote, "Words that I am inventing", when you revisited 18 the topic the following morning you produced as the 19 basis of your formulation an extract from the code of 20 practice governing the Police Use of Firearms, which did 21 not correspond to the form of words that you had 22 actually put to Mr Sweeney. It was that mismatch, as 23 I described it at the time, to which I took very mild 24 exception. 25 It turns out that I was right to do so because your</p> <p style="text-align: center;">Page 1</p>	<p>1 A. No. 2 Q. Can you just help the chairman with this: what does your 3 hearing need to be like to become a firearms officer? 4 A. I am not fully competent with the requirements for that, 5 I am afraid. 6 Q. All right. Let me ask you this: what is your hearing 7 like? 8 A. It's fine, generally. 9 Q. You don't have a problem with your hearing, do you? 10 A. No. 11 Q. No. 12 Would you agree that, as a firearms officer, you 13 really do need to deploy and use all of your senses when 14 you are on an operation. Would that be fair? 15 A. Yes. 16 Q. Hearing, and particularly active hearing, is 17 an important part of the job. Isn't it? 18 A. It is, yes. 19 Q. Yes. That is for all sorts of reasons, particularly in 20 this instance when you are -- I think you had been 21 informed that the men in the Audi may have been armed 22 and dangerous; is that correct? 23 A. Yes, sir. 24 Q. One of the things that you would be conscious of, 25 particularly when you leave your vehicle and thereby</p> <p style="text-align: center;">Page 3</p>
<p>1 message of yesterday appears to confirm that the 2 formulation you had put to the witness did not come from 3 the code of practice but actually came from the decision 4 of the European Court of Human Rights in Makaratzis v 5 Greece. 6 I am grateful to you for making that clear, 7 Mr Thomas, and I think we can now put that behind us and 8 move on. 9 MR THOMAS: So be it. 10 THE CHAIRMAN: I think, Mr Beer -- I'm sorry you are rather 11 out of sight -- you had finished this questioning of 12 this witness, hadn't you? 13 MR BEER: I had, sir, thank you very much. 14 THE CHAIRMAN: Thank you. 15 Mr Thomas? 16 U9 (continued) 17 Questions from MR THOMAS 18 MR THOMAS: Good morning, U9. My name is Mr Thomas and I am 19 representing Anthony Grainger's family. 20 I have a few questions for you. 21 Can you just help me with this. When you left your 22 vehicle during the strike you had a respirator on, 23 correct? 24 A. That's correct, yes. 25 Q. Did that interfere with your hearing?</p> <p style="text-align: center;">Page 2</p>	<p>1 potentially exposing yourself to risk, is whether you 2 are shot at? 3 A. Yes, sir. 4 Q. Is that fair? 5 A. Yes. 6 Q. Yes. The sense, or one of the senses, that you 7 certainly would be employing is your hearing? 8 A. That's correct, sir, yes. 9 Q. For all sorts of obvious reasons, you would need to 10 protect yourself if you came under fire and you would 11 wish to warn your colleagues if you came under fire. 12 Fair? 13 A. Yes. 14 Q. When you left your vehicle, do you say that you were 15 actively listening? 16 A. I wouldn't class that as my primary sense at that point, 17 no. 18 Q. You were listening to what was going on around you; 19 would that be fair? 20 A. Generally, yes. 21 Q. Yes, okay. 22 Can we agree on this, the only shots that you heard 23 were after the window had been smashed and the CS 24 deployed into the vehicle. Correct? 25 A. Yes, sir.</p> <p style="text-align: center;">Page 4</p>

1 Q. Before that point you heard no other firearm being used,
 2 correct?
 3 **A. Correct.**
 4 Q. Your Heckler & Koch MP5 -- that is the correct title, is
 5 it?
 6 **A. It is, sir, yes.**
 7 Q. They are not issued with silencers, are they?
 8 **A. No, sir.**
 9 Q. It is a fairly loud weapon, isn't it?
 10 **A. At close quarters, yes, sir.**
 11 Q. Yes.
 12 Let's be clear about this, your vehicle pulled up
 13 all but a few metres behind the alpha vehicle, correct?
 14 **A. Yes.**
 15 Q. Yes. I think the chairman -- forgive me, I think
 16 Mr Beer took you to the photographs and the images
 17 yesterday. I am not going to do that, you remember how
 18 close -- your vehicle and the alpha vehicle were in very
 19 close proximity?
 20 **A. Yes, they were.**
 21 Q. Yes. Indeed, when you deployed from your vehicle you
 22 went straight to the Audi, didn't you?
 23 **A. Yes, sir.**
 24 Q. As I have indicated, no shot did you hear before you
 25 arrived at the Audi?

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1 **A. No, sir.**
 2 Q. Okay.
 3 Let me move on to another topic, if I may.
 4 Can we agree this. These strikes, these firearm
 5 operations which you are part of, they are meant to be
 6 planned, aren't they? It is not a free for all, is it?
 7 **A. No, to a degree there is planning, yes.**
 8 Q. Yes.
 9 When you go through your briefings, and there are
 10 times when you have rehearsals, there are allocation of
 11 roles amongst the various teams. When I say "teams",
 12 let me clear on what I am talking about, you have a team
 13 in the alpha car, you have a team in the bravo car, you
 14 have a team in the charlie car. Do you follow what
 15 I mean?
 16 **A. Yes, sir.**
 17 Q. Yes.
 18 It would be a wrong impression, wouldn't it, to
 19 suggest that there is no discussion about who is going
 20 to do what? If we just take your car for instance, how
 21 many people did you have in your car?
 22 **A. Four, including the driver.**
 23 Q. In your car, you would be allocated the a role, like:
 24 you will go to this part of the Audi. Somebody who is
 25 sitting opposite you in your vehicle will go to

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1 a different part of the Audi and provide cover. It
 2 works like that, doesn't it?
 3 **A. Something like that, sir, yes.**
 4 Q. Yes. In other words, everybody in the vehicles has
 5 an idea as to what their role is. There is good reason
 6 for that, isn't there, would you agree?
 7 **A. Yes, sir. Yes.**
 8 Q. That avoids confusion, correct?
 9 **A. Yes.**
 10 Q. That avoids people running into each other's arcs of
 11 fire -- do you understand what I mean by "arcs of fire"?
 12 **A. Yes, I do, yes.**
 13 Q. Yes. I am right though, aren't I, that is one of the
 14 reasons why you plan, so that it minimises people
 15 running into each other's arcs of fire? That's correct,
 16 isn't it?
 17 **A. You have to be aware of where other personnel are, yes.**
 18 Q. This is the point, isn't it, that is why there is
 19 an allocation of roles, you go to this door, I will go
 20 to this door and so on -- I am simplifying it, but
 21 effectively that is what you, the team, is discussing.
 22 Is that fair?
 23 **A. To a degree, sir, yes.**
 24 Q. Yes.
 25 A plan is made, yes?

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1 **A. Yes.**
 2 Q. There are allocations of roles, yes?
 3 **A. As much as you can on an unorthodox strike, yes.**
 4 Q. That is something you suggested and I just want to deal
 5 with that very quickly. You said as much as -- in this,
 6 forget about anything else. On this occasion, on this
 7 day, there were allocations of roles, weren't there?
 8 **A. Regarding vehicles taking which side of the Audi, yes.**
 9 Q. Yes, well that is what I am talking about.
 10 **A. Yes.**
 11 Q. There was a plan and there was discussion?
 12 **A. Yes, sir.**
 13 Q. Yes. This was before everybody deployed. You planned
 14 this earlier on. I don't know how much earlier but it
 15 was planned earlier on?
 16 **A. I think it would have been very quickly prior to the
 17 actual intervention itself.**
 18 Q. When I said "earlier on" I said I didn't know how much
 19 earlier on.
 20 **A. It would have been just before.**
 21 Q. Okay, but the point is you don't drive on to the car
 22 park and make it up as you drive on. That is not what
 23 happened, is it?
 24 **A. That would not be an ideal scenario, no.**
 25 Q. Exactly.

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1 Okay, let me move on -- sorry, there is one more
 2 question before I move on, and it is this. When there
 3 were discussions amongst the team as to the allocation
 4 of roles and who would be doing what essentially. Who
 5 coordinates that, would that be the bronze, what
 6 I describe as the bronze commander?
 7 **A. Generally speaking it would be, yes.**
 8 THE CHAIRMAN: That is the OFC.
 9 MR THOMAS: The OFC. Sir, you have to forgive me, I am
 10 still a little bit old fashioned in the terms.
 11 THE CHAIRMAN: That is all right.
 12 MR THOMAS: You understand what I mean by "bronze", don't
 13 you?
 14 **A. I do, yes.**
 15 Q. Thank you.
 16 All right, now, can we also agree on this. When you
 17 are conducting your firearms operations, you have to
 18 conduct them in such a way that bears in mind minimising
 19 to the greatest extent possible the risk to the life of
 20 the subjects under article 2, would you agree with that?
 21 **A. Yes, sir.**
 22 Q. Now, can I just -- this is my final area that I want to
 23 discuss with you and it is in relation to threat
 24 assessments. Again, so far so good, there has been
 25 a lot of agreement between you and I. Let's see if we

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1 can continue that.
 2 At the briefing, before you actually deployed,
 3 I think you had a briefing earlier that day, correct?
 4 **A. Yes, sir.**
 5 Q. At that briefing there was a threat assessment in
 6 relation to the subjects, correct?
 7 **A. Yes.**
 8 Q. I am right, aren't I, that what you have is, and I am
 9 going it take the number three, because we know that you
 10 were being briefed on three subjects, okay, so that is
 11 where that number comes from.
 12 **A. Okay.**
 13 Q. We know that there were three individual threat
 14 assessments, correct?
 15 **A. Yes, sir.**
 16 Q. Those threat assessments were particularised to the
 17 individuals concerned. They are not the same, are they?
 18 **A. I don't think they were, sir, no. From memory.**
 19 Q. No. No.
 20 Again, I don't need to go through the detail of it.
 21 The chairman will have the actual individual threat
 22 assessments in mind, okay, so I am not going to take you
 23 to the detail, I don't need to do that. It is just
 24 something that you said and I just want to test it in
 25 this way, if I may.

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1 There is a very good reason, isn't there, why there
 2 are individual threat assessments?
 3 **A. Yes.**
 4 Q. That is because individuals pose different risks; would
 5 you agree?
 6 **A. Yes.**
 7 Q. Just to take it at its most basic, you know I am
 8 Mr Thomas, and this is my junior Mr Straw who sits next
 9 to me. Let's take an imaginary scenario, okay.
 10 You are conducting an operation in relation to
 11 Mr Straw and Mr Thomas, yes?
 12 **A. Yes.**
 13 Q. Bad old Mr Thomas, string of convictions for violence,
 14 dishonesty, weapons, I have even been so bad in my past
 15 that I have threatened officers with my weapons. Do you
 16 follow?
 17 **A. Yes.**
 18 Q. Wouldn't think twice about discharging my weapon, should
 19 I be cornered. I would fight my way out and I've got
 20 form for it, you understand?
 21 **A. I do, sir, yes.**
 22 Q. Then we have Mr Straw, petty criminal, offences for
 23 dishonesty but never has Mr Straw been so foolish as to
 24 meddle with offences of violence, using weapons,
 25 firearms and the like. Do you understand?

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1 **A. I do, sir, yes.**
 2 Q. You can see the distinction when you are conducting your
 3 operation in relation to bad old Mr Thomas and petty
 4 criminal Mr Straw. Do you follow?
 5 **A. Yes, sir.**
 6 Q. You would agree with this, wouldn't you, that in terms
 7 of your threat assessments, Mr Straw and Mr Thomas are
 8 not going to have the same threat assessment, are we?
 9 **A. No, sir.**
 10 Q. No.
 11 As a firearm officer, you have training, correct?
 12 **A. Yes.**
 13 Q. You conduct drills, you practise your skills, yes?
 14 **A. Yes.**
 15 Q. In fact, you have such practice that you go on to, these
 16 are my words, okay, you can help me with the proper
 17 words. You go on to a type of range, a firing range,
 18 where you have subjects, some who are friendly and some
 19 who are foe and you have to work your way through that
 20 sort of range, correct?
 21 **A. Yes, sir.**
 22 Q. You are assessed in relation to whether you may have,
 23 I am just going to use this word, accidentally shot
 24 somebody who is friendly as opposed to somebody who is
 25 foe. Yes?

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<p>1 A. Yes.</p> <p>2 Q. That is the sort of training, or a part of the training</p> <p>3 that firearms officers go through, isn't it?</p> <p>4 A. Correct, yes.</p> <p>5 Q. Yes.</p> <p>6 You are trained -- when I say "you" I am talking</p> <p>7 generally, I am talking about firearms officers, right.</p> <p>8 Firearms officers are trained, are they not, that when</p> <p>9 they deploy, they have to bear their training in mind to</p> <p>10 the greatest possible extent. Would that be fair?</p> <p>11 A. Yes, sir.</p> <p>12 Q. The threat assessments that you have been told about,</p> <p>13 so, you know, you don't have the silver or the tactical</p> <p>14 firearms commander giving you these threat assessments</p> <p>15 for the sake of their breath. These threat assessments</p> <p>16 have meaning, don't they?</p> <p>17 A. Yes, sir.</p> <p>18 Q. They are not to go out of your head as soon as you</p> <p>19 deploy, are they?</p> <p>20 A. No, sir.</p> <p>21 Q. No. Because, you would agree with this would you not,</p> <p>22 that context is everything and background is significant</p> <p>23 when you deploy? Would you agree with that?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Context is everything and the background you have been</p> <p style="text-align: center;">Page 13</p>	<p>1 don't do? Do you follow the question I am asking you?</p> <p>2 A. I do follow the question, sir, yes.</p> <p>3 Q. Can you answer it?</p> <p>4 A. If for example in the context you are talking about now,</p> <p>5 yourself and your colleague, in this scenario we are</p> <p>6 here, if both of you dropped your arms below the desks</p> <p>7 then both myself and probably a colleague would cover</p> <p>8 both the threats at the same time.</p> <p>9 Q. Okay. U9, you don't treat both as the lowest common</p> <p>10 denominator, otherwise it would make individual threat</p> <p>11 assessments redundant. Do you follow?</p> <p>12 A. I do follow, yes.</p> <p>13 Q. There is no point to it, all you need to do is,</p> <p>14 "Mr Thomas is with Mr Straw, we will just do a threat</p> <p>15 assessment on Mr Thomas and we will treat everybody like</p> <p>16 Mr Thomas", do you understand?</p> <p>17 A. I do, sir, yes.</p> <p>18 Q. That is not what you do, is it?</p> <p>19 A. No, sir.</p> <p>20 Q. No. Because it would be wrong to have a threat</p> <p>21 assessment and conclude, "Because one man is a high</p> <p>22 risk, everybody else is of the same risk". That is not</p> <p>23 how you are trained, is it?</p> <p>24 A. No, sir.</p> <p>25 MR THOMAS: No.</p> <p style="text-align: center;">Page 15</p>
<p>1 provided with is significant?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Just coming back to nasty Mr Thomas and petty criminal</p> <p>4 Mr Straw. Given the context, if Mr Straw, sitting at</p> <p>5 his desk, was to suddenly drop his hands below the desk</p> <p>6 so his hands were out of sight -- do you follow?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And, switching roles, if Mr Thomas was to suddenly drop</p> <p>9 his hands out of sight, so they couldn't be seen,</p> <p>10 a different firearms reaction may ensue, would you</p> <p>11 agree?</p> <p>12 A. Potentially, sir, yes.</p> <p>13 Q. In other words, the threat assessments make</p> <p>14 a difference, don't they?</p> <p>15 A. In an ideal world, sir, yes.</p> <p>16 Q. The one thing you don't do, I think we can agree on</p> <p>17 this, you don't go to the lowest common denominator and</p> <p>18 treat all the subjects as the same. Let me unpick that</p> <p>19 and explain what I mean.</p> <p>20 In the scenario that I have given you, Mr Straw may</p> <p>21 be with Mr Thomas but you don't assume that Mr Straw is</p> <p>22 the same as Mr Thomas. In other words, you drop</p> <p>23 Mr Straw down to the lowest common denominator, the same</p> <p>24 level as Mr Thomas, they are all a risk because Mr Straw</p> <p>25 is with Mr Thomas, do you follow? That is what you</p> <p style="text-align: center;">Page 14</p>	<p>1 Thank you, sir, that is all I ask.</p> <p>2 THE CHAIRMAN: Thank you, Mr Thomas.</p> <p>3 Mr Weatherby?</p> <p>4 MR WEATHERBY: Thank you.</p> <p>5 Questions from MR WEATHERBY</p> <p>6 MR WEATHERBY: Officer, I represent Mr Grainger's partner,</p> <p>7 Gail Hadfield-Grainger, can I just start by confirming</p> <p>8 a couple of matters just to make sure that we have them</p> <p>9 clear.</p> <p>10 Am I right that the first time that you understood,</p> <p>11 the first time you were told, that the strike was going</p> <p>12 to be on the car park, was when Amber was declared?</p> <p>13 A. Yes, sir.</p> <p>14 Q. That therefore it follows that the first time you</p> <p>15 understood it was going to be an unorthodox strike was</p> <p>16 at that point?</p> <p>17 A. Roughly the same time, sir, yes.</p> <p>18 Q. Yes, but it couldn't have been before, could it?</p> <p>19 A. No.</p> <p>20 Q. Either when Amber was declared or after that?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Thank you.</p> <p>23 You have told us something of planning, the plan,</p> <p>24 once the strike was in motion, once Amber had been</p> <p>25 declared, have I understood you correctly, that the only</p> <p style="text-align: center;">Page 16</p>

<p>1 plan that you were aware of was over the radio from X7, 2 the OFC? 3 A. Yes, sir. 4 Q. And that the plan was as simple as this, that alpha car 5 was going for the offside of the Audi and bravo car was 6 going for the nearside? 7 A. If I remember rightly, sir, yes, that's correct. 8 Q. And that is it? 9 A. Yes, sir. 10 Q. It follows again from that that nobody gave you any 11 specific role? 12 A. No, sir. 13 Q. What you did, and I am not being critical here, is that 14 once bravo came to rest -- shortly after alpha came to 15 rest, within a second or two, would that be fair? 16 A. Yes, sir. 17 Q. You got out of the rear offside where you were sat? 18 A. Yes, sir. 19 Q. And you went round the front of bravo, between bravo and 20 alpha, and straight up to the stolen Audi? 21 A. No, sir, it was a straight line from my door to the 22 Audi. I didn't have to go between the cars. 23 Q. Right, that is what where I am headed. I can't follow 24 that. Can you help us with that? 25 THE CHAIRMAN: You put to him that he went round the front</p> <p style="text-align: center;">Page 17</p>	<p>1 course you have got the windscreen, which is clear? 2 A. It was, sir, yes. 3 Q. And the front passenger window is clear, because that is 4 not tinted? 5 A. Yes, sir. 6 Q. So front passenger seat empty, door closed, and you then 7 went on to deal with the person in the back? 8 A. Yes, sir. 9 Q. If you had seen somebody in the front passenger seat, 10 you would have gone and tackled that person, logically? 11 A. Not necessarily, sir, no. 12 Q. Not necessarily. Okay, how would you have chosen? 13 A. The tinted window would offer a greater threat to myself 14 and the team. 15 Q. Sorry? 16 A. The tinted window would offer a greater threat to myself 17 and the team. 18 Q. You may have gone to the back anyway? 19 A. Yes, sir. 20 Q. Okay, thanks. 21 Moving on, can I just deal with a small point about 22 shields. You had ballistic shields in this deployment, 23 didn't you? 24 A. Yes, sir. 25 Q. In the cars.</p> <p style="text-align: center;">Page 19</p>
<p>1 I think of the alpha car. 2 A. In between alpha and bravo. 3 THE CHAIRMAN: I am so sorry, you may have not meant to do 4 that. 5 MR WEATHERBY: That is my mistake. 6 THE CHAIRMAN: That is why I think he is disagreeing. 7 MR WEATHERBY: You are in bravo? 8 A. Yes, sir. 9 Q. You went to the front of bravo, not alpha, yes? 10 A. Not -- 11 Q. You went past the front -- 12 A. In a diagonal straight towards the Audi, yes. 13 Q. Right, because bravo had turned in towards the -- 14 A. They were just slightly offset from alpha. 15 Q. I see, so you went in the most direct route? 16 A. Yes, sir. 17 Q. You had alpha to your left as you approached the -- 18 A. Slightly to the left and to the front, sir, yes. 19 Q. You come straight to the stolen Audi at the front 20 nearside? 21 A. Yes, sir. 22 Q. At that point you see that the front passenger seat is 23 empty? 24 A. Yes, sir. 25 Q. And you have a reasonably clear view of that because of</p> <p style="text-align: center;">Page 18</p>	<p>1 Just for your note, sir, at bundle O/186 there is 2 a photograph of the ballistic shields in the back of one 3 of the cars. I don't think it is necessary to turn that 4 up at the moment, but just for your note. 5 THE CHAIRMAN: Thank you, Mr Weatherby. 6 MR WEATHERBY: Can you help us with ballistic shields, what 7 are they used for? It may be in the name. 8 A. Depending on the size of the shield it would either be 9 to protect the individual officer or the larger ones to 10 protect the team in general. 11 Q. Are you able to help us why ballistic shields were not 12 deployed on this? 13 A. We don't generally deploy ballistic shields on mobile 14 vehicle strikes. 15 Q. Right. 16 A. They are usually in the back of the car for direct 17 contacts, building work et cetera. 18 Q. If somebody was being contained in a building you may 19 have it, so you would not generally use them for that? 20 A. Not on a mobile strike, sir, no. 21 Q. Thank you. 22 You have been asked some questions about hearing and 23 respirators. We have a transcript of the briefing that 24 you received in the morning, I think you have been 25 referred to part of it already. We can refer to it</p> <p style="text-align: center;">Page 20</p>

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<p>1 again, but we may not need to.</p> <p>2 Again, for your note, sir, it is tab 23, C/344 --</p> <p>3 sorry, tab 23 of the general firearms bundle. Sorry</p> <p>4 about that.</p> <p>5 THE CHAIRMAN: That is all right.</p> <p>6 MR WEATHERBY: There was a general direction during the</p> <p>7 briefing that during a strike protective gear, including</p> <p>8 respirators, must be worn. Do you recall that.</p> <p>9 A. Yes, sir. Yes, I do.</p> <p>10 Q. That would be pretty standard, and that is you put your</p> <p>11 respirator on, it wasn't because of any order relayed to</p> <p>12 you in the car?</p> <p>13 A. No, sir.</p> <p>14 Q. You put the respirator on as you came into the car park</p> <p>15 or just before?</p> <p>16 A. Yes, sir.</p> <p>17 Q. You have already told us that that would not make any</p> <p>18 difference to your hearing; is that right?</p> <p>19 A. That's correct, sir.</p> <p>20 Q. Let's just, if we may, just go one step further. Also</p> <p>21 in the briefing, when protective gear was being referred</p> <p>22 to, there is a reference to having ear defenders</p> <p>23 available?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Were you wearing ear defenders at the time?</p> <p style="text-align: center;">Page 21</p>	<p>1 Could you hear what other firearms officers were</p> <p>2 saying?</p> <p>3 A. Once the shouting started, yes, I could.</p> <p>4 Q. Yes, once the shouting started you could hear through</p> <p>5 the radio what was happening?</p> <p>6 A. No, through my own hearing.</p> <p>7 Q. Sorry, it is my fault. Let me take it in stages.</p> <p>8 Obviously, if there were sounds, gunshots, shouting,</p> <p>9 whatever, you could hear those sounds subject to the</p> <p>10 muffling that you have already spoken about with the ear</p> <p>11 defenders, yes?</p> <p>12 A. Generally, sir, yes.</p> <p>13 Q. Yes.</p> <p>14 In terms of communicating with other firearms</p> <p>15 officers or hearing their communications, you had</p> <p>16 a radio?</p> <p>17 A. Yes, but it wouldn't be used on the strike.</p> <p>18 Q. Right, so once you had left your vehicle you had no</p> <p>19 means of communication with the other firearms officers.</p> <p>20 Is that right?</p> <p>21 A. I did have the radio on me but we don't generally use it</p> <p>22 on the actual strike itself, during the implementation</p> <p>23 phase.</p> <p>24 Q. Right, so on this strike, once you left the vehicle, you</p> <p>25 didn't have any communication via radio --</p> <p style="text-align: center;">Page 23</p>
<p>1 A. I was, sir, yes.</p> <p>2 Q. Yes. Can you help us with what effect ear defenders</p> <p>3 would have?</p> <p>4 A. The ones I used that day were a brand called Sonic,</p> <p>5 in-ear soft plugs as we call them and it minimises sound</p> <p>6 from outside.</p> <p>7 Q. It minimises sound from outside?</p> <p>8 A. Yes, it does and it protects your hearing.</p> <p>9 Q. It protects your hearing?</p> <p>10 A. Yes.</p> <p>11 Q. Yes. Does it impede your hearing therefore of what</p> <p>12 people may say or sounds?</p> <p>13 A. In general not as bad as you may think, you can</p> <p>14 generally still hear people speak to you, but it is</p> <p>15 slightly muffled, yes.</p> <p>16 Q. Yes. Also did you have a microphone in your ear, so you</p> <p>17 could hear the orders or what was going on from other</p> <p>18 officers?</p> <p>19 A. Not during the actual strike itself; there was an open</p> <p>20 handset in the vehicle.</p> <p>21 Q. In the vehicle, so when you got out of the vehicle and</p> <p>22 went round to the stolen Audi, what was your means of</p> <p>23 communication?</p> <p>24 A. I just had a personal radio on but with no earpiece.</p> <p>25 Q. Right.</p> <p style="text-align: center;">Page 22</p>	<p>1 A. Radio, no, sir.</p> <p>2 Q. -- with anybody?</p> <p>3 A. No, sir.</p> <p>4 Q. Can I just deal with what happened subsequently. I will</p> <p>5 deal with this quickly, because Mr Beer has already</p> <p>6 dealt with it to some extent. At tab 6, that is your</p> <p>7 pocket notebook --</p> <p>8 THE CHAIRMAN: Is this of the witness's own bundle?</p> <p>9 MR WEATHERBY: Sorry, of your witness bundle, yes.</p> <p>10 Do you have it there?</p> <p>11 A. Yes, I have.</p> <p>12 Q. Now I appreciate that this is a minimalist entry, it</p> <p>13 just really deals with your tour of duty, but you have</p> <p>14 been referred to the "see statement" bit and your</p> <p>15 explanation for that was that this was an entry that was</p> <p>16 made a matter of weeks later.</p> <p>17 A. Yes, sir.</p> <p>18 Q. Am I not right that pocket notebooks are contemporaneous</p> <p>19 records?</p> <p>20 A. They can be used for that scenario, yes.</p> <p>21 Q. Isn't that what their purpose --</p> <p>22 A. Not contemporaneous all the time, no.</p> <p>23 Q. No.</p> <p>24 Is there any reason -- well the next entry, which is</p> <p>25 redacted, one assumes because it is irrelevant, it</p> <p style="text-align: center;">Page 24</p>

6 (Pages 21 to 24)

<p>1 relates to something completely different. Presumably 2 that is made weeks later as well?</p> <p>3 A. I can't tell you, I don't know what it was.</p> <p>4 Q. Right. Okay, but yesterday's evidence was that the 5 3 March entry was made, or could have been made, 6 a matter of weeks later?</p> <p>7 A. Yes, it could have been, yes.</p> <p>8 Q. Yes?</p> <p>9 Doesn't it follow that the next entry must have been 10 made after that?</p> <p>11 A. It depends what duties I was doing at the time. As 12 I said yesterday, if you are on, as I was then, training 13 duties, your pocket notebook is not filled in on a daily 14 basis because there is nothing to fill it in for and 15 hence when it came to this particular incident, 16 afterwards my first notes were my statement.</p> <p>17 Q. Right, I will come to that in a moment but there is no 18 indication here at all that this not a contemporaneous 19 entry, is there?</p> <p>20 A. Apart from me saying it isn't, yes.</p> <p>21 Q. Apart from you coming to court five years later and 22 saying that?</p> <p>23 A. That's correct, sir, yes.</p> <p>24 Q. So for me or anybody else looking at it, that looks like 25 a contemporaneous entry?</p> <p style="text-align: center;">Page 25</p>	<p>1 involved with, where you use some force against one of 2 the subjects, fairly minimal force as I understand it, 3 but you use force nevertheless. Can you help us as to 4 why it took you six days to record your first account?</p> <p>5 A. I think it was being coordinated by the post-incident 6 procedure and possibly legal advice. I am not sure, 7 I can't remember.</p> <p>8 Q. Right. As an experienced police officer, of many years' 9 experience, you would be well aware that preserving 10 evidence, getting early accounts, is axiomatic to any 11 industrious investigation. Isn't it?</p> <p>12 A. Yes, sir.</p> <p>13 Q. I mean ultimately you have made a choice, haven't you, 14 to make your first account six days later?</p> <p>15 A. As I said, I think it may have been under instruction, 16 I can't remember.</p> <p>17 Q. It may have been under instruction, you cannot remember?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Okay.</p> <p>20 Well, can you think -- this is an important matter, 21 I appreciate it is a long time ago, but who would have 22 instructed you not to make an account for six days?</p> <p>23 A. I can't remember, sir.</p> <p>24 Q. You cannot remember?</p> <p>25 A. No, sir.</p> <p style="text-align: center;">Page 27</p>
<p>1 A. You could take it that way, sir, yes.</p> <p>2 Q. Are you able to help us as to you didn't make a pocket 3 book entry about the detail of what happened?</p> <p>4 A. Because I was going to make an initial full statement.</p> <p>5 Q. Right.</p> <p>6 A. And that would be used as my first and initial notes for 7 the incident.</p> <p>8 Q. Right, and you make that clear on 9 March, in fact it is 9 your second statement but as we have seen, that the 10 first one was a rather technical one for the purposes of 11 the prosecution.</p> <p>12 The statement that you make on 9 March you refer to 13 as being your original statement, yes?</p> <p>14 A. Which tab is that?</p> <p>15 Q. It is at the end of your statement, I think.</p> <p>16 THE CHAIRMAN: He is asking which statement, I think.</p> <p>17 MR WEATHERBY: Sorry, tab 2, 9 March.</p> <p>18 Yes, the last paragraph:</p> <p>19 "At this time this statement is my only written 20 information in relation to this incident and as such are 21 my original notes."</p> <p>22 Yes?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Can you help us in a case where somebody has been shot 25 dead by a police officer on an operation that you are</p> <p style="text-align: center;">Page 26</p>	<p>1 Q. How many times have you been out on an operation where 2 somebody has been shot dead by a police officer?</p> <p>3 A. Once, sir.</p> <p>4 Q. Yes. And you really can't remember whether or who 5 instructed you not to make an account for six days?</p> <p>6 A. I can't, sir, no. There was a lot of meetings and 7 post-incident procedure and then the visit to 8 Nexus House, and it all sort of blurs into one.</p> <p>9 Q. Mr Beer has dealt with the flip chart and the visit to 10 Nexus House and I am not going to take up time by 11 dealing with that. But you have given a number of 12 answers that you cannot remember in terms of detail 13 here. It is right, isn't it, that the earlier you give 14 your account, the more reliable it is likely to be?</p> <p>15 A. From what I can remember, there was some discussion 16 about giving it 24 hours, maybe, to have full recall of 17 the events --</p> <p>18 Q. Yes.</p> <p>19 A. -- so whether that may be the case why we were told not 20 to put anything on paper straight away, I couldn't say.</p> <p>21 Q. I understand there may be an argument for having 22 a cooling off period because of the trauma of the event. 23 Maybe 24 hours, your words, but six days?</p> <p>24 A. I can only say when the statement was made, sir.</p> <p>25 Q. Yes.</p> <p style="text-align: center;">Page 28</p>

7 (Pages 25 to 28)

<p>1 I think it is right that the IPCC made clear to you 2 that you were being treated as a witness, a significant 3 witness, yes? 4 A. They may have done, sir, I can't remember. 5 Q. There is no question about you being a principal officer 6 in this scenario, was there? 7 A. Not as far as I was aware, sir, no. 8 Q. No. It is right, isn't it, that the IPCC wanted to 9 interview you about these matters? 10 A. I don't know, sir. 11 Q. You don't know? 12 A. I don't, sir, no. 13 Q. Nobody ever informed you of that fact? 14 A. No, sir. 15 MR WEATHERBY: Thank you very much. 16 THE CHAIRMAN: Ms Collins? 17 MS COLLINS: No thank you, sir. 18 THE CHAIRMAN: Ms Whyte? 19 Questions from MS WHYTE 20 MS WHYTE: U9, you cannot see me but my name, as you know, 21 is Anne Whyte and I ask questions on behalf of Greater 22 Manchester Police. I hope you can hear me? 23 A. Yes, ma'am. 24 Q. Thank you. Can you recall whether you and your fellow 25 officers were shown a photograph of the subject red Audi</p> <p style="text-align: center;">Page 29</p>	<p>1 A. Yes, ma'am. 2 Q. -- does that accord with your memory of the format of 3 the windows when you approached the vehicle in the car 4 park? 5 A. Yes, ma'am. 6 Q. You have been asked in some detail some questions by 7 Mr Thomas about how you exercise judgment in your role 8 when there is an apparent disparity of risk between the 9 subjects you are deploying against. You will recall the 10 questions asked of you this morning by Mr Thomas? 11 A. Yes, ma'am. 12 Q. And the suggestion, which I would like to develop with 13 you, that context is everything? 14 A. Yes, ma'am. 15 Q. If you have a high risk individual sitting in a car next 16 to a lower risk individual, and the assessment is that 17 they are conspiring or preparing imminently to conspire 18 to commit armed robbery. How in real-time, once you 19 have deployed from your vehicle to conduct a MASTS hard 20 stop strike, do you, if at all, individuate -- to use 21 a verb used by others -- between the risk? 22 A. We wouldn't, ma'am, we would just take each individual 23 as we find them at the time during the strike. 24 Q. Is that because (a) of the suspected criminality? 25 Conspiracy to commit armed robbery?</p> <p style="text-align: center;">Page 31</p>
<p>1 during the course of the briefing or at any stage after 2 it? 3 A. I can't remember an actual photograph of that actual 4 Audi but I think we may have seen photographs of similar 5 vehicles, that is what we generally do. 6 Q. On a long-running operation where the target vehicle has 7 remained consistently the same, would that sometimes 8 happen, that you would be shown a photograph of the 9 subject vehicle? 10 A. Yes, ma'am. 11 Q. Could I ask you, and I think I will need Mrs Shaw's 12 assistance with this, to be shown bundle O2, page 341. 13 THE CHAIRMAN: O2/341? 14 MS WHYTE: Yes, please. Thank you, sir. 15 I would like you to look at a photograph of another 16 Audi A6, Le Mans Limited Edition? 17 A. Sorry, what page again? 18 Q. It was page 641, U9. 19 THE CHAIRMAN: Sorry, I thought you said 341? 20 MS WHYTE: 641. 21 THE CHAIRMAN: 641. 22 MS WHYTE: O2/641, for the avoidance of doubt. 23 Do you have that, U9? 24 A. Yes, I do, ma'am. 25 Q. Looking at the bottom photograph on that page --</p> <p style="text-align: center;">Page 30</p>	<p>1 A. Potentially, but more geared towards the possible lack 2 of identification and timeframe. 3 Q. Also, but importantly to you, because of the real-time 4 issues? 5 A. Yes, ma'am. 6 THE CHAIRMAN: You may not know who you are looking at? 7 A. That's correct, sir, yes. 8 MS WHYTE: If you are aware that, regardless of the 9 difference apparently in risk, they are close 10 associates, would that potentially be relevant to the 11 context is everything judgment? 12 A. Yes, ma'am. 13 Q. Would the fact that they are sitting right next to each 14 other in a car be relevant to the context is everything? 15 A. Yes, ma'am. 16 Q. If, in that scenario, upon being told, and assuming they 17 have heard the command, to raise their hands, they do 18 different things, how does that affect your ability to 19 separate the apparent risks? 20 A. If the subject that we are dealing with individually at 21 that time does not comply, then we take that as 22 a potential higher risk. 23 Q. Thank you. 24 In your experience, if the tactical firearms 25 commander or the SIO have specific intelligence that</p> <p style="text-align: center;">Page 32</p>

8 (Pages 29 to 32)

<p>1 your subjects have access or will at the time of a hard 2 stop have access to firearms, is that something that you 3 would expect to be explicitly told in a firearms 4 briefing? 5 A. Yes, ma'am. 6 Q. If you are not told that, in the context of a MASTS with 7 special munitions deployment, what do you take away from 8 that as an experienced firearms officer in relation to 9 the potential risk that they might have access to 10 firearms? 11 A. It wouldn't change what we would actually do on the 12 ground. The initial threat was always the driver, 13 because they are in control of the vehicle and that may 14 cause injuries. And then everyone else taken as we find 15 them at the scene. 16 Q. Do you recall being shown aerial photographs of the 17 centre of the Culcheth during the briefing? 18 A. I am not sure if we were shown aerial photographs but we 19 were definitely shown photographs in relation to 20 Sainsbury's, yes. 21 Q. At tab 23, which is the transcript of the briefing on 22 3 March, at page 341, in the context this is a direct 23 contact -- 24 THE CHAIRMAN: He is just turning up the page. 25 MS WHYTE: I am so sorry, U9.</p> <p style="text-align: center;">Page 33</p>	<p>1 for that ideal purpose actually, yes. 2 Q. Thank you. 3 You have been asked about the distinction between 4 an orthodox or a conventional hard stop and 5 an unorthodox one. With a stop in a car park being 6 unorthodox compared to other types of stops, yes? 7 A. Yes, ma'am. 8 Q. Will you usually know with a MASTS deployment, at the 9 point of briefing, exactly where the stop will take 10 place? 11 A. No, ma'am. 12 Q. Is it common for the location of the stop to be 13 identified shortly before the stop? 14 A. Yes, ma'am, usually. 15 Q. Is that usually after State Amber has been called? 16 A. Yes, ma'am. 17 Q. Is that because until State Amber has been called it is 18 not known indeed whether a stop is going to take place? 19 A. Yes, ma'am. 20 Q. When that decision is taken the car could be in any 21 number of variable places? 22 A. Yes, ma'am. 23 Q. Is that intense variability something that you train 24 for? 25 A. Yes, we do, ma'am.</p> <p style="text-align: center;">Page 35</p>
<p>1 THE CHAIRMAN: You cannot see. 2 MS WHYTE: No. 3 A. Tab 23? 4 Q. Tab 23, it should be page 341 of the transcript of the 5 briefing you received on 3 March? 6 A. Yes, ma'am, I've got that. 7 Q. Thank you. Halfway down the page in between the two 8 hole-punches in the context of direct contact, it is 9 said: 10 "If the subjects do come to this location, they have 11 been seen to park up in this car park here and they have 12 been taking particular ... observing this area here 13 which is a secure compound." 14 A. Yes, ma'am. 15 Q. Obviously from the use of language there, whoever is 16 speaking is referring to some sort of plan, map or 17 photograph. Is that a fair assumption? 18 A. Yes, ma'am. 19 Q. Can you recall what it was? 20 A. Not offhand, ma'am, no. 21 Q. Would you receive paper copies of the PowerPoint 22 briefings to take away with you, for example, to Leigh 23 police station where you might be laid up for quite some 24 time? 25 A. There is generally the paper copies of the briefing just</p> <p style="text-align: center;">Page 34</p>	<p>1 Q. Mr Rimmer, who you were told about during the briefing, 2 was not in fact present, as you now know, but somebody 3 called Joseph Travers was? 4 A. Yes, ma'am. 5 Q. He had OPUS warnings for violence, drugs and weapons and 6 was assessed to be a Group 1 offender? 7 A. Yes, ma'am. 8 Q. And he had convictions dating back to 2003 and 2004 when 9 he was 18 and 19 for robbery and section 18 assault, all 10 right? 11 A. Yes, ma'am. 12 Q. Knowing that now and reflecting on the circumstances of 13 the briefing and what occurred in the car park, can you 14 tell us if you had known that it was Mr Travers rather 15 than Mr Rimmer whether that would have -- 16 A. No. 17 Q. -- affected any of your decision making or your approach 18 to the vehicle? 19 A. We didn't know it was Joseph Travers in the car. 20 Q. I appreciate that. 21 A. And if we did, it wouldn't have made any difference to 22 the actual strike itself. 23 Q. You have been asked about whether there were any members 24 of the public visible to you in the car park after some 25 of the engagement had taken place. Were there any</p> <p style="text-align: center;">Page 36</p>

<p>1 members of the public visible to you as you drove into 2 the car park? 3 A. I can't remember seeing anyone, ma'am. 4 Q. Did your vehicle drive in at the same average speed as 5 the alpha vehicle? 6 A. Yes, ma'am. 7 Q. Was there anything about the driving of the alpha or the 8 bravo vehicle that would draw attention as it entered 9 the car park? 10 A. I don't think there was, ma'am, no. 11 Q. Was the sole reason for you approaching the rear 12 nearside of the vehicle because you did not see a need 13 to approach the front nearside of the vehicle? 14 A. Yes, ma'am. 15 Q. Knowing what you know about the audibility of the weapon 16 used by Q9. If he had fired a shot before you exited 17 your vehicle, do you know whether you would have been 18 likely to hear it? 19 A. No, ma'am. 20 Q. No, you don't know or no, you wouldn't have heard it -- 21 it is my fault? 22 A. I may have heard it but I can't really say whether 23 I would have or not. But potentially not, my thoughts 24 were on other things at the time. 25 Q. Does the same follow if the shot had been fired as you</p> <p style="text-align: center;">Page 37</p>	<p>1 MR BEER: Sir, thank you. I think Mr Thomas would like to 2 ask a question or two, with your permission, with 3 reference to the jacket. 4 THE CHAIRMAN: Certainly. 5 MR THOMAS: Just a couple of questions. 6 THE CHAIRMAN: It has only just been produced to you. 7 Further questions from MR THOMAS 8 MR THOMAS: This is the jacket that you said you had on, or 9 similar -- 10 A. That is the jacket. 11 Q. As you described yesterday, the lapel tucks in like so, 12 yes? 13 A. Yes, sir. 14 Q. Then you said as you deployed, you just pulled the lapel 15 out? 16 A. Yes, sir. 17 Q. It is fair to describe it -- it is a bomber jacket, 18 isn't it? 19 A. Basically, sir, yes. 20 Q. So that we are clear, you were emanating from a dark 21 vehicle -- 22 A. Yes, sir. 23 Q. -- in a dark car park, you had lights on your weapons, 24 correct? 25 A. Yes.</p> <p style="text-align: center;">Page 39</p>
<p>1 were leaving the vehicle? 2 A. I suppose so, ma'am, yes. 3 MS WHYTE: Yes, thank you very much indeed. 4 Thank you, sir. 5 THE CHAIRMAN: Mr Beer, anything? 6 MR BEER: Just two points, sir. 7 Firstly we have, I think, a strike jacket that U9 8 referred to yesterday behind the scenes, I wonder 9 whether we could rise for five minutes just to show it 10 to core participants. 11 THE CHAIRMAN: Yes. Certainly. You would like to rise at 12 this stage? 13 MR BEER: Yes, just to allow them the opportunity to look at 14 it and if necessary ask any questions about it. 15 THE CHAIRMAN: Yes, certainly. 16 I will wait until Mrs Shaw has escorted the witness 17 away. 18 MR BEER: Yes. (Pause) 19 THE CHAIRMAN: Mrs Shaw, we are going to rise at this stage. 20 If you wouldn't mind escorting U9 out of the room for 21 the moment. 22 THE USHER: Certainly. 23 (11.32 am) 24 (A short adjournment) 25 (11.45 am)</p> <p style="text-align: center;">Page 38</p>	<p>1 Q. This wouldn't have been very visible, would it? 2 A. Possibly not, no. 3 MR THOMAS: No. 4 That is all I ask, sir. 5 THE CHAIRMAN: Thank you. 6 MR THOMAS: I will just leave that there. 7 Further questions from MR BEER 8 MR BEER: Just two topics from me if I may, finally. 9 Firstly you were asked questions by Ms Whyte about 10 whether you saw some aerial photographs before 11 deployment in the course of the briefing and you 12 couldn't remember. 13 A. No. 14 Q. If you look at the second volume of the general firearms 15 bundle, at tab 22, and if you look at pages 1282 -- 16 A. Yes. 17 Q. -- and 1286. 18 A. Yes. 19 Q. We understand this to be the PowerPoint that you were 20 shown. 21 A. Looks like it, yes. 22 Q. It looks as if you were shown some aerial photographs as 23 either X7 or the superintendent were talking you through 24 the briefing? 25 A. It would have been X7.</p> <p style="text-align: center;">Page 40</p>

<p>1 Q. It would have been X7, would it?</p> <p>2 A. Yes.</p> <p>3 Q. You mentioned, I think, that sometimes copies would be</p> <p>4 available for removal and retention so you could take</p> <p>5 them away?</p> <p>6 A. Usually one per car.</p> <p>7 Q. Just to see some evidence of that, can you take out</p> <p>8 bundle O1.</p> <p>9 THE CHAIRMAN: I think there are several --</p> <p>10 MR BEER: 180, please.</p> <p>11 THE CHAIRMAN: 180?</p> <p>12 MR BEER: Yes.</p> <p>13 Are you there?</p> <p>14 A. Yes, sir.</p> <p>15 Q. These are photographs of the contents of the alpha</p> <p>16 vehicle, the silver Audi. Can you see at the bottom of</p> <p>17 180, I think that was tucked in on the photograph in the</p> <p>18 top of 180, can you see that?</p> <p>19 A. Yes, sir, I can.</p> <p>20 Q. Then over the page at 181, some more pages of it.</p> <p>21 A. Yes, sir.</p> <p>22 Q. Yes? Is that the kind of thing -- we don't have</p> <p>23 photographs I think of the interior of the bravo and</p> <p>24 charlie cars, only the alpha car, but is that the kind</p> <p>25 of thing, a pack printed of the briefing or parts of</p> <p style="text-align: center;">Page 41</p>	<p>1 a brisk pace, going in the diagonal direction that you</p> <p>2 have described from the rear offside of the S-Max to the</p> <p>3 rear nearside of the subject vehicle.</p> <p>4 A. Yes, sir.</p> <p>5 Q. The windscreen would have been on your left-hand side,</p> <p>6 sort of diagonally here?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Did you see a bullet hole in it like that?</p> <p>9 A. No, sir, I did not.</p> <p>10 Q. You didn't?</p> <p>11 A. No, I didn't see the windscreen. I was focusing on the</p> <p>12 nearside of the vehicle.</p> <p>13 Q. You saw the absence of the passenger by looking through</p> <p>14 the front windscreen -- the front side window?</p> <p>15 A. Side window, yes sir.</p> <p>16 Q. I think, looking at photographs of where the cars were</p> <p>17 positioned, the line that you took would have afforded</p> <p>18 you a view through the front windscreen not head on but</p> <p>19 diagonally to the side?</p> <p>20 A. Possibly, sir, yes. If the photographs show that.</p> <p>21 Q. If you look in your bundle, please, at tab 28, page 567.</p> <p>22 A. Sorry, which bundle?</p> <p>23 Q. Your bundle -- sorry, firearms bundle number 2, tab 28,</p> <p>24 page 567.</p> <p>25 THE CHAIRMAN: Yes.</p> <p style="text-align: center;">Page 43</p>
<p>1 it --</p> <p>2 A. Yes, sir.</p> <p>3 Q. -- you carry with you? Thank you.</p> <p>4 The second thing relates to after you exited the</p> <p>5 vehicle, what you saw and heard. Can you look, please,</p> <p>6 in the same bundle, at, and it might be quite difficult</p> <p>7 to find because it is red printing on a red car, it is</p> <p>8 382. If it helps it is a photograph like that.</p> <p>9 (Indicates)</p> <p>10 THE CHAIRMAN: 382?</p> <p>11 MR BEER: Yes.</p> <p>12 A. It is not in this bundle.</p> <p>13 THE CHAIRMAN: It will be in a separate file. It is the</p> <p>14 next file in O1, isn't it.</p> <p>15 MR BEER: I don't know, mine seem to be arranged differently</p> <p>16 to yours. It is still O1 --</p> <p>17 THE CHAIRMAN: I apologise, I have already forgotten the</p> <p>18 number.</p> <p>19 MR BEER: 382.</p> <p>20 THE CHAIRMAN: Yes. Right.</p> <p>21 Yes, the way to do it I think is to find 385.</p> <p>22 MR BEER: I think the officer has it.</p> <p>23 A. I've got it, sir.</p> <p>24 THE CHAIRMAN: Yes.</p> <p>25 MR BEER: When you walked past, I think you said walk at</p> <p style="text-align: center;">Page 42</p>	<p>1 A. Yes, I have got that.</p> <p>2 Q. I am looking at the bottom photograph in particular.</p> <p>3 I suppose it depends how closely you stayed, or you went</p> <p>4 towards the rear of the green vehicle, or apparently</p> <p>5 green vehicle, in the parking space but one from the</p> <p>6 Audi. Do you remember whether you went in a straight</p> <p>7 line towards the front of the red Audi, and then turned</p> <p>8 right as it were --</p> <p>9 A. No.</p> <p>10 Q. Okay, you tell us what you did?</p> <p>11 A. As I said, I alighted from the offside of my vehicle and</p> <p>12 in a straight line roughly in the direction of the</p> <p>13 B pillar, which is the centre between the front and rear</p> <p>14 door, and that is where I headed, a straight line.</p> <p>15 Q. I think that, looking at this photograph certainly,</p> <p>16 would have afforded you a view through the front</p> <p>17 windscreen at an oblique angle?</p> <p>18 A. If I was looking at the windscreen I would have seen it,</p> <p>19 yes.</p> <p>20 Q. Did you look at the windscreen?</p> <p>21 A. No, sir.</p> <p>22 Q. Why was that, wouldn't that be the place to look because</p> <p>23 you would be able to see the driver and passenger in the</p> <p>24 front?</p> <p>25 A. Not the angle I was going at, I took at the nearside</p> <p style="text-align: center;">Page 44</p>

11 (Pages 41 to 44)

<p>1 which was my job to go towards and deal with, that is 2 where my focus was on, the nearside of the vehicle not 3 the windscreen. 4 Q. How close to the front passenger window did you get? 5 A. I would say I was a matter of half a foot away. 6 Q. So within touching distance? 7 A. Oh yes, yes. 8 Q. When you looked in and saw that there was no passenger, 9 did you see that there was a driver? 10 A. No, sir. 11 Q. What, the driver had gone? 12 A. No. I could see there was no one in the passenger seat 13 on approach to the vehicle. 14 Q. Yes. 15 A. So therefore I negated the front seat completely at that 16 point prior to actually reaching the vehicle and then 17 went straight for the tinted window at the rear. 18 Q. If there was no passenger in the front seat, your eyes 19 would naturally be able to see beyond there to who, if 20 anyone, was in the driver's seat? 21 A. I probably did see him subconsciously, but as I say my 22 focus was on anyone in the front passenger seat, failing 23 that the rear and my side of the vehicle. 24 Q. Is the position this, you cannot now recall whether or 25 not you saw the driver?</p> <p style="text-align: center;">Page 45</p>	<p>1 A. I am assuming, so, sir, yes. You would have to ask him. 2 Q. Yes. 3 If you went into the vehicle in any way, for example 4 to pull somebody out, you would enter his arc, wouldn't 5 you? 6 A. Potentially, sir, yes. 7 Q. But you didn't know that he was there, nor what the 8 limits of his arc were? 9 A. No, sir. 10 MR BEER: Yes, thank you very much indeed. 11 THE CHAIRMAN: Thank you, U9. 12 Thank you very much for helping the Inquiry. That 13 is the end of your evidence now. If you would just like 14 to hang on there, Mrs Shaw will come and escort you 15 away. 16 Mr Beer, I understand that the next witness is in 17 a room nearby -- a different room from the room which 18 this witness has occupied when not in his room -- he can 19 be brought in quite quickly. There is no need for me to 20 rise, I will just stay here. 21 Can you just confirm who the next officer is? 22 MR BEER: X9, sir. 23 THE CHAIRMAN: Thank you. Thank you very much. 24 (The witness withdrew) 25</p> <p style="text-align: center;">Page 47</p>
<p>1 A. I probably did, but I can't recall it. 2 Q. You didn't look at the front windscreen so you cannot 3 tell us whether this bullet hole was there or not? 4 A. That's correct, sir. 5 Q. Were you aware of any officer in the rear offside seat 6 of the alpha vehicle? 7 A. No, sir. 8 Q. Did you see whether the window of that vehicle was up or 9 down? 10 A. I didn't, sir, no. 11 Q. Did you see whether there was a gun protruding through 12 it? 13 A. No, sir. 14 Q. Did you know at this time that the plan was that Q9 was 15 to be sitting in the rear seat of the vehicle, as I have 16 just described, providing cover? 17 A. No, sir. 18 Q. So when you approached the vehicle, you didn't know that 19 you were walking into his arc? 20 A. I wouldn't have been in his arc, sir. 21 Q. Why not? 22 A. Because I would imagine he would have been pointing at 23 the vehicle, not towards the side. 24 Q. Okay, so his arc would have been limited by the two 25 sides of the vehicle, would it?</p> <p style="text-align: center;">Page 46</p>	<p>1 X9 (sworn) 2 THE CHAIRMAN: X9, I am not going to invite you to sit down, 3 simply because I think it may be harder for those who 4 are entitled to see you to do so if you do, and it will 5 almost certainly be harder for them to hear you. If you 6 do get uncomfortable and need a break at any stage just 7 let me know. 8 A. Thank you, sir. 9 Questions from MR BEER 10 MR BEER: X9, my name is Jason Beer and I ask questions on 11 behalf of the Inquiry. In front of you there should be 12 two things. 13 A cypher key, can you see that? 14 A. Yes, indeed. 15 Q. If at any stage you wish to refer to other police 16 officers, just check to see whether they benefit from 17 an anonymity order and if so refer to them by their 18 cypher rather than their real name, please. 19 A. Yes, indeed. 20 Q. Secondly, there should be a bundle in your anonymous 21 name. If you open it, please, at tab 1, I am going to 22 ask you about four witness statements. 23 Firstly, tab 1, can you see a witness statement 24 dated 9 March 2012 -- 25 A. Yes.</p> <p style="text-align: center;">Page 48</p>

<p>1 Q. -- in your name?</p> <p>2 A. Yes, indeed.</p> <p>3 Q. At tab 2, can you see a witness statement dated</p> <p>4 28 May 2012?</p> <p>5 A. Indeed, yes.</p> <p>6 Q. I am going to skip over tabs 3 and 4, which are</p> <p>7 concerned with special measures.</p> <p>8 Tab 5, can you see a witness statement in your name</p> <p>9 dated 21 August 2014?</p> <p>10 A. Again, yes.</p> <p>11 Q. Lastly, more recently, a witness statement dated</p> <p>12 21 December 2016.</p> <p>13 A. Yes, got all those.</p> <p>14 Q. Are the contents of those four witness statements true</p> <p>15 to the best of your knowledge and belief?</p> <p>16 A. Indeed, yes.</p> <p>17 Q. Thank you.</p> <p>18 Can you help us with some background as far as your</p> <p>19 police career is concerned, when did you join the police</p> <p>20 service?</p> <p>21 A. I have been in the police service 23 years now.</p> <p>22 Q. So?</p> <p>23 A. 1994.</p> <p>24 Q. 1994. You are still serving, is that right?</p> <p>25 A. I am indeed, yes.</p> <p style="text-align: center;">Page 49</p>	<p>1 Q. Do you remember it now?</p> <p>2 A. Any specific dates, no, I can't remember any specific</p> <p>3 training dates.</p> <p>4 Q. Had you undergone the CTSFO course?</p> <p>5 A. Yes.</p> <p>6 Q. Can you remember when you did that?</p> <p>7 A. 2011.</p> <p>8 Q. Were you trained in the use of any special munitions?</p> <p>9 A. Yes, I was indeed.</p> <p>10 Q. Which, please?</p> <p>11 A. CS incapacitant, the Hatton and RIP rounds.</p> <p>12 Q. The CS incapacitant, do you mean the CSDC, the dispersal</p> <p>13 canister rather than the spray?</p> <p>14 A. Indeed, yes. Well both actually, as well as the use of</p> <p>15 the Hatton round and RIP rounds, which are delivered</p> <p>16 from the shotgun.</p> <p>17 Q. As an AFO, if you had to describe it, what would you say</p> <p>18 was the document which set out your roles,</p> <p>19 responsibilities, duties, how you were to perform them?</p> <p>20 A. I think you are referring to the manual of guidance, the</p> <p>21 Police Use of Firearms.</p> <p>22 Q. Were you fully familiar with its contents?</p> <p>23 A. I am familiar with the document.</p> <p>24 Q. Yes, I am not talking about now, necessarily. Are you</p> <p>25 still in firearms now?</p> <p style="text-align: center;">Page 51</p>
<p>1 Q. What rank and role did you hold and perform</p> <p>2 in March 2012?</p> <p>3 A. I was a sergeant, still am, on the Tactical Firearms</p> <p>4 Unit. I was an AFO at that stage, authorised firearms</p> <p>5 officer.</p> <p>6 Q. How long had you been an AFO?</p> <p>7 A. I joined the unit in 2008, and I think I passed my</p> <p>8 course in June, came on to the unit in the October 2008.</p> <p>9 I spent a couple of years as an ARV supervisor and then</p> <p>10 had secondments into the firearms operations team and</p> <p>11 subsequently went in there full time.</p> <p>12 Q. You joined and were fully qualified as an AFO from</p> <p>13 October 2008 onwards?</p> <p>14 A. Yes.</p> <p>15 Q. Did you subsequently undergo periodic refresher training</p> <p>16 as an AFO?</p> <p>17 A. Yes, indeed.</p> <p>18 Q. Were you trained in MASTS?</p> <p>19 A. Yes, I was. I am.</p> <p>20 Q. When did you undergo your MASTS training -- first</p> <p>21 undergo MASTS training, can you remember?</p> <p>22 A. I can't remember, I can't recall.</p> <p>23 Q. Okay. Do you remember attending refresher training for</p> <p>24 MASTS?</p> <p>25 A. Yes, I will have done.</p> <p style="text-align: center;">Page 50</p>	<p>1 A. I am indeed, yes.</p> <p>2 Q. Back in March 2012, tell us how frequently you would</p> <p>3 look at it, if at all?</p> <p>4 A. I can't recall going back -- how often I would have</p> <p>5 referred to it. I am aware of the document.</p> <p>6 Q. Would it be fair to say that you operated by reference</p> <p>7 to your training rather than reading the 250-odd page</p> <p>8 document?</p> <p>9 A. I think it is fair to say that is the case, yes.</p> <p>10 Q. In terms of MASTS, was there any particular document</p> <p>11 that you were aware of, back then, that governed the way</p> <p>12 in which a MASTS operation should be conducted?</p> <p>13 A. I believe GMP would have had its own standard operating</p> <p>14 procedure or training curriculum in relation to the</p> <p>15 MASTS tactic.</p> <p>16 Q. You are aware that there may have been an SOP. Is that</p> <p>17 the kind of document that you would read?</p> <p>18 A. Again, no, not necessarily.</p> <p>19 Q. Again, it would be more training that would tell you how</p> <p>20 to do things, rather than a written document such as</p> <p>21 an SOP?</p> <p>22 A. Yes. I think that is fair again, sir, yes.</p> <p>23 Q. Again for specialist munitions, your learning and</p> <p>24 practice was dictated by training rather than reading</p> <p>25 a dry SOP?</p> <p style="text-align: center;">Page 52</p>

<p>1 A. Training and operational exposure.</p> <p>2 Q. Yes, thank you.</p> <p>3 By March 2012 did you consider yourself</p> <p>4 occupationally and operationally competent in the role</p> <p>5 of an AFO in a MASTS operation?</p> <p>6 A. Yes, I would say so.</p> <p>7 Q. By March 2012, can you give us a pen picture, please, of</p> <p>8 the nature and regularity of the MASTS deployments that</p> <p>9 you would have been involved in in the four years since</p> <p>10 you had joined the unit?</p> <p>11 A. It was a regularly utilised tactic by GMP. I would be</p> <p>12 hazarding a guess at how many times I was deployed on</p> <p>13 that, I would say somewhere in the region of 15 to 20</p> <p>14 times over my period with them.</p> <p>15 Q. In fact it is about three and a half years, isn't it,</p> <p>16 October 2008 to March 2012?</p> <p>17 A. Yes, I am not sure at what point I actually became</p> <p>18 trained or competent in the MASTS tactic, I'd have to --</p> <p>19 THE CHAIRMAN: It may have been later?</p> <p>20 A. Yes, it would have been. It is not something that you</p> <p>21 would necessarily be trained in immediately as an AFO.</p> <p>22 MR BEER: If we look, please, to help you on that, at tab 10</p> <p>23 of your bundle.</p> <p>24 A. Tab 10, yes, got that.</p> <p>25 Q. I think this is an extract from EFire, your training</p> <p style="text-align: center;">Page 53</p>	<p>1 THE CHAIRMAN: Oh yes, 435 minutes.</p> <p>2 MR BEER: It looks like certainly that is described</p> <p>3 differently, in that it is referred to as a refresher.</p> <p>4 Then the next MASTS one I can see is 24 May 2010, on</p> <p>5 page 3 of this document.</p> <p>6 THE CHAIRMAN: Yes.</p> <p>7 MR BEER: Which is an upskilling course and then --</p> <p>8 A. Sorry, what page is that?</p> <p>9 THE CHAIRMAN: That is the next page, 1393 in the bottom</p> <p>10 right.</p> <p>11 A. Thank you, sir.</p> <p>12 MR BEER: It is about the sixth entry in, fifth entry in</p> <p>13 from the top.</p> <p>14 A. Yes, got that, yes.</p> <p>15 Q. Then the next MASTS refresher, 17 March 2011, on</p> <p>16 page 849, 1394 or page 4, depending which you wish to</p> <p>17 use.</p> <p>18 A. Yes.</p> <p>19 Q. Can you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Then I think lastly for MASTS another refresher</p> <p>22 in November 2011?</p> <p>23 A. Again, yes.</p> <p>24 Q. It looks like there was a consistent refresher in</p> <p>25 the March of each of 2009, 2010 and 2011. And that you</p> <p style="text-align: center;">Page 55</p>
<p>1 record. Can you see an entry for 20 April 2009 --</p> <p>2 A. Yes.</p> <p>3 Q. -- for MASTS, which is I think the earliest reference</p> <p>4 I can see.</p> <p>5 A. That is the earliest one I can make out as well.</p> <p>6 Q. It appears to have been a four-day, or perhaps</p> <p>7 a five-day course -- no, no, I am so sorry, a one-day</p> <p>8 course, does that sound right for MASTS?</p> <p>9 A. No. Not necessarily for the initial course.</p> <p>10 Q. It would be longer than that?</p> <p>11 A. Yes, sir, yes.</p> <p>12 THE CHAIRMAN: 510 minutes, isn't it, Mr Beer?</p> <p>13 A. That sounds like a refresher.</p> <p>14 MR BEER: That sounds more like a refresher, does it?</p> <p>15 A. To me, just looking at the hours.</p> <p>16 Q. Just have a look, can you see any courses above that</p> <p>17 that might be a MASTS course?</p> <p>18 A. I can't see any offhand.</p> <p>19 Q. There doesn't appear to be any, does there?</p> <p>20 A. No.</p> <p>21 Q. If you look two pages on, on page 845, there is</p> <p>22 a refresher, which I think is the next reference I can</p> <p>23 see to MASTS, on 11 March 2010, which would have been</p> <p>24 a year later. Can you see that?</p> <p>25 A. Yes, I can, yes.</p> <p style="text-align: center;">Page 54</p>	<p>1 had certainly been on a course lasting 510 minutes, so</p> <p>2 sort of nine hours or so on 20 April. You think about</p> <p>3 15, 20 actual deployments?</p> <p>4 A. Hazarding a guess, you asked me for a ballpark figure</p> <p>5 and that's --</p> <p>6 Q. When we are talking about "deployments", do you mean</p> <p>7 that some intervention occurred in the course of the</p> <p>8 deployment?</p> <p>9 A. Well, if you are looking at where we have actually been</p> <p>10 briefed but not necessarily deployed, probably more than</p> <p>11 that.</p> <p>12 Q. The 15 to 20 figure is some action taken in the course</p> <p>13 of deployment?</p> <p>14 A. Yes, that -- yes, certainly leaving the unit in a MASTS</p> <p>15 configuration at the very least.</p> <p>16 Q. What is your understanding of the MASTS option, what is</p> <p>17 it?</p> <p>18 A. The mobile armed support to surveillance, is a -- it is</p> <p>19 a platform from which the AFOs in a covert capacity can</p> <p>20 follow on to a surveillance team, surveillance convoy,</p> <p>21 can remain just outside the surveillance bubble and be</p> <p>22 in a position to support the surveillance team on the</p> <p>23 ground or if information and intelligence develops, can</p> <p>24 be in a position to perform some kind of</p> <p>25 interdiction/interception, either on foot, in a vehicle</p> <p style="text-align: center;">Page 56</p>

1 **or maybe from premises.**
 2 Q. Did you rehearse, in the context of MASTS operations,
 3 vehicle stops?
 4 **A. Indeed, yes.**
 5 Q. With what frequency would you rehearse those, would it
 6 be on this yearly basis that we have seen the reference
 7 to MASTS in your training records or would it be more
 8 frequently than that?
 9 **A. I would say it was more frequent than that.**
 10 Q. We have just heard evidence from U9 and I think he in
 11 his own words described an interdiction on a stationary
 12 vehicle parked in a car park as an unorthodox strike.
 13 The more usual was in relation to a static or moving car
 14 that was on the road.
 15 **A. I think the terminology -- I don't mean to correct him**
 16 **here, is actually "conventional" or "unconventional".**
 17 Q. Right.
 18 **A. Conventional to me would indicate either the alpha car**
 19 **going nearside or offside in front of the subject**
 20 **vehicle, with the bravo car coming directly up behind**
 21 **that subject vehicle and blocking it. That is how**
 22 **I would envisage a conventional stop.**
 23 Q. That is a two-vehicle --
 24 **A. At the very least, yes, sorry, yes. That is where the**
 25 **block comes in. The charlie car and/or if we have the**

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1 **delta car as well they would fill in where the road**
 2 **situation allows.**
 3 THE CHAIRMAN: Is the position in relation to a stationary
 4 car in a car park, what you are disagreeing with over U9
 5 is the terminology, would you say it was
 6 "unconventional" but you wouldn't use the word
 7 "unorthodox"?
 8 **A. No.**
 9 MR BEER: So unconventional. Did you practise this
 10 unconventional interdiction?
 11 **A. We practised, we rehearsed a number of variables,**
 12 **unconventional and conventional variables, apologies,**
 13 **and that could be anything from dealing with a subject**
 14 **vehicle coming head on to you, to one placed in a car**
 15 **park, to one in a line of traffic, et cetera. But**
 16 **obviously the variables go on forever, really.**
 17 Q. Did you practise the unconventional --
 18 **A. Yes, that is part of your training.**
 19 Q. The stop we are talking about.
 20 How frequently will you have done that?
 21 **A. Again, generally as often as the training occurs, you**
 22 **will refresh yourself on a conventional nearside,**
 23 **conventional offside, et cetera and then look at**
 24 **a number of unconventional options.**
 25 Q. Yes, would that be with the kind of frequency that we

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1 have seen in the records there?
 2 **A. Yes.**
 3 Q. I think once a year in some years and then twice a year
 4 in other years?
 5 **A. Yes, I would certainly say from recollection we seem to**
 6 **do more training than we have there but --**
 7 Q. Would you practice these vehicle stops other than on
 8 MASTS refreshers?
 9 **A. No. Because the training would be specifically labelled**
 10 **as MASTS refresher training.**
 11 Q. In relation to the unconventional, for example, and we
 12 have seen some PowerPoint presentations I think from
 13 2010 on MASTS refresher training, saying that one
 14 unconventional stop would be of a vehicle in a car park.
 15 Did you practise interventions on a parked car in a car
 16 park?
 17 **A. Yes, we will have done, yes.**
 18 Q. Within the unconventional bracket, was there
 19 a conventional way of interceding?
 20 **A. No, because the position of that car within a car park,**
 21 **there are so many variables anyway, the layout of the**
 22 **car park, again, adds to that variation. It is a case**
 23 **of finding work and filling it, that is basically your**
 24 **guidance on that.**
 25 Q. Presumably that is because it being a car park, it can

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1 be blocked on one, two or three sides?
 2 **A. You can have obstructions certainly to your access and**
 3 **egress from the vehicle on a number of sides.**
 4 Q. Did you practise side-on interventions, ie where you
 5 would T-bone the subject vehicle, and head-on
 6 interventions where you would come head to head?
 7 **A. Yes.**
 8 Q. And side on to the subject vehicle's front, so it would
 9 be T-boning you?
 10 **A. Yes, I think those are some of the variables that we**
 11 **will have looked at and considered in training.**
 12 Q. Your memory is that it was a bit more frequently than
 13 a year, which is perhaps what the record suggests?
 14 **A. Yes. I could be completely wrong on that front but it**
 15 **is an advanced tactic and my recollection is that we try**
 16 **and train, rehearse, practice that quite frequently.**
 17 Q. In relation to CSDC, can you remember when you were
 18 first trained in its use?
 19 **A. No, I am sorry.**
 20 Q. If we look at tab 10, please.
 21 Can you help to identify any of the courses,
 22 refreshers or training days that may refer to CSDC, or
 23 would it have been in the context of MASTS again?
 24 **A. Sorry, I am just casting my eye down here.**
 25 THE CHAIRMAN: Take your time.

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1 MR BEER: Yes, of course, take your time.
 2 **A. Thank you. (Pause)**
 3 **I certainly can't see anything that is specifically**
 4 **listed as a CSDC.**
 5 Q. Or even special munitions?
 6 **A. Or special munitions training day. So I would imagine,**
 7 **and normally it would be within the sphere of the MASTS**
 8 **training day.**
 9 Q. Okay.
 10 As I say, the first reference we have to that is
 11 20 April 2009.
 12 **A. Yes.**
 13 Q. What was your understanding of the purpose of the use of
 14 CSDC when it was used in the context of a strike on
 15 a vehicle?
 16 **A. My understanding, my belief of it, it was first and**
 17 **foremost it was a distraction. Because the process of**
 18 **delivering the CSDC into the vehicle normally follows**
 19 **the process of a window being broken, which is obviously**
 20 **a distraction in itself.**
 21 **The CS canister being delivered into the vehicle,**
 22 **again it is a further distraction and then the CS having**
 23 **its effect on the occupants of the vehicle, which is**
 24 **an incapacitant or a further distraction from those**
 25 **officers who are in the process of containing that**

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1 **vehicle.**
 2 Q. It is a distraction from what?
 3 **A. It is a distraction from the subjects, to prevent them**
 4 **from taking aim if they have a weapon, from**
 5 **concentrating on the officers who are at this point**
 6 **moving on, moving into close proximity to that subject**
 7 **vehicle and are at their most vulnerable.**
 8 Q. It is a distraction that seeks to prevent or to diminish
 9 the subjects' capability of harming police officers or
 10 members of the public?
 11 **A. Yes, because the intention is to draw their attention**
 12 **away from those officers to the item that has been**
 13 **delivered.**
 14 Q. Would you also recognise that it being a distraction, it
 15 would also distract the subjects from being able to
 16 comply or fully to comply with instructions that they
 17 were being given?
 18 **A. Not necessarily, no.**
 19 Q. Why?
 20 **A. Because the purpose of the canister, as I say, was to --**
 21 **it is to be delivered into the vehicle at the optimal,**
 22 **at the point where the other officers are still in the**
 23 **process of containing that vehicle and not necessarily**
 24 **in a position to start delivering commands to the**
 25 **subjects in the vehicle and/or removing them from that.**

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1 Q. What about in a different situation, where almost
 2 immediately upon arrival at a scene an officer gave
 3 a command of, "Armed police, show me your hands" before
 4 anyone had discharged the CSDC, yes? And was continuing
 5 to say "Show me your hands, show me your hands". Do you
 6 think the CSDC, as well as distracting that subject from
 7 causing harm, it might interfere with their ability to
 8 comply with that officer's instructions?
 9 **A. No, I don't think so. Obviously the window being**
 10 **smashed facilitates the communication from the persons**
 11 **outside to inside the vehicle and the CS dispersal**
 12 **canister does not go off with any particular noise as**
 13 **such, it is merely the contents that are being emptied**
 14 **under pressure into the vehicle, so it shouldn't have**
 15 **any --**
 16 Q. Okay, so the discharge of the CS simultaneously
 17 distracts the subject from doing anything to, it is
 18 hoped, harm a police officer, but improves their ability
 19 to listen to instructions?
 20 **A. I couldn't say it necessarily improves their hearing,**
 21 **but certainly --**
 22 Q. I thought that is what you were suggesting by the
 23 breaking the window --
 24 **A. Sorry, yes, the breaking of the window, yes, not**
 25 **necessarily the CS incapacitant having its effect, but**

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1 **yes, the breaking of the window.**
 2 Q. Was the intention, in your understanding, of the
 3 discharge of the CSDC to incapacitate the occupants
 4 within a vehicle?
 5 **A. Yes.**
 6 Q. And to remain in the vehicle, incapacitated, until
 7 police officers took them out?
 8 **A. Yes, the whole purpose of that particular tactic and the**
 9 **tactic we deployed on the day is that of an immediate**
 10 **extraction.**
 11 Q. That is a slightly different thing. Was the purpose of
 12 the discharge of CS, in your understanding, into
 13 a vehicle which contained people to incapacitate the
 14 occupants so that they remained in the vehicle
 15 incapacitated until police officers took them out?
 16 **A. Sorry, I probably did misunderstand your question there.**
 17 **Yes, the purpose was to incapacitate them and they would**
 18 **have been -- they would have remained in the vehicle**
 19 **until we were in a position to remove them from it. Our**
 20 **surrounding of the vehicle and being directly against**
 21 **the doors would keep them in the vehicle until we were**
 22 **at a point when we were ready to remove them, extract**
 23 **them from the vehicle.**
 24 THE CHAIRMAN: The purpose of incapacitating them was to
 25 facilitate that, in other words to keep them inside the

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<p>1 vehicle until such time as the officers were in 2 a position to extract them -- 3 A. Indeed, sir, yes. 4 THE CHAIRMAN: -- am I right? 5 A. Yes. 6 THE CHAIRMAN: Thank you. 7 Sorry, Mr Beer. 8 MR BEER: Yes. 9 Can we look, please, at tab 12, of your bundle. 10 A. Yes. 11 Q. Look, please, at page 353. I am going to explore some 12 broader questions in a moment about how all this came 13 about, I just want to ask you something specific in the 14 light of the answers you have just given. 15 Can you see an email at the foot of the page there 16 from you at 4.55 on 29 October 2008, yes. 17 A. Yes, got that. 18 Q. To a group of people including Chief Inspector 19 Brian Davies, yes? 20 A. That's right, yes. 21 Q. You say: 22 "Gents, I am formulating some thoughts and issues 23 that may assist when seeking authority for special 24 munitions in the future. Please cast your eye over the 25 attached. [Over the page to 354] I welcome any</p> <p style="text-align: center;">Page 65</p>	<p>1 "(b) can produce an almost uncontrollable desire to 2 get out of a contaminated area." 3 A. Yes. 4 Q. Which seems to be the opposite of what you were saying 5 earlier, that the intention was to keep them where they 6 are, incapacitated, rather than expose them to 7 a chemical that introduced an uncontrollable desire to 8 get out of a contaminated area. 9 Can you help us with, firstly, which accurately 10 represents your understanding? 11 A. Certainly the effects of CS will do what it says there 12 on 354B, will produce an almost uncontrollable desire to 13 get out of a contaminated area. 14 Q. I thought you were just saying that the purpose is to 15 keep them in, incapacitated, until police officers 16 extracted them? 17 A. Yes, that is -- one of the effects of CS, is what is 18 obviously written down here. The purpose of delivering 19 it within the MASTS tactic and our containment of that 20 vehicle on foot keeps them in the vehicle until we are 21 ready to remove them from it. 22 Q. Having asked you about that line, I just want to look at 23 the circumstances in which this document came to be 24 created. 25 Can we, please, look at tab 6 in your bundle, which</p> <p style="text-align: center;">Page 67</p>
<p>1 constructive feedback or ideas." 2 Then we can see the attachment is "CS munitions". 3 Yes? 4 A. Yes, got that. 5 Q. Then if we go on to 354A, do you have that? 6 A. I have, yes. 7 Q. We can see what the attachment was between 354A, B, C 8 and D, so a four-page document. That is your document 9 that you drafted? 10 A. I believe it is, yes. 11 Q. Sorry? 12 A. Yes, I believe it is. 13 Q. Yes. 14 I just want to ask you about a part of it on 354B. 15 Can you see in the middle of the page between the 16 hole-punches, under the red writing: 17 "Tactical options may include use to induce persons 18 to leave premises or vehicle, what are we hoping to 19 achieve with their use! The characteristics and effects 20 of CS in quantity and in an enclosed space should reduce 21 a person's ability of offensive and coordinated action." 22 Which I think is what you were saying earlier; is 23 that right? 24 A. Yes, I believe is that what I was alluding to, yes. 25 Q. But then:</p> <p style="text-align: center;">Page 66</p>	<p>1 is a witness statement dated December just last year, 2 made at I think the request of GMP's Operation Idris. 3 Yes? 4 A. Yes. 5 Q. In paragraph 2 you say that: 6 "Somebody from Operation Idris showed me two 7 documents, 'The senior officers' guide and instructions 8 BD11' ..." 9 And a number of emails between you and Chief 10 Inspector Davies, BD12. You say in paragraph 3: 11 "After reviewing these documents I can confirm that 12 on 23 October 2008 Chief Inspector Davies asked me for 13 assistance in preparing this guide in relation to the 14 following ..." 15 Then you set out a list of things. 16 If we flick back to tab 12, and look at page 353. 17 A. Yes. 18 Q. That is I think the first email that we see in the 19 chain. It is dated 29 October 2008, rather than 20 23 October 2008, and is an email from you to Mr Davies, 21 rather than from him to you. I am just wondering where 22 you obtained the date and the information that Mr Davies 23 asked you on 23rd to do those things? 24 A. My apologies, I am just reading through the preceding 25 emails, whether I have just --</p> <p style="text-align: center;">Page 68</p>

17 (Pages 65 to 68)

1 Q. Quite right.
 2 THE CHAIRMAN: Take your time.
 3 MR BEER: 351.
 4 I think they are arranged in --
 5 **A. That is why I have referred to the 23rd.**
 6 Q. Ms Whyte helpfully points out, 351 to 352.
 7 **A. Right, I think I will -- I have been referring to --**
 8 Q. To that email?
 9 **A. Page 351.**
 10 Q. Yes, to 352?
 11 **A. Yes, sorry, 351 to 352 where it says just above "X9,**
 12 **23/10/2008 9.28":**
 13 **"Following on from a meeting with ACC Thompson**
 14 **yesterday he has requested that work is done asap in**
 15 **three distinct areas."**
 16 **I think that is what I must have been referring to.**
 17 Q. He says, "The areas are ..." and he sets them out.
 18 **A. Yes.**
 19 Q. Then over the page, if you just read it to yourself,
 20 yes. He says to you:
 21 "Please pull this together with some key people in
 22 the office by Wednesday, 29 October."
 23 Yes? I think you complied with his deadline,
 24 because you replied on 29 October as we can see.
 25 Do you know why you were selected to write a paper

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1 for the benefit of gold and silvers about the MASTS
 2 tactic and the use in particular of special munitions
 3 and CSD in particular?
 4 **A. In a word, no, I don't recall why I was specifically**
 5 **chosen.**
 6 Q. In October 2008 I think you would have been a newly
 7 qualified AFO?
 8 **A. Yes, yes.**
 9 Q. Fresh in the unit.
 10 **A. Yes.**
 11 Q. On the course records, I don't think you -- certainly
 12 the ones we have, it was to be another six months before
 13 you went on the MASTS training, wasn't it?
 14 **A. If indeed that training record is correct.**
 15 Q. Yes, we have heard some other evidence and are to hear
 16 some other evidence that GMP's training record keeping
 17 was suboptimal.
 18 **A. That might well be the case with this, I am afraid, it**
 19 **might well be out of --**
 20 Q. Again, can you remember why you of all people, without
 21 being disrespectful to you, were picked to write a paper
 22 on this subject when you were sort of the new boy in the
 23 unit?
 24 **A. I follow your drift, I think I see where you are coming**
 25 **from. No, again, I am sorry I cannot give you an answer**

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1 **as to why I was specifically chosen.**
 2 Q. Does it follow that the paper that you wrote, that we
 3 have looked at at tab 12, wouldn't have been based on
 4 any personal operational experience of having used
 5 MASTS?
 6 **A. I would be highly surprised if I hadn't done anything.**
 7 **I know we are trying to establish where my initial**
 8 **training took place and subsequent refresher training,**
 9 **like I say going back to the training records, that**
 10 **first one doesn't seem to reflect a true representation**
 11 **of a MASTS training course, which tends to take place**
 12 **over a number of days, rather than just on one day. So**
 13 **I am at a bit of a loss as to -- I can't give you**
 14 **an exact answer whether I would have had some**
 15 **operational experience at that point or not.**
 16 Q. Okay, if we go back to tab 12 then at 354, A to D,
 17 ie the paper.
 18 **A. Yes.**
 19 **Sorry, my apologies, I am a bit lost.**
 20 Q. Tab 12, 354A.
 21 **A. Yes.**
 22 Q. Can we look at 354C in particular. Can you see under
 23 "Rationale", and I think this is focused only on CSDC,
 24 you set out I think 17 reasons for the use of CSDC or
 25 the authorisation of the use of CSDC, yes?

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1 **A. Yes. Yes.**
 2 Q. Can you recall from where you obtained those?
 3 I appreciate it is a long time -- it is nine years ago.
 4 **A. Yes, I am sorry, I am struggling -- I will have**
 5 **obviously referred to, I would imagine, things like the**
 6 **manual of guidance on the Police Use of Firearms.**
 7 Q. I don't think you will find anything -- in fact it might
 8 be significant that you won't find anything about CSDC
 9 in the manual of guidance?
 10 **A. Right, unfortunately I cannot tell you exactly where**
 11 **I would have got that reference from.**
 12 Q. Did you know anything at this stage about the history by
 13 which CSDC had come to be introduced into GMP as part of
 14 the armoury?
 15 **A. I am aware of issues, I didn't have any involvement with**
 16 **the transition into the use of the CSDC, but I am aware**
 17 **through speaking to colleagues the history around the**
 18 **injuries, the near misses et cetera, that we had**
 19 **previously in deploying a MASTS tactic.**
 20 Q. With the RIP round?
 21 **A. Well prior to the RIP round indeed and with the RIP**
 22 **round, the dangers around trying to get the RIP round**
 23 **into the vehicle and obviously a safer option was being**
 24 **looked at, was considered and that was believed to be**
 25 **the CS dispersal canister.**

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1 Q. When you wrote this, you, I suspect were working on the
 2 basis, is this right, that the CSDC had been properly
 3 authorised as a piece of police equipment, a less lethal
 4 option?
 5 **A. Yes, yes, sir.**
 6 Q. Both in force and externally?
 7 **A. Yes.**
 8 Q. Can you help us, please, by March 2012, had you
 9 experience of deploying the CSDC, ie actually using it?
 10 **A. I had, yes.**
 11 Q. On how many occasions?
 12 **A. I can recall at least one occasion, but I have been on**
 13 **a number of deployments where the CS dispersal canister**
 14 **was deployed by other colleagues -- I certainly deployed**
 15 **it once myself.**
 16 Q. Personally you had deployed you think once before and
 17 this would have been the second one on Op Shire?
 18 **A. There may well have been other occasions -- there is one**
 19 **I can think of.**
 20 Q. You had been on deployments where other officers had
 21 been the person with the CSDC and had deployed it?
 22 **A. Yes, certainly it had been authorised on numerous**
 23 **occasions, that I had been utilised on on a few of them.**
 24 Q. On MASTS operations, where the subjects were mobile,
 25 which I think is very often the case --

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1 **A. Yes.**
 2 Q. -- was the authorisation for the deployment of
 3 specialist munitions a frequent bolt-on to MASTS?
 4 **A. Yes, I would say it was certainly considered and**
 5 **authorised on a number of occasions, yes.**
 6 Q. On the majority of occasions?
 7 **A. Again, I couldn't say specifically.**
 8 Q. Helping us now, what did you understand the advantages
 9 of the use of CSDC were?
 10 **A. I thought I had alluded to that a little bit earlier --**
 11 Q. Yes.
 12 **A. -- obviously the uses are the distraction of the window**
 13 **going in, the distraction of the canister going in and**
 14 **the incapacitant effect of the CS itself.**
 15 Q. Was it at this time in your knowledge that there were
 16 some things on the other side of the coin, some
 17 disadvantages to its use?
 18 **A. Certainly, sir, yes, there are always pros and cons.**
 19 **Even though it is a less lethal option, there are still**
 20 **inherent risks with it.**
 21 Q. On that side of the coin, the disadvantages. If you can
 22 put your mind back to March 2012, what would have been
 23 your understanding, what was your understanding, of the
 24 disadvantages of its use?
 25 **A. That it would certainly, as we have alluded to here,**

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1 **cause some sort of panic, if it was a mist into a**
 2 **vehicle, from the occupants of the vehicle, that the**
 3 **officers approaching the vehicle would more likely than**
 4 **not have to use respirators or it would be advisable to**
 5 **use respirators --**
 6 Q. What is the downside of having to use a respirator?
 7 **A. Obviously your peripheral vision can be slightly**
 8 **reduced. Your oral/verbal communication can be muffled,**
 9 **so it requires clear speech, shouting -- unless you have**
 10 **got a voice modulator that assists in that end.**
 11 **That is pretty much it, really.**
 12 Q. It requires you to put the respirators on either a good
 13 time before approaching the subjects, running the risk
 14 of showing out?
 15 **A. Certainly.**
 16 Q. Or to do it later in the strike phase, which may be
 17 fiddly?
 18 **A. Yes, yes.**
 19 Q. You have to balance those two things, I suppose?
 20 **A. Certainly.**
 21 Q. Yes?
 22 **A. Yes.**
 23 Q. Other disadvantages that you can now recall?
 24 **A. Sorry, now you have put me under pressure I can't think**
 25 **of anything else.**

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1 Q. That is all right.
 2 **A. Not without referring perhaps to the sheet that I have**
 3 **written in the rationale maybe.**
 4 Q. Yes, the rationale tends to be the pluses, the 17 points
 5 I think point towards the good points for its use.
 6 **A. Hmm.**
 7 Q. I am looking at the other side of the coin. What about
 8 that it requires, as indeed was the case here, the
 9 person deploying the CSDC to approach the subject
 10 vehicle without their own ballistic cover, ie they need
 11 two hands for the window breaker and the canister?
 12 **A. Yes, talk about missing the obvious, yes. Obviously you**
 13 **are, yes. You have no right of reply, immediate right**
 14 **of reply, when you have the window breaker in one hand**
 15 **and the CS dispersal canister in the other.**
 16 MR THOMAS: Sorry, sir I am having difficulty hearing.
 17 THE CHAIRMAN: That is all right. It is not your fault he
 18 said, "I have no immediate right of reply when I have
 19 a window breaker in one hand and the canister in the
 20 other".
 21 I know it is difficult, can you try and keep your
 22 voice up, please?
 23 **A. I'm sorry, yes. It is a bit warm and I am a bit dry, my**
 24 **throat is a bit dry.**
 25 THE CHAIRMAN: Would you like a glass of water?

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1 **A. If you have one, please.**
 2 THE CHAIRMAN: Yes, certainly.
 3 **A. Yes, that might assist.**
 4 **That's great, thank you.**
 5 MR BEER: Good.
 6 You said that it is the obvious, but it is not only
 7 obvious but it is very significant, as well. I mean on
 8 this operation you were the person who had to go forward
 9 without a right of reply?
 10 **A. Yes, I think I misunderstood your initial question**
 11 **actually. I thought you were referring to the effects**
 12 **of the CS canister as opposed to --**
 13 Q. More generally the pros and cons?
 14 **A. Yes.**
 15 Q. Yes, I am looking at a broader canvas of pros and cons.
 16 Was that recognised to be a difficulty or a risk
 17 with the use of CSDC, that an effectively unarmed
 18 officer had to go forwards to within touching distance
 19 of the vehicle, thereby exposing them to risk?
 20 **A. Well, whether it was recognised or not I can't say but**
 21 **to assist the officer in completing or undertaking that**
 22 **task, you are reliant upon your colleagues with their**
 23 **right of reply moving along to the subject vehicle and**
 24 **them affording you cover.**
 25 Q. Was it recognised that the intention, I think, of

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1 an operation is to put AFOs in a good position to see
 2 the subjects and in particular their movements and in
 3 particular their hand movements, yes?
 4 **A. On a normal operation?**
 5 Q. Yes, on a normal strike on a vehicle, yes?
 6 **A. Yes.**
 7 Q. You would want to see the subjects' hands?
 8 **A. Where possible, yes.**
 9 Q. Yes. And discharging CS into the cabin of a vehicle,
 10 the immediate and short-term effect is that the cabin is
 11 filled with a white chalky substance, yes?
 12 **A. Yes.**
 13 Q. And you cannot see inside?
 14 **A. You can still see inside; it restricts your vision**
 15 **somewhat but you can still see into the vehicle.**
 16 Q. Okay.
 17 **A. It has a clouding effect rather than a fogging or**
 18 **a curtain type of effect.**
 19 Q. I wonder whether we could look at a video. This is
 20 I think the only evidence that GMP have given us on this
 21 point. If we can look at the video, please.
 22 Can you see the screen here?
 23 **A. Yes, thank you.**
 24 **(Video footage was played to the Inquiry)**
 25 MR BEER: If we can show that again, please and if, when

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1 I say "stop", you can stop.
 2 (Video footage was played to the Inquiry)
 3 MR BEER: Stop.
 4 I haven't stopped on the first clip because that was
 5 a camera on the inside of the vehicle.
 6 **A. Yes, I could see that. Right against where the canister**
 7 **went, sir.**
 8 Q. Sorry?
 9 **A. Yes, on the first one the canister was obviously placed**
 10 **right where the camera was, wasn't it?**
 11 Q. Exactly and I think we saw some particles on the lens or
 12 a box within which the camera was kept on the first one
 13 and therefore there were some particles on it, so
 14 I haven't used that clip.
 15 On that clip there, before the doors are opened,
 16 that does appear to cloud, certainly the view through
 17 the front windscreen of the vehicle, or to fog it very
 18 considerably. Doesn't it?
 19 **A. For the front windscreen, yes.**
 20 Q. Yes. On a head on view of the vehicle, an officer
 21 looking in that way, their view is very considerably
 22 restricted?
 23 **A. Yes.**
 24 Q. Were you referring to the view that, in this example,
 25 the four officers who ran to the doors of the vehicle

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1 and were standing close to the vehicle had when you were
 2 saying that it doesn't fog and it doesn't cloud, you can
 3 still see in?
 4 **A. Yes, I was.**
 5 Q. Rather than an onlooker looking in providing ballistic
 6 cover?
 7 **A. Yes, indeed, yes. I hadn't seen it from that angle**
 8 **before.**
 9 Q. Right.
 10 Would you agree with me that for the officer
 11 providing ballistic cover, or officers providing
 12 ballistic cover, from the head of the vehicle, you know
 13 from the front bonnet looking inwards their view is very
 14 considerably restricted, albeit temporarily?
 15 **A. Certainly from that clip, yes.**
 16 Q. I think these clips show four officers simultaneously
 17 opening all four doors, and that having a significant
 18 effect on the dispersal of the fog, yes?
 19 **A. Yes, it seems to be the case, yes.**
 20 Q. Were any other disadvantages recognised to your
 21 knowledge as to the use of CSDC?
 22 **A. I can't think of any.**
 23 Q. No, okay, thank you.
 24 Go back, we can take the video down, thank you.
 25 Going back to tab 12 of your bundle, can we just

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1 look at Mr Davies's reply which is on page 353. He
 2 replied the same day in the evening, at the top of 353:
 3 "Whilst there is a lot of balanced content and
 4 relevant, if we present this to ACC Thompson and other
 5 golds/silvers, we give the impression that we are
 6 over-egging the rationale for use."
 7 Have you had a chance to look back at the 17 plus
 8 points?
 9 **A. I have not actually, that is the first time I have seen**
 10 **all the 17. I think when I have requested my -- a copy**
 11 **of my pack or some of the information you were going to**
 12 **ask me, that was not actually --**
 13 Q. That was not in it?
 14 **A. That was not there, I have not actually seen the 17**
 15 **points.**
 16 Q. Do you want to have a look at them now, if you haven't
 17 seen them before recently?
 18 THE CHAIRMAN: If you would, then probably you would be more
 19 comfortable just sitting down while you do that. You
 20 will not be asked any questions while you are reading
 21 through them. Take your time.
 22 **A. I am fine thanks, sir. If I sit down I probably won't**
 23 **be able to see that high.**
 24 THE CHAIRMAN: All right. (Pause)
 25 **A. Thank you.**

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1 MR BEER: Thank you.
 2 Can you see why the chief inspector said if the
 3 document as you drafted it was presented to ACC Thompson
 4 and other golds and silvers, you would give the
 5 impression that we were "over-egging the rationale for
 6 use"?
 7 **A. Yes I think that was my first attempt at putting**
 8 **together the kind of guide or documentation and**
 9 **obviously I sent it for consideration, for review, for**
 10 **doctoring, to the chief inspector.**
 11 Q. That is what chief inspectors sometimes do to your work?
 12 **A. Quite often, I would suggest.**
 13 Q. Was it your understanding that CSDC could be used
 14 preemptively?
 15 **A. Sorry, can you just expand on that? Or explain that**
 16 **again?**
 17 Q. I have deliberately phrased it in that way.
 18 I will try again: was it your understanding that
 19 CSDC could be used without a subject or subjects
 20 themselves having done anything specific in order to
 21 create a risk to officers or the public?
 22 **A. No. I think I follow your question. Not specifically,**
 23 **no. I think if you are referring to my reference within**
 24 **this document, I think I was referring to the**
 25 **distraction side of things initially, the window**

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1 **breaking.**
 2 Q. Put another way, in order to use CSDC, it having been
 3 authorised for use, what was required in terms of
 4 actions by the subjects to justify a decision to use it?
 5 **A. Right, well in that case, it is the honestly held belief**
 6 **of the officer who has the canister, bearing in mind it**
 7 **is a less lethal option, but to deploy it you have to**
 8 **have an honestly held belief that your colleagues or**
 9 **members of the public are at risk. And obviously the**
 10 **deployment of that canister is a necessity, it is**
 11 **proportionate to address that risk.**
 12 Q. Need the subjects have actually done anything in order
 13 to justify its use?
 14 **A. No. Not necessarily, no.**
 15 Q. It can be the standing risk that you were briefed about,
 16 perhaps earlier in the day, namely:
 17 "This is an armed deployment against [in this case]
 18 subjects who are suspected to be conspiring to commit
 19 armed robberies, this is the threat assessment of each
 20 of them, they are in a high powered vehicle."
 21 You turn up, they don't actually do anything
 22 specific to warrant you using CSDC?
 23 **A. The risk is in relation to -- just as much into what you**
 24 **can't see them being in possession of --**
 25 Q. Yes.

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1 **A. -- as opposed to what you can see. So if you are in**
 2 **a stolen motor vehicle, in the final, preparatory stages**
 3 **of committing an armed robbery, and we approach the**
 4 **vehicle, and we are around that vehicle and we can't see**
 5 **what the subjects have in their hands or in the vehicle,**
 6 **then, yes, I would deploy the CS canister.**
 7 Q. Even though the subjects have not actively done
 8 anything?
 9 **A. I wouldn't want to wait till they had done something.**
 10 Q. Yes. I am not talking about producing a weapon or
 11 firing a weapon, but they hadn't done anything with the
 12 vehicle?
 13 **A. Well, those are some of the options or some of the risks**
 14 **that we face, doing something with a vehicle or doing**
 15 **something with a firearm inside the vehicle and firing**
 16 **through that vehicle at the officers who are nearing it,**
 17 **because at the point of contact that is when the risk is**
 18 **the highest.**
 19 Q. In a lot of the documents that we have read,
 20 a distinction is drawn between authorisation for
 21 deployment of CSDC and a decision to use it. In all of
 22 them, I think without fail, it says:
 23 "Ah, but there is a further dynamic risk assessment
 24 undertaken by the officer in possession of the CSDC. It
 25 falls to them to decide, we are only authorising

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<p>1 deployment, not use. It falls to the officer to decide 2 whether or not on the circumstances that they are 3 presented with its use is justified." 4 A. Yes. 5 Q. You appear to be saying that nothing specific is 6 required in terms of actions by the subjects in order 7 for you to decide to use the CSDC? 8 A. I am agreeing with you -- saying that the dynamic risk 9 assessment, and it is down to the officer on the ground 10 who is deploying or potentially going to deploy the CS 11 dispersal canister to have made that dynamic risk 12 assessment and have it in his own mind that they believe 13 that they are facing a viable threat, as are the 14 colleagues. 15 Q. In this case -- we are going to come to the detail 16 a little later -- was there a certain inevitably, in the 17 light of the briefing that you had received, that you 18 deployed CSDC in the circumstances that you faced 19 turning up at the car park? 20 A. No, there is no inevitably about the situation. It is 21 a dynamic risk assessment on the ground, certainly the 22 briefing, previous experience of -- 23 Q. If you can just keep your voice up, please. 24 A. Sorry, it probably doesn't help with sitting behind you 25 and your back -- I have lost my train of thought now.</p> <p style="text-align: center;">Page 85</p>	<p>1 there are that many operation names that get thrown at 2 you over the years. 3 Q. It is not something that stands out? 4 A. Not necessarily, no. 5 MR BEER: Thank you, sir. 6 THE CHAIRMAN: We will take a break until 2.05. Thank you. 7 If you would just like to remain there for the 8 moment, Mrs Shaw will come and escort you away. 9 A. Yes. 10 (12.59 pm) 11 (The Luncheon Adjournment) 12 (2.12 pm) 13 THE CHAIRMAN: Yes, Mr Beer. 14 MR BEER: Thank you very much, sir. 15 When was your first involvement, please, X9, in 16 Operation Shire from your memory? 17 A. I don't recall. I think I put in my statement I had 18 been on a number of deployments prior to the 3rd, and 19 I think I got that from -- 20 Q. Can you keep your voice up, please? 21 A. Yes, I think I got that from a number of the PowerPoint 22 presentations where my name had appeared. 23 Q. Did you, before you made the statement, go back and 24 check the PowerPoint presentations then? 25 A. No. I think, sorry, I must have found my name or my</p> <p style="text-align: center;">Page 87</p>
<p>1 THE CHAIRMAN: The note I have is, "There was no inevitably 2 about it in this case". 3 A. Thank you, sir. 4 Not necessarily any inevitably about it. 5 Q. Can I turn to a different topic then, please. 6 THE CHAIRMAN: It is 12.55. It depends how quick a topic it 7 is. 8 MR BEER: I think these three points are quite short, sir, 9 if I may. 10 THE CHAIRMAN: Yes. 11 MR BEER: Before Operation Shire began and you became 12 involved in Operation Shire, had you any previous 13 knowledge of Anthony Grainger? 14 A. No, I don't believe so, no. I had never had any 15 specific dealings. 16 Q. Before Op Shire began, I am not talking just about the 17 3 March I am talking generally, had you any previous 18 knowledge of Robert Rimmer? 19 A. No, again, he is not somebody I was personally aware of. 20 Q. Lastly, same question in relation to Mr Totton? 21 A. No, again unless he had featured on one of the previous 22 operations, I don't recall the name specifically. 23 Q. Were you involved in an operation called Operation 24 Blythe? 25 A. I don't recall what that was in relation to. I'm sorry,</p> <p style="text-align: center;">Page 86</p>	<p>1 number on a number of those, that is where I have come 2 to the conclusion that I had been deployed on so many 3 Op Shire deployments. 4 Q. Which statement are you referring to? 5 A. Sorry, where are my statements ... 6 Q. There is a reference to previous deployments in tab 2, 7 second page, second paragraph. 8 A. Sorry, no, I am referring to the next page, 121. 9 Q. Yes. 10 A. Where I have intimated/indicated that I have been 11 briefed and deployed on Operation Shire on 11 occasions 12 between August 2011 is ... 13 Q. You presumably went back and looked at the PowerPoints 14 for that, did you? 15 A. I believe, if memory serves, somebody had had printed 16 off a list of the PowerPoints in relation to Shire and 17 I had looked back at those to see where my name 18 appeared. 19 Q. Right, and did a headcount effectively? 20 A. Effectively, yes. 21 Q. Yes. 22 Was it usual for an AFO such as yourself to be 23 deployed several times, or nearly a dozen times, on the 24 same operation? 25 A. Yes, indeed. We have had protracted operations, yes.</p> <p style="text-align: center;">Page 88</p>

1 Q. What approach, conscious approach, did you take to the
 2 treatment of intelligence that you were given in
 3 briefing 1, when you were deploying following
 4 briefing 11?
 5 **A. Sorry, can you rephrase the question or put it**
 6 **a different way?**
 7 Q. Yes. To what extent did you take into account
 8 intelligence that had been given to you in the course of
 9 earlier briefings when you were deploying on your
 10 current deployment?
 11 **A. Right, I couldn't tell you specifically in relation to**
 12 **Operation Shire.**
 13 Q. Yes.
 14 **A. When you get a briefing for any specific operation, you**
 15 **expect the briefing that you get on the day to be the**
 16 **up-to-date intelligence. Effectively that that concerns**
 17 **you on that deployment.**
 18 Q. You would expect a process to have been gone through
 19 that the intelligence that you are being presented with
 20 on that morning is accurate, reliable and has been
 21 through a process that makes it the most up-to-date
 22 picture?
 23 **A. Yes. Indeed, yes.**
 24 Q. Does that mean that you work on the basis of what you
 25 are told that day, rather than things that you may have

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1 been told in the past?
 2 **A. Yes, primarily. You obviously will have had**
 3 **a culmination of the intelligence picture as you have**
 4 **been deployed on a protracted operation.**
 5 Q. That is what I am really getting at, is whether you do
 6 have a culmination in your mind of the intelligence
 7 picture, ie it builds up, or whether you say:
 8 "Look, I am going to put aside that which I have
 9 been told in the past, because the picture may have
 10 changed. What may have been relevant and accurate on
 11 briefing 1 is no longer relevant and accurate on
 12 briefing 11."
 13 Can you help?
 14 **A. I don't think you can just discard what you know, what**
 15 **you have accrued over the course of an operation.**
 16 **Certainly what primarily concerns you on the day is the**
 17 **information and intelligence that is specific to that**
 18 **day's deployment, but you will have retained some**
 19 **knowledge of the ongoing operation from start to finish.**
 20 **You can't not do.**
 21 Q. How do you approach that, then, where, as here, you were
 22 briefed in the early stages of Operation Shire on
 23 a mixed group of subjects that included the Corkovics,
 24 and by the time you came to be briefed on 2 and 3 March
 25 the operation had been split into two and they were no

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1 longer part of it?
 2 **A. Basically the intelligence picture is continually**
 3 **changing and developing and you have to go on that day's**
 4 **deployment with what you have got in front of you on the**
 5 **day, the intelligence picture you have got there. These**
 6 **things do change; they don't stay the same.**
 7 Q. Was it normal in briefings for you as AFOs to be given
 8 the grade or a grading of intelligence, either by the
 9 5x5 system or by the use of words?
 10 **A. No, not necessarily. No.**
 11 Q. "Not necessarily", does that mean sometimes it was?
 12 **A. Indeed, yes. You could have that, sometimes it might be**
 13 **indication, "Intelligence indicates ..." and that is as**
 14 **much as you would get.**
 15 Q. Yes, and do you know what determined whether the
 16 briefing officer gave you a grading or words or just
 17 said, "Intelligence indicates that ..."
 18 **A. Other than maybe the sensitivity of the information or**
 19 **the intelligence background.**
 20 Q. Was that an assumption on your part, that that is what
 21 had led to it either being included or not?
 22 **A. Indeed. Yes, yes.**
 23 Q. By 3 March, were you aware that Operation Shire had been
 24 split into two operations or two strands?
 25 **A. I don't recall being aware of that.**

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1 Q. I think you attended the briefing on 2 March and
 2 deployed; is that right?
 3 **A. Yes, I did.**
 4 Q. I wonder whether we can look, please, at the second
 5 general firearms bundle, please, at tab 20. Can you see
 6 that?
 7 **A. Yes, I can.**
 8 Q. If we look over the page on the roll call of who was
 9 intended to be present, I think you are listed there,
 10 X9, aren't you?
 11 **A. Yes, I am.**
 12 Q. Then if we go to tab 21 to look at the transcript of the
 13 briefing given by Mr Lawler and X7, we can see that
 14 about eight lines up from the bottom you call your name
 15 out as well, yes?
 16 **A. I do, yes.**
 17 Q. You were actually present at the oral briefing?
 18 **A. Yes, I was.**
 19 Q. Can you look, please, at page 1176, the second page of
 20 tab 21.
 21 **A. Yes.**
 22 Q. Can you look at the last paragraph, beginning "Er":
 23 "Er, before we go into the threat assessment we will
 24 need to be aware there is no current information or
 25 intelligence to say that the subjects have either

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<p>1 possession or immediate access to firearms or less 2 lethal weapons. However, my assumption is they are 3 about to commit armed robbery, based on their previous 4 criminal history they will either have firearms or less 5 lethal weapons. So we are all highly trained in 6 judgment to again deal with the threat that we may face 7 at the time that we go to intercept them." 8 That is what I think Chief Inspector Lawler was 9 saying, that is Chief Inspector Lawler speaking there. 10 A. Right. 11 Q. Was that a usual part of a briefing, about the specific 12 question of whether there was current information or 13 intelligence as to whether the subjects have immediate 14 access to firearms or actual possession of them? 15 A. I am sorry, can you say that again? I was just 16 rereading through the paragraph then. 17 Q. Do take your time. The question was: was that a usual 18 part of a briefing, either to say that there was 19 intelligence that the subjects had access to firearms, 20 or were in possession of firearms, or conversely that 21 there wasn't current specific intelligence to suggest 22 that they were? 23 A. Well, I would hope, if we had seen a specific firearm or 24 weapon, that that would have been outlined, identified 25 to us in the briefing, yes.</p> <p style="text-align: center;">Page 93</p>	<p>1 but I see the difference. 2 Q. What do you mean you don't agree with it? 3 A. It still appears to be some kind of contradiction there, 4 in what you are saying. 5 Q. You were actually there listening to this, what would 6 you walk away from the room thinking? If you now, 7 reading this back, think that your chief inspector is 8 contradicting himself over whether the men you are going 9 to intercept have guns or not, what would you walk away 10 from the room thinking, that the chief inspector is 11 a bit confused or -- 12 A. That is obviously just one small part of the briefing. 13 Q. It is an important part though, isn't it, whether the 14 subjects have guns? 15 A. It is indeed, yes. Without reading the rest of that 16 briefing I am not sure there are any other parts that 17 relate to their access to weapons, et cetera. 18 Q. No, he talks about their backgrounds, when he goes on to 19 the threat assessment, but he doesn't come back to it. 20 The long and the short of it is you think that is 21 contradictory and confusing? 22 A. Certainly that paragraph seems contradictory, I don't 23 know about confusing but certainly contradictory. 24 Q. I suppose then when, the next day, Superintendent Granby 25 and X7 gave the briefing and nothing of equivalent</p> <p style="text-align: center;">Page 95</p>
<p>1 Q. That answers one part of the question, that if there was 2 current intelligence you would hope to be told it, 3 positively. But this is a negative, he is saying here, 4 isn't it? That there is not current intelligence or 5 information to say that the subjects have possession of 6 or immediate access to firearms, yes? 7 A. Well, it seems to contradict itself actually, the 8 paragraph, unless I am misreading it. The first part of 9 it would seem to be saying we don't have that 10 information and the second part is the assumption that 11 they are about to commit an armed robbery and that they 12 do have -- they will either have firearms or less lethal 13 weapons. 14 Q. You, listening to that, would hear that as 15 a contradiction. Would you? 16 A. Well, reading it back now it appears to be the case. 17 Q. Can I suggest that there isn't a contradiction there, 18 that what he is saying is: 19 "We have got no current intelligence or information 20 to say that they have got guns. My assumption is they 21 will, because our intelligence is they are going to 22 commit an armed robbery and look at their background." 23 A. Right. 24 Q. Do you see the difference? 25 A. I see the difference, yes. I don't necessarily agree</p> <p style="text-align: center;">Page 94</p>	<p>1 effect was said -- that that paragraph was not included 2 in the briefing the next day, we have the transcript of 3 the Saturday morning briefing too. Can you recall 4 whether that would have occurred to you or you would 5 have noticed that or not? 6 A. I can't recall whether it would have occurred to me, 7 but ... 8 Q. Can we look again at 1179, please. 9 A. Yes, got that. 10 Q. I think this is X7 speaking. Can you see in the largest 11 paragraph, in the middle of it, X7 says: 12 "The reason we are at Leigh police station is 13 obviously to intercept the subjects prior to them 14 getting to Culcheth." 15 A. Yes. 16 Q. Then if you go over the page to 1180, the second 17 paragraph, X7 says: 18 "While we are on the subjects, our intention is to 19 conduct an interception prior to any offence taking 20 place, which is before we get to Culcheth." 21 Yes. 22 A. Yes. 23 Q. On the 2 March deployment, did you understand therefore 24 that the plan was to prevent the subjects from ever 25 getting to Culcheth?</p> <p style="text-align: center;">Page 96</p>

1 **A. Again, just having read this and not being able to**
 2 **recall that far back, that would appear to be the**
 3 **intention, of that, the briefing.**
 4 Q. Would that indicate therefore a vehicle stop en route?
 5 **A. I would imagine that was one of the options.**
 6 Q. We have again the transcript of the briefing the
 7 following day. No equivalent plan was announced to you
 8 and your colleagues by Mr Granby or X7, okay?
 9 **A. Right.**
 10 Q. Can you now recall whether you understood whether the
 11 tactic was to be the same or not, to prevent them from
 12 getting to Culcheth?
 13 **A. I would imagine that, yes, the same tactical options**
 14 **would be available.**
 15 Q. That is a slightly different way of answering it. Did
 16 you understand that on 3 March the plan included
 17 allowing the subjects to reach Culcheth and then
 18 intervening when they were in Culcheth, or did you think
 19 it was going to be like the previous day, "We will stop
 20 them before they get to Culcheth"?
 21 **A. I am not entirely sure, to be quite honest. That would**
 22 **depend I think on whether the tipping points had been**
 23 **met, where the appropriate place would be for the stop.**
 24 Q. Can I turn then to tab 1 of your own bundle, please.
 25 And to the briefing on the morning of Saturday, 3 March.

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1 To see what you took from it.
 2 This witness statement was made six days after the
 3 event, yes, on 9 March?
 4 **A. Yes.**
 5 Q. So the events were relatively fresh in your mind, yes?
 6 **A. Yes.**
 7 Q. If we look at the last paragraph on the page to see what
 8 you took from the briefing, you say:
 9 "The briefing provided details of a number of
 10 subjects. The capability outlining that most had
 11 previous for using weapons and violence."
 12 Did you therefore take away from the briefing that
 13 the men or most of them had convictions for using
 14 weapons and using violence?
 15 **A. Yes, I believe I did.**
 16 Q. That was the impression conveyed to you, was it? That
 17 they had previous for using weapons and committing
 18 violent acts?
 19 **A. Yes.**
 20 Q. You also say:
 21 "The briefing provided details of a number of the
 22 subjects, the capability outlining that most had
 23 previous convictions for using weapons and violence and
 24 had access to firearms."
 25 Was that the impression that you therefore walked

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1 away from the briefing with?
 2 **A. Yes, I believe that was, yes.**
 3 Q. I just want to test where you got that from, please.
 4 Using the general bundle, at tab 22, if we can look
 5 at the PowerPoint, please.
 6 **A. Yes.**
 7 Q. Turn to 1267, please. Just take a moment to read that
 8 if you haven't looked at it recently. (Pause)
 9 **A. Yes, thank you.**
 10 Q. Was there anything on that page which caused you to
 11 reach the conclusion that you were being briefed that
 12 the men had access to firearms?
 13 **A. Yes.**
 14 Q. Which part of it?
 15 **A. Obviously, "The subjects are believed to be engaged in**
 16 **armed robberies in the north-west region", is the first**
 17 **part that springs to mind.**
 18 Q. The fact that the briefing officers were telling you
 19 that they are believed to be engaged in armed robberies,
 20 you took from that that they therefore had access to
 21 firearms?
 22 **A. I did, yes.**
 23 Q. Thank you.
 24 I think you were going to refer to another part of
 25 it?

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1 **A. Well, yes, I mean to be quite honest, all the page**
 2 **indicates, as you go down the second paragraph --**
 3 Q. I don't think the third and the fourth paragraphs
 4 suggest that they have access to firearms?
 5 **A. No, sorry, sir, it is the second one.**
 6 Q. The second one?
 7 That is talking about a robbery in 2008 in Preston
 8 which these subjects -- did you understand that to mean
 9 these three men that you were going to be briefed about,
 10 yes?
 11 **A. Yes.**
 12 Q. I am not going to go into the whys and wherefores, why
 13 all of this is grossly inaccurate --
 14 **A. Right.**
 15 Q. -- and contains false statements, okay. I am just
 16 looking at it on its face, you took from that that these
 17 three subjects were responsible for a robbery in 2008,
 18 yes? And a handgun and a shotgun were carried, yes?
 19 **A. Yes, that is the assumption I made.**
 20 Q. Was this one of these things that you thought they might
 21 have been convicted of?
 22 **A. Yes, quite possibly, yes. I thought that was**
 23 **a reasonable assumption.**
 24 Q. So you walk away from the briefing thinking that the
 25 three men, that are part of this team, were actually

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<p>1 part of a team four years ago and they have been 2 convicted of robbery, the same thing they are suspected 3 of now, using a handgun and a shotgun? 4 A. Yes, that is true. 5 Q. Yes. 6 If you go over the page to 68, 69 and 70, you will 7 see the three threat assessments. Was there anything in 8 those pages which suggested to you that the subjects had 9 access to firearms and by that I mean presently have 10 access to firearms. 11 A. Well that was the latest, obviously, identity capability 12 and intent that we had for the subjects. 13 Q. Yes. Was there anything in those pages which suggested 14 to you that these three men currently had access to 15 firearms? 16 A. Yes. Both the capability in relation to firearms that 17 we have there and the fact that -- 18 Q. Just to pick you up on this, the fact that the 19 superintendent and X7 were telling you that Mr Totton 20 had a warning for possession of a shotgun in 1999 led 21 you to think that he has access to firearms currently? 22 A. Yes. 23 Q. Okay. 24 A. And obviously the intention being to -- 25 Q. Again there is that mention of armed robbery, isn't</p> <p style="text-align: center;">Page 101</p>	<p>1 what was the tactical plan other than that this was 2 a MASTS operation? 3 A. I honestly cannot recall now what that was. 4 Q. Okay. 5 I think you knew as a result of the briefing that 6 special munitions had been authorised? 7 A. Yes, it was mentioned on the briefing. 8 Q. And that you were nominated to have the CSDC? 9 A. I was one of the two officers that had CSDC, yes. 10 Q. Can we look, please, back at tab 1 of your binder, at 11 the foot of the first page. Two lines from the bottom: 12 "To assist in achieving the tactical commander's 13 strategy and to assist in stopping the subject vehicle, 14 special munitions in the form of CS dispersal canisters 15 and shotgun rounds had been authorised." 16 Then you say this: 17 "Based on this information, and my previous 18 experience of MASTS, I formed the opinion that the 19 subjects would if provided an opportunity take extreme 20 action to evade arrest and capture." 21 A. Yes. 22 Q. On its face, that appears to suggest that because 23 an authority had been granted, and because of your past 24 experience, you formed the opinion that the subjects 25 would take action to evade arrest and capture. Is that</p> <p style="text-align: center;">Page 103</p>
<p>1 there? 2 A. Yes. 3 Q. Again, did you think these referred to convictions? 4 A. Yes, I think that was my assumption. 5 Q. Thank you. 6 Over the page to 69, to Mr Rimmer, was there 7 anything on there that led you to believe that Mr Rimmer 8 was currently in possession of firearms? 9 A. Again, just the intention primarily. 10 Q. Yes. 11 Over the page to page 70, Mr Grainger? 12 A. Well, again, we have within the capability: 13 "Previously conspired to commit robberies with 14 firearms." 15 Q. Again, did you think that was convictions? 16 A. Yes. Yes. 17 Q. So that would have told you that your supervisors within 18 GMP were telling you that Anthony Grainger had previous 19 convictions, more than one, for committing robberies, 20 more than one, with firearms, more than one. Yes? 21 A. Yes. 22 Q. And the intent again? 23 A. Indeed. 24 Q. In the briefing on 3 March, can you now recall what the 25 tactical plan was? Ie when you walked away from it,</p> <p style="text-align: center;">Page 102</p>	<p>1 right? 2 A. Yes, based on the fact that the CS dispersal canister 3 had been authorised on this occasion -- 4 Q. Yes. 5 A. -- and although it is a less lethal option it is 6 a special munition that has to be considered. Generally 7 it is authorised in extremis, extreme circumstance. 8 Q. You were drawing from the fact that an authority had 9 been granted, the opinion that the subjects would take 10 extreme action to evade an arrest and capture if 11 something was not done to stop them? 12 A. Yes. 13 Q. Did you understand that the tactical firearms commander 14 would have had to have gone through a process in order 15 to get such an authority? 16 A. Yes, indeed. My understanding is the tactical firearms 17 commander and the TAC adviser would discuss the issue 18 around special munitions. 19 Q. The TFC has to seek advice from the TAC, yes? 20 A. Yes, I believe so, yes -- should, I think it is "should 21 seek advice". 22 Q. Yes. 23 A. That discussion would contain the pros and cons of the 24 special munitions and then that would obviously be put 25 to the SFC, who would then either ratify it or turn down</p> <p style="text-align: center;">Page 104</p>

<p>1 the request for a special munition.</p> <p>2 Q. The explanation that you have given just now and in this</p> <p>3 witness statement does not seem to require any action by</p> <p>4 the subjects before a decision is made to deploy the</p> <p>5 special munitions, would you agree?</p> <p>6 A. I would agree, sorry, yes.</p> <p>7 Q. Yes.</p> <p>8 I think after the briefing you moved, after the</p> <p>9 issue of weapons to you, to a lay up point at Leigh</p> <p>10 police station. Is that right?</p> <p>11 A. Yes.</p> <p>12 Q. There you remained until about 6.15 in the evening,</p> <p>13 a period of about 12 hours or so?</p> <p>14 A. Yes.</p> <p>15 Q. What did you do in that 12 hours or so?</p> <p>16 A. Well, we would have got a number of updates I think from</p> <p>17 the OFC, that is the normal course of events --</p> <p>18 Q. I am going to come to whether you got any in fact, but</p> <p>19 what did you do physically?</p> <p>20 A. Yes, we rested primarily.</p> <p>21 Q. Presumably there came a time you went out to get some</p> <p>22 food and --</p> <p>23 A. Yes, that would have been the normal course of events,</p> <p>24 yes.</p> <p>25 Q. And were effectively sitting around waiting?</p> <p style="text-align: center;">Page 105</p>	<p>1 being called on --</p> <p>2 A. No. I am sorry.</p> <p>3 Q. -- the previous night?</p> <p>4 A. No. Again, I don't recall.</p> <p>5 Q. On the Friday night?</p> <p>6 Were you at all tired at all having been up since</p> <p>7 3.00 in the morning, when it came to 7.00 at night?</p> <p>8 A. Undoubtedly it would have had some effect on me.</p> <p>9 Q. You say in your witness statement, tab 1, please, at</p> <p>10 page 2, that in the course of -- this is the second</p> <p>11 paragraph on page 2, the third line in:</p> <p>12 "Whilst at Leigh I took the opportunity to discuss</p> <p>13 the incapacitation of the vehicle and the occupants with</p> <p>14 Z15. It was agreed that should circumstances justify</p> <p>15 their deployment, I would take primacy in deploying the</p> <p>16 CS canister and Z15 would, if required, immobilise the</p> <p>17 vehicle by deploying RAM into the tyres."</p> <p>18 Yes?</p> <p>19 A. Yes.</p> <p>20 Q. Am I right in thinking that that discussion is not about</p> <p>21 who had which weapon, the CSDC or the shotgun, that had</p> <p>22 been agreed, this is about the order of events, ie which</p> <p>23 comes first, CS or RAM rounds?</p> <p>24 A. No, it was more the form of we both had possession of</p> <p>25 a shotgun and a CS dispersal canister, so it was purely</p> <p style="text-align: center;">Page 107</p>
<p>1 A. Yes.</p> <p>2 Q. Was that quite normal?</p> <p>3 A. Yes.</p> <p>4 Q. Okay.</p> <p>5 What if any impact did it have on your -- this may</p> <p>6 be a difficult question to answer -- effectiveness as</p> <p>7 an AFO come 7.00 that night?</p> <p>8 A. I am not sure because I have never measured it really,</p> <p>9 but the idea being obviously that you are resting to</p> <p>10 conserve your energy so that you are able to then</p> <p>11 conduct any kind of interdiction/intervention towards</p> <p>12 the end of the day.</p> <p>13 Q. I think you had been asked to come into Openshaw for</p> <p>14 4.30.</p> <p>15 A. I believe that was the case, yes.</p> <p>16 Q. That was when the tour of duty began?</p> <p>17 A. Yes.</p> <p>18 Q. Without being too personal as to where you live, what</p> <p>19 time did you have to get up that morning to get there</p> <p>20 for 4.30?</p> <p>21 A. Yes, it would have been a good hour and a half before</p> <p>22 then.</p> <p>23 Q. You would have to be up at 3.00, yes?</p> <p>24 A. Yes, somewhere around that mark. Yes.</p> <p>25 Q. Do you remember what time you were told that you were</p> <p style="text-align: center;">Page 106</p>	<p>1 along those lines of --</p> <p>2 THE CHAIRMAN: Who was to use which?</p> <p>3 A. Who was to use which, if it came to it.</p> <p>4 MR BEER: Right, so it is who uses which rather than the</p> <p>5 order of events?</p> <p>6 A. Yes, indeed.</p> <p>7 Q. You don't say in the statement that that discussion</p> <p>8 between the two of you was communicated to anyone. Was</p> <p>9 it communicated to anyone?</p> <p>10 A. Not that I recall.</p> <p>11 Q. Okay.</p> <p>12 A. It was a discussion, or it would normally have been</p> <p>13 a discussion between the two operatives.</p> <p>14 Q. Okay. In the next paragraph, you say:</p> <p>15 "Throughout the day, whilst at the laying up point,</p> <p>16 intelligence was passed to the OFC and then to</p> <p>17 ourselves."</p> <p>18 Can you now remember what intelligence was passed to</p> <p>19 you?</p> <p>20 A. No, I am sorry, I can't.</p> <p>21 Q. You can't?</p> <p>22 A. No.</p> <p>23 Q. Can you recall whether it was anything additional that</p> <p>24 indicated that the subjects were or might be armed?</p> <p>25 A. Again, no, I can't recall.</p> <p style="text-align: center;">Page 108</p>

1 Q. Can you remember whether anything additional came that
 2 indicated that the subjects intended to carry out
 3 a robbery?
 4 **A. Again, I am sorry. I can't recall any specifics in**
 5 **relation to what might have been passed.**
 6 Q. Okay, were you told that from about 5.30 pm the command
 7 team knew that Robert Rimmer was unlikely to be in the
 8 Audi?
 9 **A. Again, I am sorry, I can't recall any specifics.**
 10 Q. That would be quite important information for the AFOs
 11 to receive, wouldn't it? Having been briefed up about
 12 three men being in the car, if there was an intelligence
 13 update that one of them was not going to be in the car
 14 but instead there was a third unknown subject, that
 15 would be important?
 16 **A. That is the type of information that would likely be**
 17 **passed or you would hope would be passed.**
 18 Q. But you cannot now recall whether you were told it or
 19 not?
 20 **A. I can't, I am sorry.**
 21 Q. The Inquiry has seen, and indeed heard, some evidence
 22 that it was common for AFOs to undertake rehearsals in
 23 operations of this kind. Where a walk through would be
 24 conducted, issues raised, discussed, and reviewed,
 25 perhaps with the input of commanders and trainers. Does

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1 that accord with your experience?
 2 **A. Yes, it is quite a common occurrence, yes.**
 3 Q. In particular in MASTS operations?
 4 **A. Certainly, yes. Yes.**
 5 Q. Was that done here, on this occasion?
 6 **A. I don't recall it being conducted and if we moved**
 7 **immediately to Leigh police station, I wouldn't imagine**
 8 **that it did take place, because it is quite an open**
 9 **police station with a busy car park and views into the**
 10 **car park from the road. So there would have been a risk**
 11 **of compromise of us being there.**
 12 Q. What about before you left for Leigh police station, was
 13 the opportunity available at Openshaw to do it?
 14 **A. I don't recall, I don't know how much of a collapsing**
 15 **timeframe we had to get to where we had to lay up.**
 16 Q. You cannot recall whether there was any urgency
 17 indicated by the intelligence that the robbery was going
 18 to be at 6.00 in the morning?
 19 **A. I don't recall, no, sorry.**
 20 Q. Were you a party to any discussion with officer Q9 about
 21 the subjects' previous involvement in alleged offences,
 22 whilst laid up at Leigh police station?
 23 **A. No, I certainly don't recall having any discussion.**
 24 Q. Did you hear or overhear X7, the OFC, intervening and
 25 these are my words, not his, effectively trying to put

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1 Q9 right about some information concerning the subjects'
 2 alleged involvement in previous offences?
 3 **A. No, I don't recall hearing any conversation.**
 4 Q. Can I turn then to the events of the evening and start
 5 with the circumstances in which your accounts came to be
 6 created.
 7 As we have seen, the first witness statement is made
 8 on 9 March, six days after the event.
 9 **A. Yes.**
 10 Q. What was the reason for that delay in recording a first
 11 account?
 12 **A. Obviously this was my first involvement in a police**
 13 **shooting post-incident procedures, et cetera. And**
 14 **I believe I was just given the advice that that would be**
 15 **our first recorded statement or statement of facts, if**
 16 **you will.**
 17 Q. When were you given that advice?
 18 **A. I couldn't tell you exactly, that is just my general**
 19 **recollection of why we waited until that specific point.**
 20 Q. Was it a police officer, a federation representative or
 21 a lawyer that gave you the advice?
 22 **A. Again, I am sorry, I can't recall specifically.**
 23 Q. Can you remember what the advice was? I mean was it,
 24 "Don't make an account"?
 25 **A. Again, I am sorry, I am guessing a little bit here and**

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1 **my recollection is quite vague, it is a long time ago.**
 2 **But we seemed to be asking for some guidance, if**
 3 **I recall, because it was an -- it was unknown ground, it**
 4 **was unknown territory for the majority of us and**
 5 **I remember being keen to record something as to what had**
 6 **taken place, but I am sure the advice given was we would**
 7 **do that in a timely manner in an organised fashion.**
 8 Q. You simply cannot recall now whether that was the feds
 9 suggesting that, a lawyer suggesting it or somebody from
 10 GMP --
 11 **A. I can't, because I think we had involvement from all of**
 12 **those particular parties at some point during the**
 13 **post-incident procedure. So I do apologise, it could**
 14 **have been any of them.**
 15 Q. That is certainly right, there was involvement from all
 16 three in the post-incident procedures. Do you think the
 17 advice was given in the course of the post-incident
 18 procedure?
 19 **A. I believe it would have been, yes. Yes.**
 20 Q. That might have been and might have been understandable
 21 advice, "Don't make a first account now ..."
 22 **A. I am not saying that is correct but --**
 23 Q. But that is rather different from, "Only make your
 24 account six days after the event".
 25 **A. Hmm.**

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<p>1 Q. Can you recall what accounted for the subsequent delay 2 in reducing your first account to writing? 3 A. I can't recall specifically but, again, I am sort of 4 clutching at the memories here, I seem to recall there 5 being some discussion around perception and perceptual 6 distortion and giving it some time for things to settle 7 down in the mind before you recorded your account. 8 Q. Can you recall the circumstances in which you were all, 9 the AFOs that is, called together in a room at 10 Nexus House? 11 A. Yes, to make the statements? 12 Q. Yes. 13 A. Yes. Yes. 14 Q. Who gave that instruction? 15 A. I believe it was from our -- a legal representative. 16 Q. A legal representative? 17 A. Yes. 18 Q. Was that somebody that the federation had instructed or 19 you had instructed personally? 20 A. Certainly not personally, so I believe it must have come 21 through the federation or through the force. 22 Q. We know from your statement that at about 1.15 on 23 Friday, 9 March you attended Nexus House. Was it one 24 room you were in with the other AFOs? 25 A. Yes, it was.</p> <p style="text-align: center;">Page 113</p>	<p>1 Q. The time of the briefing at 06.00 hours? 2 A. Yes. 3 Q. The 6.15 when you left Leigh police station, I think 4 that is on page 2 of your statement. 5 A. Again -- 6 Q. In the fourth paragraph, "At approximately 18.15 hours 7 ..." 8 A. Yes. 9 Q. The time that Amber was called -- 10 A. Yes. 11 Q. -- at 19.08, and the time that Red was called at 19.12? 12 A. Again, yes. 13 Q. It seems that those are the details that you took from 14 the flip chart and then, lastly, on the third page, the 15 conferral form of words, as it is called, you appear to 16 have written that down? 17 A. Again, yes. Yes. 18 Q. Do you recognise the writing or not? 19 A. No, sorry. 20 Q. Was there any discussion amongst you that this was a bit 21 odd? 22 A. No, I think because, as I have mentioned already, it was 23 unknown territory for the majority of us, so we were 24 being guided, I suppose, to some degree. 25 Q. If we can move then to the point when you were at Leigh</p> <p style="text-align: center;">Page 115</p>
<p>1 Q. Do you remember a flip chart being present? 2 A. I do, indeed, yes. 3 Q. I wonder, I don't know whether it is on the counter 4 there, I am looking for the three pages of flip chart. 5 A. I have just lost mine -- 6 Q. Thank you very much. This is a photocopy of 7 a photograph or a series of three photographs of the, 8 I think, A1-size flip chart. Do you know who wrote 9 these up on the flip chart? 10 A. No, I don't recall. I don't recall whether they were on 11 the flip chart when we arrived or whether they were 12 written up as we went along as facts, common facts for 13 us all. But I certainly recall there being a flip 14 chart. 15 Q. Had you ever undertaken a process like this before, not 16 in the context of a police shooting but a collective 17 statement making exercise? 18 A. No. No. 19 Q. I think looking, at the flip chart, there were a number 20 of details that you appear to have utilised from it, 21 I wonder whether you can confirm that is correct? 22 A. I would have done undoubtedly, yes. 23 Q. For example the time of the tour of duty commencing 24 being 4.30, yes? 25 A. Yes.</p> <p style="text-align: center;">Page 114</p>	<p>1 police station. At about 6.15 you moved towards the 2 Culcheth area, what were you told then, if anything? 3 A. Prior to us being given State Amber, sorry? 4 Q. No, no, at the point of moving at about 6.15 from Leigh 5 police station to the Culcheth area. 6 A. Again, I cannot recall exactly what was said. 7 Q. What were you wearing at that time? 8 A. Clothing wise? Just a pair of jeans, a strike jacket, 9 T-shirt, covert body armour. 10 Q. So on your top, was there a black strike jacket with 11 a flap that comes out with the word "Police" written on 12 it? 13 A. Mine was a green one, actually -- 14 Q. A green flap or green jacket? 15 A. Green strike jacket, but with a flap that opened up from 16 the pocket with "Police" written on it. 17 Q. Did you have a police cap on or with you? 18 A. I had a police cap with me. 19 Q. At any stage did you put it on? 20 A. No. 21 Q. Did you have your respirator with you at this point? 22 A. Yes. 23 Q. Generally, what effect does the respirator have on your 24 senses, firstly your vision? 25 A. Very little effect on your immediate vision, some effect</p> <p style="text-align: center;">Page 116</p>

1 **on your peripheral vision.**
 2 Q. To what extent does it affect your peripheral vision?
 3 **A. Well, if you want to see either side of you, you have to**
 4 **make a conscious effort to move your head, to adjust and**
 5 **take account of the respirator.**
 6 Q. What about your ability to hear?
 7 **A. It does -- that itself doesn't have an effect on your**
 8 **hearing.**
 9 Q. Do the straps go either side of your ear then or do they
 10 cover your ear at all?
 11 **A. Mine don't particularly cover your ear, it is**
 12 **underneath.**
 13 Q. Were you wearing any ear defenders or plugs?
 14 **A. No.**
 15 Q. What effect does the respirator have on your ability to
 16 be heard?
 17 **A. I think I have mentioned earlier on, you have to speak**
 18 **in a clear concise manner and with volume to overcome**
 19 **the respirator, if you don't have a voice modulator in.**
 20 Q. Did yours have a voice modulator?
 21 **A. No.**
 22 Q. Without a voice modulator, even speaking clearly and
 23 loudly, does it muffle and distort what you are saying?
 24 **A. It does slightly, yes. I think it indicated that on the**
 25 **video we were shown earlier on as well.**

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1 Q. Yes.
 2 When you subsequently deployed, when you got out of
 3 the car, did you pull out the flap from your green
 4 jacket with "Police" on it?
 5 **A. I didn't, no. I was preparing all my other pieces of**
 6 **equipment; that is one thing I didn't do.**
 7 Q. Other than that you were wearing a respirator, which may
 8 indicate that you are a police officer, it may indicate
 9 other things, you had no visible or identifiable
 10 markings to show you as a police officer?
 11 **A. No, I didn't.**
 12 Q. You went I think in the bravo vehicle, which was a Ford
 13 S-Max. Is that right?
 14 **A. Yes.**
 15 Q. Just to confirm positions. U2 was the driver; is that
 16 right?
 17 **A. Let me just refer to this ... yes, that's correct.**
 18 Q. G6 was the front nearside passenger?
 19 **A. Yes.**
 20 Q. U9 was the rear offside passenger?
 21 **A. Yes.**
 22 Q. And you were the rear nearside passenger?
 23 **A. Correct, yes.**
 24 Q. You, I think, made to an additional laying up point at
 25 the Raven Inn, is that right?

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1 **A. That's correct, yes.**
 2 Q. I think the next event that you record as happening is
 3 at about 7.08 you move to State Amber; is that right?
 4 On page 2 of the statement, between the fourth and
 5 fifth paragraphs.
 6 **A. Yes.**
 7 Q. Between 6.15, when you moved to Culcheth, and State
 8 Amber at 7.08, which is I think almost an hour,
 9 53 minutes I think, did you receive any updates?
 10 **A. Again, I can't recall receiving any, I can't recall any**
 11 **specific updates. It wouldn't surprise me. We would**
 12 **undoubtedly have had updates in that period, certainly**
 13 **from at least the surveillance team on the ground.**
 14 Q. There are none referenced in your statement; are there?
 15 **A. No, that is quite correct.**
 16 Q. By this time, at 7.08, was it clear to you that the
 17 strike was going to occur and it was going to be in
 18 Culcheth?
 19 **A. Yes.**
 20 Q. When State Amber was declared at 7.08, where were you at
 21 that time? You were in the back seat of a S-Max,
 22 I know, but where was the S-Max?
 23 **A. I believe we were either still on the Raven Inn public**
 24 **house car park or we were moving from there.**
 25 Q. You decided to put on your respirator; is that right?

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1 **A. Yes.**
 2 Q. Was that because there was a strong probability that you
 3 were going to use the CSDC?
 4 **A. There was a possibility that it would be deployed, yes.**
 5 Q. More than a possibility, a strong likelihood?
 6 **A. I would -- well a possibility at that stage.**
 7 Q. What was your understanding of the position of the
 8 subject vehicle, the Audi, in the car park before you
 9 and your vehicle arrived at the car park?
 10 **A. Again, just going from my statements, I believe that it**
 11 **was in the corner of the car park, in a slightly --**
 12 Q. I know that was in fact the case.
 13 **A. Yes.**
 14 Q. And you describe that as you saw that when you went on
 15 to the car park --
 16 **A. Right.**
 17 Q. -- I am asking, before you went on to the car park, did
 18 you know where the Audi was on the car park, how it was
 19 parked?
 20 **A. Yes, I am not sure at what point or when that became**
 21 **known to us, because obviously surveillance were out on**
 22 **the ground. We would more likely than not have had some**
 23 **kind of picture painted.**
 24 Q. You would hope that you would have such a picture
 25 painted?

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1 **A. You would hope so, yes. I don't recall if we did, but**
 2 **that was the normal process.**
 3 Q. Can you recall the extent to which the position of the
 4 Audi dictated the tactics to be adopted when you
 5 deployed, ie whether there was a discussion:
 6 "It is parked nose facing out in the end parking
 7 space, up against a fence, it has a hedge on one side
 8 and there is a car in the space but one next to it."
 9 **A. I don't know, I don't recall if we had that specific**
 10 **detail in relation to how it was parked and what was**
 11 **around it.**
 12 Q. You would want to know that detail, wouldn't you?
 13 **A. That would assist, certainly.**
 14 Q. It more than assists, it would be important information,
 15 wouldn't it?
 16 **A. Certainly, yes.**
 17 Q. Can you recall whether you were told before going on to
 18 the car park any information about the number of people
 19 inside the Audi?
 20 **A. I don't recall, unless I have recorded it here in my**
 21 **statement, just looking to see I have but ...**
 22 Q. I don't think you did.
 23 **A. No. I don't recall any specific information being**
 24 **passed.**
 25 Q. Can you help us, were you able to listen in to the

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1 surveillance officers', the DSU officers', broadcasts?
 2 **A. Yes, we would have been listening to that.**
 3 Q. Was that on a main set or on a head set?
 4 **A. I don't recall. Generally that would be on the main set**
 5 **in the car and we would have a --**
 6 Q. So through a speaker that the whole car could hear?
 7 **A. Yes. Yes.**
 8 Q. Can you recall them broadcasting a period in which they
 9 had lost eyes on the vehicle?
 10 **A. Again, I am sorry, I don't recall the specifics of what**
 11 **was passed over the radio.**
 12 Q. Can you recall that there was a period of about -- it
 13 seems on the evidence now available -- 13 minutes or so
 14 when eyes were lost on the vehicle in the car park?
 15 **A. No. Again, sir, I am sorry, I don't recall.**
 16 Q. Can you recall any broadcasts by the tactical firearms
 17 commander, Mr Granby, or an officer supervising the DSU
 18 about an imperative to get eyes on the vehicle again to
 19 see whether there was anyone in it?
 20 **A. Again, sir, I am sorry, no. I don't recall that**
 21 **specifically.**
 22 Q. Can you even recall whether it was known that there was
 23 anyone in the car when you drove on to the car park?
 24 **A. Again, without referring to my statements and seeing**
 25 **what I have put in there, I don't recall anything being**

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1 **passed.**
 2 Q. At about 19.12, State Red was given by X7, yes?
 3 **A. Yes.**
 4 Q. You were behind the alpha vehicle when it drove on to
 5 the car park. At what speed did you estimate the alpha
 6 vehicle to be travelling at when it went on to the car
 7 park?
 8 **A. Again, I don't recall. It is usual for us to, where**
 9 **possible, maintain a normal speed for the circumstances,**
 10 **for the environment we are in, so that it is not**
 11 **disturbing till the last minute.**
 12 Q. How far behind the alpha vehicle was the bravo vehicle?
 13 **A. We would have kept in close proximity to the alpha**
 14 **vehicle, but I do recall that in the last few moments it**
 15 **put a spurt on, effectively, the alpha car and got ahead**
 16 **of us.**
 17 Q. You say that in the last paragraph on this page:
 18 "I then saw the alpha vehicle in the MASTS convoy
 19 speed up, leaving a two- to three-second gap between
 20 them and us."
 21 Yes?
 22 **A. I believe so, yes.**
 23 Q. "I saw the alpha car conduct a block of the subject
 24 vehicle, with the alpha car's offside contacting the
 25 subject vehicle's bonnet.

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1 You saw that happen, did you?
 2 **A. Yes.**
 3 Q. At that point, going on to the car park, other than that
 4 you were in possession of the CSDC, did you know what
 5 role that you were going to perform?
 6 **A. I am sorry?**
 7 Q. Yes, did you know where on the vehicle you were going to
 8 go to?
 9 **A. Only through training and previous experience on where**
 10 **the person with the CS dispersal canister would normally**
 11 **go to.**
 12 Q. Where is that?
 13 **A. Yes, I had an intended point, which is the front**
 14 **nearside window, passenger side window.**
 15 Q. What role, if any, was U2 to perform? The driver?
 16 **A. I am not sure, specifically. He is primarily the driver**
 17 **and the drivers tend to fill in as and when all the**
 18 **other AFOs have gone to the vehicles, they tend to be**
 19 **the last ones to get out of the vehicles, because they**
 20 **have got to perform the stop of the vehicle itself,**
 21 **handbrake on et cetera.**
 22 Q. What role was G6 to perform, to your knowledge?
 23 **A. G6 ...**
 24 Q. The front nearside passenger.
 25 **A. Well, in the normal conventional stop he would afford me**

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<p>1 some protection moving on to the vehicle.</p> <p>2 Q. He would be on the wrong side though wouldn't he, here?</p> <p>3 You were getting --</p> <p>4 A. Front nearside, sorry, did you say?</p> <p>5 Q. Yes, but you were getting out of the nearside rear of</p> <p>6 the car?</p> <p>7 A. That's right.</p> <p>8 Q. He would be getting out of the front nearside of the</p> <p>9 vehicle, your vehicle, the S-Max?</p> <p>10 A. Yes.</p> <p>11 Q. Where would he go, was this discussed or agreed?</p> <p>12 A. Not especially in relation to unconventional stop like</p> <p>13 this. On a conventional one we would try and alight the</p> <p>14 vehicle together. I would move down the side of the</p> <p>15 subject vehicle with him offering me some cover.</p> <p>16 Because, as you say, I've got the canister in one hand,</p> <p>17 window breaker in another and trying to control the</p> <p>18 shotgun that is down by my side as well. So he is the</p> <p>19 person that affords me some cover in a conventional</p> <p>20 stop.</p> <p>21 This was unconventional and there was no specific</p> <p>22 discussion around where he would end up, it was, as</p> <p>23 I say, it was a fill in and find work type of tactic.</p> <p>24 Q. I missed that, somebody coughed. A find work?</p> <p>25 A. Find your work, yes.</p> <p style="text-align: center;">Page 125</p>	<p>1 Q. To what extent did that concern you, that you couldn't</p> <p>2 see whether there was anyone in it?</p> <p>3 A. It did cause some concern, because at that stage</p> <p>4 I wasn't aware of whether the occupants were still</p> <p>5 contained within the vehicle, whether they were outside,</p> <p>6 it is the usual unknown really.</p> <p>7 Q. Before going on to the car park, had you been briefed</p> <p>8 that the rear side windows and the rear window of the</p> <p>9 Audi were very heavily tinted?</p> <p>10 A. Again, I don't recall receiving that information.</p> <p>11 Q. When you were driving towards the Audi, did you see that</p> <p>12 its nearside rear window was indeed tinted?</p> <p>13 A. No, no. Again because of the poor lighting, it being</p> <p>14 dark, et cetera.</p> <p>15 Q. Your vehicle came to a stop?</p> <p>16 A. Yes.</p> <p>17 Q. When your vehicle came to a stop, was anyone outside of</p> <p>18 the alpha vehicle?</p> <p>19 A. I don't recall that. I am sorry, I am being slow on</p> <p>20 that one, I don't actually recall where the occupants of</p> <p>21 the alpha car were when I alighted.</p> <p>22 Q. When your vehicle stopped, who was the first person to</p> <p>23 get out of your vehicle?</p> <p>24 A. I don't know.</p> <p>25 Q. What did you do when you got out of the vehicle?</p> <p style="text-align: center;">Page 127</p>
<p>1 Q. U9, would the same apply to him in the rear offside</p> <p>2 passenger seat, that he had to fill in and find work?</p> <p>3 A. Yes.</p> <p>4 Q. When you went on to the car park, did you see any</p> <p>5 members of the public on the car park?</p> <p>6 A. I don't recall seeing that. I have certainly not</p> <p>7 recorded that I've seen any.</p> <p>8 Q. In the course of the operation, other than the three</p> <p>9 subjects, did you see any members of the public on the</p> <p>10 car park?</p> <p>11 A. Again, I don't recall seeing any. I think my attention</p> <p>12 would have been focused on the subject vehicle.</p> <p>13 Q. Did you hear any instructions being given to members of</p> <p>14 the public?</p> <p>15 A. No.</p> <p>16 Q. Okay.</p> <p>17 What were the lighting conditions like when you went</p> <p>18 on to the car park?</p> <p>19 A. It was dark, and it was dimly, poorly lit car park.</p> <p>20 Q. As you drove towards the Audi, could you in your</p> <p>21 position, rear nearside in the S-Max, see it?</p> <p>22 A. I could see the subject vehicle, yes, or a portion of</p> <p>23 it, should I say.</p> <p>24 Q. Could you see whether there was anyone in it?</p> <p>25 A. No.</p> <p style="text-align: center;">Page 126</p>	<p>1 A. Well, as I said, I was getting out of the vehicle with</p> <p>2 the CS dispersal canister in one hand, I had a window</p> <p>3 breaker in the other hand and I was controlling the</p> <p>4 shotgun which was down by my side, which is obviously</p> <p>5 made ready in case it had to be used.</p> <p>6 I made my way out of the rear nearside door, passed</p> <p>7 the front nearside door of the bravo car, between the</p> <p>8 bravo and the alpha car and I made directly to the front</p> <p>9 nearside window of the subject vehicle.</p> <p>10 Q. If we look, please, at tab 28 of the second general</p> <p>11 file. Are you there?</p> <p>12 A. Yes, sorry.</p> <p>13 Q. I think we can see a general depiction on page 585 of</p> <p>14 the subject vehicle and the alpha, bravo and charlie</p> <p>15 vehicles. Then over the page to 586, a closer up</p> <p>16 version of it, yes?</p> <p>17 A. 586?</p> <p>18 Q. Yes. Does that accurately set out the rough position of</p> <p>19 the vehicles?</p> <p>20 A. Yes, I believe it does.</p> <p>21 Q. You exited the rear passenger seat nearside of the</p> <p>22 second blue rectangle, ran down the left-hand side of</p> <p>23 the rectangle, in between the two blue rectangles and</p> <p>24 then to the front passenger seat of the red rectangle?</p> <p>25 A. I did, yes.</p> <p style="text-align: center;">Page 128</p>

1 Q. Yes?
 2 **A. Yes.**
 3 Q. When your vehicle had stopped, did it come into contact
 4 with the Audi at all?
 5 **A. No, not that I recall, no.**
 6 Q. Were you aware that sitting in the seat of the rear
 7 offside of the Audi, the police Audi, there was a police
 8 officer with the window down?
 9 **A. No, I wasn't aware of that.**
 10 Q. Did you see a gun protruding partially from the window?
 11 **A. No.**
 12 Q. Did you know that that was going to happen, that
 13 an officer would remain in the alpha vehicle providing
 14 cover?
 15 **A. No, I didn't.**
 16 Q. As you approached the stolen Audi, were there any
 17 obvious signs that the engine was running?
 18 **A. I don't recall. I don't recall hearing the engine**
 19 **revving.**
 20 Q. Could you see any smoke coming from the exhaust?
 21 **A. In all fairness I wasn't looking and I wouldn't have**
 22 **seen that in the low light.**
 23 Q. Could you detect any forwards or backwards movement in
 24 the car?
 25 **A. There wasn't any movement at that stage.**

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1 Q. Were the Audi's lights on?
 2 **A. Again, I couldn't see. We had our car blocked right**
 3 **against the front of their vehicle and I was focused on**
 4 **the cab of the Audi.**
 5 Q. Was the inside of the Audi, the subject Audi,
 6 illuminated in any way by lights coming from inside it?
 7 **A. No, not that I recall.**
 8 Q. The courtesy lights?
 9 **A. No, not that I can recall.**
 10 Q. Were you aware of any other police officers outside of
 11 their vehicles at this stage?
 12 **A. No.**
 13 Q. We know that you subsequently broke the window of the
 14 vehicle and discharged the CSDC inside it?
 15 **A. Yes, I did.**
 16 Q. Before you did that, did you hear anyone shout, "Armed
 17 police, show me your hands"?
 18 **A. I don't recall hearing anything.**
 19 Q. If you look at your first witness statement, which is
 20 tab 1, please.
 21 **A. Yes.**
 22 Q. The second on to the third page, so foot of the second
 23 page, 116, on to 117, and then in particular the first
 24 and second paragraphs on 117. I think you can agree
 25 that you do not say in that witness statement that you

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1 heard anyone else shouting anything?
 2 **A. Indeed.**
 3 Q. Indeed I don't think you say that you shouted anything
 4 in that witness statement?
 5 **A. I don't recall shouting anything myself. It would be**
 6 **normal practice to, at least "Armed police", et cetera,**
 7 **but I don't -- I haven't recorded it and I don't recall**
 8 **whether I shouted it or not.**
 9 Q. As you made towards the passenger window of the red
 10 Audi, did you hear a shot fired?
 11 **A. No.**
 12 Q. Before you broke the window, of the Audi, did you hear
 13 the report of any firearm?
 14 **A. No, no.**
 15 Q. At what speed did you move from the rear of the S-Max to
 16 the passenger side of the Audi?
 17 **A. I ran as fast as I could.**
 18 Q. I think at some point you removed the pin from the CSDC
 19 canister?
 20 **A. I did indeed, yes.**
 21 Q. At what point in the episode did you remove the pin?
 22 **A. I believe I have put it in here, when State Red was**
 23 **called.**
 24 Q. That was before you had even got on to the car park?
 25 **A. I think that is when we were moving on to the car park,**

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1 **I believe.**
 2 Q. Yes, if you look at the previous page, you say:
 3 "At 19.12 hours, State Red was given by the OFC. As
 4 we turned on for the car park I noted that it was poorly
 5 lit."
 6 **A. It was a continuous movement --**
 7 Q. It was as you were moving on to the car park you pulled
 8 the pin?
 9 **A. Yes.**
 10 Q. Is that a reversible action?
 11 **A. No, it is not with the canisters, no.**
 12 Q. So that canister was going to be discharged that night
 13 one way or the other?
 14 **A. No, the intention was to have the capability of that**
 15 **canister available at the point of contact with the**
 16 **subjects, if it was required. Sir, if you asked me to**
 17 **stand alongside a subject vehicle now with a canister in**
 18 **one hand and a window breaker in the other, I could**
 19 **quite easily and every time smash the window and**
 20 **guarantee the canister was going to go into the car.**
 21 **Those were not the circumstances that I had at that**
 22 **time. I think I have already said I had a shotgun that**
 23 **was made ready and I had to control, down one side of my**
 24 **person. I had the CS canister, a window breaker in my**
 25 **hand, I had to get out of the car first and foremost,**

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1 **make my way safely to where the subject vehicle was and**
 2 **the intention of removing the pin in the vehicle was**
 3 **that I could have a full assessment of the threat that**
 4 **I faced and I would not be distracted or be let down by**
 5 **my fine motor skills at the side of the subject vehicle,**
 6 **if the canister was required.**
 7 Q. If we look, please, at tab 1 of the bundle at page 3, at
 8 the first and second paragraphs. Would you agree that
 9 you give no reasons as to why you used the CSDC?
 10 **A. Sorry, apologies, where am I looking to?**
 11 Q. Tab 1, the third page of the witness statement, first
 12 and second paragraphs.
 13 **A. Sorry, I am lost a little bit here.**
 14 Q. Just take your time. Tab 1, page 3 --
 15 THE CHAIRMAN: In the bottom right-hand corner, it should
 16 have 117.
 17 **A. My apologies, I was on tab 2. Yes, page 3.**
 18 MR BEER: The first and second paragraphs.
 19 **A. Yes.**
 20 Q. Would you agree that here in this statement you don't
 21 give any reasons why you in fact used the CSDC?
 22 **A. No, you are right, I don't on that first statement, sir,**
 23 **no.**
 24 Q. Indeed in the statement as a whole you don't give any
 25 reasons why?

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1 **A. No, I don't in that first statement, no.**
 2 Q. Why is that?
 3 **A. Because I think at the time, although it had been**
 4 **a police shooting incidence, I had deployed a less**
 5 **lethal option into a car and I didn't think it needed**
 6 **any more justification or explanation than that.**
 7 Q. You made a conscious decision, did you, not to give
 8 detail because it was unnecessary?
 9 **A. It was not a conscious decision, I just didn't think it**
 10 **was required specifically.**
 11 Q. If we look at the details then, please, at exactly what
 12 happened according to this statement. In the second
 13 paragraph, I am going to take this quite slowly because
 14 it may be important:
 15 "I then ran between the front of the bravo car and
 16 the rear of the alpha car and made directly to the front
 17 passenger window of the subject vehicle. I remained
 18 focused on the nearside of the car and, without delay,
 19 I smashed the passenger window and deployed the CS
 20 canister on to the vehicle. As I did so, I looked into
 21 the car and saw one male in the rear of the vehicle and
 22 the driver, Anthony Grainger, who upon the window
 23 smashing appeared to me to raise his hands from below
 24 the dashboard towards chest height."
 25 Would you agree that in the sequence of events that

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1 you have set out there, before smashing the window, you
 2 had not seen any of the occupants of the vehicle?
 3 **A. On the approach to the vehicle, I could see the driver**
 4 **in the driver's seat but obviously getting to the**
 5 **vehicle itself, because that window was not smoked --**
 6 Q. Tinted?
 7 **A. Tinted, thank you. I was able to have a quick**
 8 **assimilation of bodies within the vehicle.**
 9 Q. My question was slightly different, on the description
 10 that you have given in the witness statement here,
 11 before smashing the window you do not describe yourself
 12 as having seen any of the occupants or indeed whether
 13 there were any occupants, do you?
 14 **A. I have not done, no, unfortunately.**
 15 Q. You have told us today that in fact, on running to the
 16 vehicle, you did in fact see the driver. Is that right?
 17 **A. Yes. At the point of getting to the subject vehicle,**
 18 **that point of contact with the subjects, where I was**
 19 **alongside the front passenger window, yes.**
 20 Q. If that is the case, why does this witness statement
 21 narrate the sequence of events that it was only as you
 22 smashed the window that you looked into the car and saw
 23 the driver?
 24 **A. Well, it is not one action and then another. It is**
 25 **a continuous course of action and I am looking into the**

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1 **vehicle as I am undertaking the actions that I have**
 2 **described.**
 3 MR BEER: Sir, I wonder whether that would be a convenient
 4 moment.
 5 THE CHAIRMAN: Certainly, I think we ought to take a break.
 6 3.25, please.
 7 MR BEER: Thank you, sir.
 8 THE CHAIRMAN: I will wait for Mrs Shaw to escort the
 9 witness out.
 10 (3.23 pm)
 11 (A short adjournment)
 12 (3.40 pm)
 13 MR BEER: Thank you, sir.
 14 X9, can we turn to tab 2, please, of your bundle.
 15 **A. Yes.**
 16 Q. In your statement of 28 May, in the fourth paragraph,
 17 you say:
 18 "I would like to clarify that even though the use of
 19 the canister as an operational contingency had been
 20 authorised prior to deployment, I made the decision to
 21 deploy it."
 22 Yes?
 23 **A. Yes.**
 24 Q. You say that it was an operational contingency, what was
 25 the contingency?

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1 **A. Well, it is a good question. It was referred to that on**
 2 **the briefing itself, wasn't it, as an operational**
 3 **contingency. I took it to mean it was a contingency for**
 4 **the type of operation that we were engaged in.**
 5 Q. A contingency is provision for a possible event or
 6 circumstance, which is possible, but cannot be predicted
 7 with certainty.
 8 **A. Yes.**
 9 Q. What was the use of CSDC contingent upon?
 10 **A. I am sorry, I don't quite follow you on that question.**
 11 Q. You say it was described in the briefing as
 12 an operational contingency and you refer to it here as
 13 an operation contingency. What was the contingent event
 14 that needed to happen in order to allow CSDC to be used?
 15 **A. There was an imminent threat to myself, my colleagues,**
 16 **and all members of the public from the subjects that we**
 17 **were dealing with.**
 18 Q. Did you see the car doing anything that caused it to be
 19 an imminent threat to you and your colleagues?
 20 **A. I didn't see the car move, I didn't hear the engine**
 21 **revving, but the driver was still in the driver's seat**
 22 **and was not under control and I deemed that still to be**
 23 **a threat to the officers that were now surrounding the**
 24 **vehicle.**
 25 Q. How did you know that he was not under control?

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1 **A. Because he was still in the driver's seat.**
 2 Q. The fact of somebody sitting in the driver's seat
 3 presented an imminent risk in your judgment; is that
 4 right?
 5 **A. That was one of the imminent risks I believe that**
 6 **I faced at that time, yes.**
 7 Q. What were the other imminent risks that you faced at
 8 that time, that you could see?
 9 **A. Well, it was more that I couldn't see -- I could see**
 10 **there were other occupants in the vehicle and I couldn't**
 11 **see what they had in their possession, whether they had**
 12 **access to, immediate access to a firearm or other**
 13 **weapon.**
 14 Q. How many other occupants could you see?
 15 **A. One.**
 16 Q. And where was he?
 17 **A. He was in the rear seat to the vehicle.**
 18 Q. Through which window did you see him?
 19 **A. Through the front nearside passenger window.**
 20 Q. If you go back to tab 1, in the bundle, page 3 of the
 21 witness statement. In the second paragraph, you say:
 22 "I remained focused on the nearside of the car and
 23 without delay I smashed the passenger window and
 24 deployed the CS canister into the vehicle. As I did so
 25 I looked into the car and saw one male in the rear of

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1 the vehicle ..."
 2 That is who you are referring to, yes?
 3 **A. Yes.**
 4 Q. "... and the driver, Anthony Grainger."
 5 Again, there you describe the looking in as "as you
 6 smashed the window" rather than before, do you agree?
 7 **A. That is probably my poor written skills or phraseology,**
 8 **to be honest. It is one continuous action of looking in**
 9 **and smashing the window.**
 10 Q. Even if it is one continuous action of looking in and
 11 smashing the window, that shows that the events are
 12 happening at the same time, doesn't it? Is that you
 13 hadn't seen the driver or the rear seat passenger before
 14 you made the decision to smash the window, had you?
 15 **A. Sorry, no, I think that is your inference and not mine.**
 16 **That is an assimilation of the facts and an**
 17 **assimilation of the threats and risk I saw at that point**
 18 **of the vehicle.**
 19 Q. If it happened the way that you are describing it now,
 20 namely that you saw that the driver was still sitting in
 21 the driver's seat and therefore presented a threat and
 22 that you also saw that there was a male in the rear of
 23 the vehicle who might have a firearm, then you smashed
 24 the window, why didn't you describe it that way in this
 25 statement?

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1 **A. I think it was just explaining really, it was I didn't**
 2 **feel it was an importance placed upon the use of the**
 3 **canister at the time. Yes, there had been a fatal**
 4 **police shooting but I just deployed a less lethal option**
 5 **into the vehicle in the hope that that would save**
 6 **someone from potentially being shot or using lethal**
 7 **force against them and I didn't see it being a major**
 8 **issue.**
 9 Q. If you go to your second witness statement, dated
 10 28 May 2012, in tab 2.
 11 **A. Yes.**
 12 Q. If you look at the end of the fourth paragraph on the
 13 first page, you say:
 14 "I made the decision to deploy it [that is the CSDC]
 15 into the vehicle based on a number of factors."
 16 Yes?
 17 **A. Yes.**
 18 Q. Then you say:
 19 "The first being my previous and numerous
 20 deployments on this particular type of tactic. At the
 21 point of contact with the subject vehicle when
 22 non-compliance is encountered and the vehicle is not
 23 brought under control, I have seen officers injured and
 24 members of the public put at severe risk.
 25 "The second is my knowledge and intent of the

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1 capability of the individuals within this OCG."
 2 Yes?
 3 **A. Yes.**
 4 Q. "The third was the updates provided on the deployment
 5 day."
 6 Yes?
 7 **A. Yes.**
 8 Q. Then you say:
 9 "Also [which I suppose is a fourth] the picture
 10 painted from the surveillance regarding subject
 11 movements and behaviour as we neared the strike location
 12 indicated to me that the group were in the final stages
 13 of preparation for an offence."
 14 None of those four reasons relates to what anyone in
 15 the driver's seat or in the rear seats of the vehicle
 16 was doing, do they?
 17 **A. No, I think in relation to this statement, I was asked**
 18 **to provide this additional statement by the IPCC, just**
 19 **in relation to my decision process in relation to the**
 20 **use of the CS dispersal canister. So it might not be**
 21 **covering the areas that you are necessarily --**
 22 Q. It is exactly the same thing: what reasons did you have
 23 to deploy the CSDC? That is exactly the same point,
 24 isn't it?
 25 We have seen that you don't give any reasons in your

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1 first statement. You are asked in your second statement
 2 what were your reasons and the four reasons you give are
 3 either generic, previous knowledge, or, "Because of what
 4 I knew about the subjects", they are not focused on what
 5 the subjects were doing at the time.
 6 **A. Those particular elements are not, no, they are what --**
 7 **they are the elements that built up to me being**
 8 **alongside the subject vehicle and being in that**
 9 **vulnerable position alongside it, which I think I have**
 10 **tried to elaborate a little bit more as that page**
 11 **continues.**
 12 Q. You say in the middle of page 2 of this statement:
 13 "As I alighted my vehicle and approached the subject
 14 vehicle I could see the driver, Anthony Grainger, in the
 15 subject vehicle. As I arrived at the passenger window
 16 I was unaware of any colleagues containing the car."
 17 You therefore formed the opinion that the driver and
 18 occupants were not under control and posed a real
 19 threat, which is what you have told us today?
 20 **A. Yes.**
 21 Q. Why have you described things differently in this
 22 statement, namely that you could see the driver,
 23 Anthony Grainger, as you approached the vehicle, formed
 24 the view that he wasn't under control and that
 25 contributed to your reasoning to deploy?

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1 **A. I think that depends on the proximity of myself to the**
 2 **vehicle. It is a continuous process. I hadn't stopped**
 3 **at any particular point I was running towards the**
 4 **vehicle. And that was my approach to the subject**
 5 **vehicle. That is why I have said before I prepared my**
 6 **canister and my weapons in a certain way so that I could**
 7 **focus on the threat and the vehicle in front of me,**
 8 **rather than having to look away at the canister and pin**
 9 **et cetera.**
 10 Q. What noise, if any, did the CSDC make when it dispersed?
 11 **A. It doesn't make any particular sound, as such. It is**
 12 **like a CS spray.**
 13 Q. Did it instantly fill the car with CS gas?
 14 **A. That was my perception of it on the day, yes.**
 15 Q. If we can go back to tab 1 in the bundle, please, to see
 16 Mr Grainger's reactions to you breaking the window and
 17 throwing the CS into the vehicle, tab 1, page 3.
 18 Second paragraph, in the middle of it, continuing
 19 from where we left off, you say:
 20 "I looked into the car and saw one male in the rear
 21 of the vehicle and the driver, Anthony Grainger, who
 22 upon the window smashing appeared to me to raise his
 23 hands from below the dashboard towards chest height,
 24 I believed either through shock of being challenged or
 25 to capitulate."

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1 Could you demonstrate what he did, please?
 2 **A. I can't now, because I can't recall it and apologies for**
 3 **this but it might well have even been a flinch reaction.**
 4 Q. Why are you saying that now? Because you say here he
 5 appeared to raise his hands through the shock of being
 6 challenged or to capitulate.
 7 **A. If you want, it was more of a flinch of a movement, if**
 8 **you will.**
 9 Q. What position were his hands in before he raised them?
 10 **A. I believe they must have been lower down, from**
 11 **recollection.**
 12 Q. Could you see them?
 13 **A. I don't recall, it was only at the point of me seeing**
 14 **the hands at that moment that led me to believe they had**
 15 **come up from lower down, if that makes sense.**
 16 Q. Presumably this was after the fog had cleared?
 17 **A. I don't recall at what point it was.**
 18 Q. You are talking about him raising his hands from below
 19 the dashboard towards chest height after the window had
 20 broken and after the CS had been deployed; is that
 21 right?
 22 **A. That is what I have put on here, yes. That's my**
 23 **recollection of it.**
 24 Q. Yes.
 25 Was there any sign that he had been shot at this

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1 stage?
 2 **A. I didn't see any sign of that.**
 3 Q. Had you by this stage heard the report of a firearm?
 4 **A. Sorry, from within the vehicle or?**
 5 Q. No, by this stage, at all, had you heard the report of
 6 any firearm?
 7 **A. No. No.**
 8 Q. Is the sound of a gun going off?
 9 **A. No, sorry, I hadn't, no.**
 10 Q. Had you noticed whether the front windscreen of the
 11 vehicle, the Audi, was damaged in any way with a bullet
 12 hole in it?
 13 **A. I didn't see that, I couldn't see -- I didn't look for**
 14 **that, it was dark and I didn't see that hole. It could**
 15 **well have been, I didn't see.**
 16 Q. Certainly at the point that you were deploying your CS,
 17 to you Mr Grainger didn't appear injured in any way?
 18 **A. No. No, sir.**
 19 Q. And was able to raise his hands from below the dashboard
 20 towards his chest height?
 21 **A. That is my recollection, or my view of what I saw. My**
 22 **interpretation.**
 23 Q. Did you then become aware of other firearms officers
 24 surrounding the vehicle?
 25 **A. Yes, I did. Yes, at some point.**

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1 Q. Which officers were you aware of?
 2 **A. The only one I have recorded here is Whisky 9, and the**
 3 **circumstances around Whisky 9 arriving at the vehicle.**
 4 Q. Other than W9 have you any recollection of what any of
 5 the other officers did?
 6 **A. No, not at that point, no.**
 7 Q. You saw a male dressed in a grey tracksuit who you then
 8 knew to be David Totton, yes?
 9 **A. Yes. Yes.**
 10 Q. Where was he positioned?
 11 **A. I saw him moving from a standing position -- sorry, from**
 12 **the rear of the vehicle, rear nearside of the vehicle,**
 13 **near the boot.**
 14 Q. He was standing up?
 15 **A. Initially, yes. Yes.**
 16 Q. What was he doing?
 17 **A. I don't know, he just appeared in my peripheral vision.**
 18 Q. Did you train a weapon on him?
 19 **A. No, no, because at the same time I heard the shout from**
 20 **my colleague, W9, and saw him moving towards him**
 21 **challenging him with his firearm.**
 22 Q. The first time you saw David Totton, he was well out of
 23 the vehicle and he just appeared at the back rear
 24 nearside quarter of the vehicle?
 25 **A. Yes, yes.**

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1 Q. You don't know where he came from?
 2 **A. No, I don't.**
 3 Q. Before you saw him, did you hear the sound of a shotgun
 4 round being discharged?
 5 **A. Sorry, I am just referring to my statement because I**
 6 **can't recall the sequence.**
 7 Q. I think the sequence is set out in your statement here,
 8 tab 1, page 3, third paragraph:
 9 "I became aware of other officers surrounding the
 10 vehicle and heard a bang behind me, which I believe was
 11 the first shotgun round being discharged. Looking
 12 around I saw David Totton ..."
 13 **A. That's right, yes.**
 14 Q. Yes?
 15 **A. Yes.**
 16 Q. You heard the sound of a shotgun being discharged, where
 17 was that coming from?
 18 **A. From behind me, from where I was stood it was towards**
 19 **the front end of the subject vehicle I think.**
 20 Q. Was it your side?
 21 **A. I believe it was, yes. Yes.**
 22 Q. Had you by this stage moved towards the back of the
 23 vehicle?
 24 **A. I was moving in that direction, yes.**
 25 Q. Did you then hear the sound of a second shotgun round

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1 being fired?
 2 **A. I believe that was after I had engaged with Mr Totton,**
 3 **my colleague had challenged him and he was -- Mr Totton**
 4 **was moving to the ground and I assisted in restraining**
 5 **Mr Totton. I was alongside the subject vehicle**
 6 **restraining, controlling, Mr Totton, when I heard the**
 7 **second shotgun round go off.**
 8 Q. You assisted I think putting handcuffs on Mr Totton?
 9 **A. Yes.**
 10 Q. It was after that that you heard or as you were doing
 11 that that you heard the second shotgun round?
 12 **A. Yes.**
 13 Q. At that point, did a shout go up, "He is shot, he is
 14 shot"?
 15 **A. I did hear somebody shout that, again I'm just looking**
 16 **through my statement for the sequence because I have**
 17 **recorded it.**
 18 Q. It is the bottom of page 3.
 19 **A. Yes. So --**
 20 Q. Was that in reference to the driver, who you now know to
 21 be Anthony Grainger?
 22 **A. Yes, it was.**
 23 Q. At what position was Mr Grainger in when you first saw
 24 him at this stage?
 25 **A. So I think -- I believe he was being removed from the**

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<p>1 subject vehicle, via the front passenger side.</p> <p>2 Q. Who was removing him?</p> <p>3 A. A number of my colleagues, I couldn't tell you exactly</p> <p>4 who.</p> <p>5 Q. Was that the first time you knew that Mr Grainger was</p> <p>6 injured?</p> <p>7 A. It was, sir, yes.</p> <p>8 Q. Was trauma care then administered?</p> <p>9 A. Yes, as he was being removed from the car my colleagues</p> <p>10 were administering trauma aid to him.</p> <p>11 MR BEER: Yes, thank you very much, they are the questions</p> <p>12 I ask.</p> <p>13 THE CHAIRMAN: Mr Thomas.</p> <p>14 MR THOMAS: Thank you, sir.</p> <p>15 Questions from MR THOMAS</p> <p>16 MR THOMAS: X9, my name is Mr Thomas and with Mr Straw, who</p> <p>17 sits --</p> <p>18 A. I'm sorry, I could not hear.</p> <p>19 MR THOMAS: And with Mr Straw, who sits alongside me, we</p> <p>20 represent Anthony's family, his mother who sits here.</p> <p>21 A. Thank you.</p> <p>22 Q. All right.</p> <p>23 Can I just take a step back and try to understand</p> <p>24 and clarify a little bit of the evidence that you have</p> <p>25 given this afternoon, okay?</p> <p style="text-align: center;">Page 149</p>	<p>1 Q. Yes.</p> <p>2 A. So yes.</p> <p>3 Q. If you are called upon to go in and make an arrest, you</p> <p>4 need to be ready?</p> <p>5 A. You need to be in a certain stage of preparedness -- if</p> <p>6 I can say it, preparedness.</p> <p>7 Q. X9, there is nothing controversial in what I am putting</p> <p>8 to you. You and your colleagues were there to do a job,</p> <p>9 correct?</p> <p>10 A. Correct.</p> <p>11 Q. You had been briefed to do the job, correct?</p> <p>12 A. Yes.</p> <p>13 Q. You had been told that these were potentially armed and</p> <p>14 dangerous men; is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. You were there ready to be deployed, correct?</p> <p>17 A. Yes.</p> <p>18 Q. Right.</p> <p>19 Help me with this. Bearing in mind that you knew --</p> <p>20 you had been told that the car was in the car park?</p> <p>21 A. Yes, I believe. Yes, we were aware of its location.</p> <p>22 Q. We know, half past to before the Amber was called, some</p> <p>23 40 minutes, roughly, what were you and your colleagues</p> <p>24 discussing?</p> <p>25 A. I have no idea, sir.</p> <p style="text-align: center;">Page 151</p>
<p>1 A. Yes.</p> <p>2 Q. Can we agree on this. You and your colleagues, as part</p> <p>3 of this strike team, were very near the car park and</p> <p>4 were waiting for the strike to be called. Correct?</p> <p>5 A. Yes.</p> <p>6 Q. Right. I think certainly from about 6.15 until when the</p> <p>7 strike is called, it is some 53 minutes, something like</p> <p>8 that, yes? We can work out the maths, but roughly, yes?</p> <p>9 A. Yes.</p> <p>10 Q. We know that the car, the Audi, was on the car park from</p> <p>11 about half past-ish, so you were waiting with your</p> <p>12 colleagues, waiting for the strike to be called,</p> <p>13 correct? The car is in the car park, are you with me?</p> <p>14 A. Yes I am with you, certainly. I am just thinking.</p> <p>15 Q. You are close by with your colleagues?</p> <p>16 A. Yes.</p> <p>17 Q. And you are waiting for the strike to be called?</p> <p>18 A. We are -- at that stage we were waiting to see whether</p> <p>19 State Amber is going to be called or not.</p> <p>20 Q. Yes. The bottom line is you have to be ready just in</p> <p>21 case the strike is called. That's right, isn't it?</p> <p>22 A. Sorry, in what way do you mean "ready"?</p> <p>23 Q. "Ready to deploy", that is what I mean by "ready".</p> <p>24 A. Well, yes we are in the location with our equipment that</p> <p>25 we need.</p> <p style="text-align: center;">Page 150</p>	<p>1 Q. The reason why I ask you that question, you are there</p> <p>2 for some 40 minutes or so, and yet when Mr Beer is</p> <p>3 asking you questions about who is going to go to which</p> <p>4 door, what was the -- your evidence appears to be</p> <p>5 nothing was decided.</p> <p>6 A. There was no discussion around who was going to go to</p> <p>7 which door, sir, at that point.</p> <p>8 Q. That is what I am asking you about.</p> <p>9 Help the chairman, there you are, sitting in your</p> <p>10 vehicle -- sitting/standing, whatever you are doing in</p> <p>11 your vehicle, what is being discussed for some</p> <p>12 40 minutes?</p> <p>13 A. I don't recall, sir.</p> <p>14 Q. Would we have a wrong impression that you, the firearms</p> <p>15 officers, are just sitting there twiddling your thumbs?</p> <p>16 Would that be a wrong impression for us to have?</p> <p>17 A. Certainly, yes.</p> <p>18 Q. Right, so you tell us, what were you doing? Because you</p> <p>19 were there, I wasn't.</p> <p>20 A. Well, to be honest, sir, it is a long time ago and I</p> <p>21 can't recall what was discussed in the car at that point</p> <p>22 in time. Normally we would be listening to the</p> <p>23 surveillance commentary.</p> <p>24 Q. All right, let's come on to the listening to the</p> <p>25 surveillance commentary.</p> <p style="text-align: center;">Page 152</p>

1 How is it then that you were unclear when you drove
 2 into the car park whether there was anybody in the car,
 3 the Audi, tell us?
 4 **A. I don't -- I think I said, sir, that I don't recall what**
 5 **was actually said on the surveillance channel.**
 6 Q. Eyes were lost on this car for some 13 minutes. You
 7 were aware of that, weren't you?
 8 **A. Not necessarily, no.**
 9 Q. You think the fact that eyes were lost, you would not
 10 have been made aware of?
 11 **A. Sir, I don't recall being told that piece of information**
 12 **or not. I might well have been, I don't recall.**
 13 Q. My question is, X9, eyes being lost on the subject car,
 14 is that or is that not something that is very important
 15 to let the firearms officers know?
 16 **A. Yes.**
 17 Q. Okay. Help us, do you think, had eyes been lost for
 18 13 minutes -- 13 minutes is a long time to lose control
 19 of the vehicle, would you agree?
 20 **A. It is indeed, yes.**
 21 Q. Yes. Do you think that is the sort of thing you would
 22 have been told in all probability? The likelihood is
 23 that if eyes had been lost on this vehicle, you and your
 24 colleagues would have been told that. Probable?
 25 **A. Sir, you did ask me originally was I aware of that and**

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1 **I have answered you, to the best of my knowledge I can't**
 2 **recall that. Whether I would possibly have been made**
 3 **aware or not, possibly yes.**
 4 Q. I am asking you a different question so listen to the
 5 question; I have moved on from before.
 6 Do you think, bearing in mind the importance of
 7 keeping control of the vehicle, if eyes had been lost,
 8 do you think it is probable -- I am not talking about
 9 "possible", anything is possible -- that you and your
 10 colleagues would have been told?
 11 **A. Sir, I can say "possibly", "probably" but I can't say**
 12 **"definitely".**
 13 Q. Why are you fudging it, with the greatest of respect,
 14 "possibly" and "probably" are two different words?
 15 **A. I am trying to be as honest as I can, sir. I can't**
 16 **honestly recall whether we got that information or not**
 17 **and that is as much as I can give you, I'm sorry about**
 18 **that.**
 19 Q. X9, are you trying to be helpful? Because you
 20 understand the question, it is not that you don't
 21 understand what I am asking you.
 22 **A. I do understand.**
 23 Q. Right, okay. Last time, you have accepted that you, it
 24 is important for you to know whether control has been
 25 lost on the vehicle, you have accepted that?

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1 **A. It is important, yes.**
 2 Q. You have surveillance officers there who are your eyes,
 3 correct?
 4 **A. Yes, indeed.**
 5 Q. You are in communication with those surveillance
 6 officers, you can hear what they are saying. Correct?
 7 **A. Yes.**
 8 Q. If a request is made to get eyes on the vehicle because
 9 surveillance has been lost, that is the sort of
 10 information that you probably would have been informed
 11 of -- even though you cannot remember now, that is the
 12 sort of information you probably would have been
 13 informed of. That is what I am asking you, do you
 14 agree?
 15 **A. I agree it is probably what we would have, yes.**
 16 Q. Thank you.
 17 **A. I'm sorry, I thought I was agreeing with you before.**
 18 Q. Don't worry, it is my fault not yours.
 19 If the probability is that that is something that
 20 you would have been told, I just want to think this one
 21 through with you. 13 minutes, we have lost eyes on the
 22 vehicle, there would have been a degree of apprehension
 23 amongst the firearms officers:
 24 "Good grief, I wonder if they are out of the car,
 25 I wonder if they are committing a robbery. We have lost

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1 eyes on them for 13 minutes".
 2 That sort of thought process, do you agree?
 3 **A. Yes, a number of options as to where they went would**
 4 **definitely be going through your head, yes.**
 5 Q. That would be the sort of thinking that would be going
 6 through your mind -- when I say "your", I am not
 7 singling you out, I am talking about the firearms
 8 officers in general, do you follow, but you are just in
 9 the witness box -- when you enter the car park,
 10 isn't it?
 11 **A. That we wouldn't -- yes, you are right.**
 12 Q. All right.
 13 I am going to move on to a different topic if I may.
 14 Mr X9, there is nothing wrong with your hearing, is
 15 there?
 16 **A. I don't think so, sir, no. I just had a recent test and**
 17 **everything has come out fine on that one.**
 18 Q. Everything is okay, glad to hear it.
 19 We can assume that your hearing was okay back at the
 20 time of this incident?
 21 **A. Yes.**
 22 Q. Yes.
 23 I want to come to when you deploy from your vehicle,
 24 yes?
 25 **A. Yes, sir.**

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1 Q. What we can agree on is your job -- you have the CS
 2 canister, you have the thing that you break the window
 3 with and you have a shotgun. Yes?
 4 **A. Yes, sir.**
 5 Q. But you are moving when you deploy from the vehicle,
 6 very fast, correct?
 7 **A. Yes, yes.**
 8 Q. I am right, aren't I, that you even start your exit
 9 before your vehicle comes to a stop?
 10 **A. Yes, indeed I do.**
 11 Q. That is to give an indication just how quickly you want
 12 to move into position, correct?
 13 **A. Yes.**
 14 Q. Bearing in mind that everybody has to go and cover these
 15 dangerous individuals, you want to get to the car within
 16 seconds, literally. Would that be fair?
 17 **A. Yes, sir, yes.**
 18 Q. Is that what you did, you got there within literally
 19 seconds?
 20 **A. As fast as I was able to, yes.**
 21 Q. Yes. Well, I am asking you these questions for
 22 a reason. We can agree that for the time you take to
 23 deploy, we are not talking in excess of 10 seconds. Are
 24 we?
 25 **A. No, sir, we are not. We are talking a few seconds.**

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1 Q. We are talking a couple, two or three seconds, maximum.
 2 Aren't we?
 3 **A. Yes, we are.**
 4 Q. Again, I am going to put this to you because this might
 5 touch upon later evidence and I want your evidence on
 6 this. It would be a nonsense to suggest that, you know,
 7 it is in excess of 10 seconds before you get there, the
 8 CS canister is deployed and you hear the shotguns. Do
 9 you follow what I am saying?
 10 **A. Yes, I am with you so far, yes.**
 11 Q. This all happened much quicker than that, didn't it?
 12 **A. I would say so, yes.**
 13 Q. Thank you.
 14 Just bear with me one second.
 15 **A. Yes. (Pause)**
 16 Q. Can I put something very specific to you, this is just
 17 for the chairman's note, right. You know from when you
 18 hear the first shotgun --
 19 **A. Yes.**
 20 Q. -- you know, deployed, we are not talking about some 13
 21 to 14 seconds after --
 22 **A. Probably not, no. No.**
 23 Q. All right.
 24 All right, moving on to a different topic, I want to
 25 come on to, if I may --

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1 **A. Excuse me.**
 2 Q. -- your understanding of your duties and your duties in
 3 respect of the subjects of the vehicle, obviously you
 4 have a duty to your colleagues, we know that, you have
 5 a duty to protect the public as well, we know that.
 6 **A. Yes, sir.**
 7 Q. You also have a duty in relation to the subjects of the
 8 vehicle; don't you?
 9 **A. Yes, indeed.**
 10 Q. I am just going to use the shorthand, the article 2
 11 duty, their right to life?
 12 **A. The right to life, yes.**
 13 Q. You know that and you have been taught that, haven't
 14 you?
 15 **A. Yes.**
 16 Q. Do you say that you had that duty in mind in relation to
 17 what you were doing?
 18 **A. Yes.**
 19 Q. Okay. Can I test that then now.
 20 I am just going to remind you of the video that we
 21 saw earlier on today. I am not going to show it,
 22 I just --
 23 **A. I can recall it, sir, if that helps, yes.**
 24 Q. Just a mental note of the video we saw this morning in
 25 relation to the deployment of the CS canister. You

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1 remember it?
 2 **A. Yes, indeed.**
 3 Q. Do you remember the questions that Mr Beer was asking
 4 you and he was putting to you and I think you initially
 5 challenged but I think you accepted, having seen the
 6 video, that it does indeed cloud and fog inside of the
 7 vehicle. Certainly if you are looking at the vehicle
 8 from the front.
 9 **A. That's right, from the front. Yes, we agreed on that,
 10 yes.**
 11 Q. You tell us this. The CS canister, this chemical weapon
 12 is designed with a particular purpose in mind: to affect
 13 an individual's respiration. Do you agree?
 14 **A. It is an incapacitant and it has that effect on
 15 respiration, yes.**
 16 Q. It makes it difficult for people to breathe, they choke,
 17 they cough, they splutter. That sort of thing, correct?
 18 **A. Yes, depending upon your exposure to it.**
 19 Q. Yes, but of course it depends upon your exposure but we
 20 are, you and I, now discussing a canister being deployed
 21 in a small enclosed vehicle?
 22 **A. We are indeed.**
 23 Q. Yes?
 24 **A. Yes.**
 25 Q. What you would expect it to do is to have the eyes

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1 streaming?
 2 **A. Yes.**
 3 Q. Affecting an individual's vision?
 4 **A. Yes.**
 5 Q. You know, the normal response that you would get from
 6 somebody who is subject to CS, they would cough, they
 7 would splutter, they would choke, they would rub their
 8 eyes, their throat would burn. That sort of thing, yes?
 9 **A. Yes.**
 10 Q. I have not said anything to you that you didn't know
 11 back in 2012?
 12 **A. True.**
 13 Q. Can we agree this. You were also aware back in 2012
 14 that this chemical weapon, because that is what it is,
 15 it is a chemical weapon, it is a less lethal weapon but
 16 it nevertheless is a weapon, isn't it?
 17 **A. It is a less lethal option, yes.**
 18 Q. You knew that this is the sort of weapon that if you use
 19 on an individual you get involuntary movements?
 20 **A. Yes. You can do, yes.**
 21 Q. What I mean -- we all know, you understand the question
 22 and I am not going to go into that in any detail, sir,
 23 all right.
 24 Help the chairman with this. Bearing in mind,
 25 Mr X9, that these were effects that you -- and I am

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1 going to suggest your colleagues but I am just using you
 2 because you are in the witness box -- were aware of
 3 before you deployed the CS gas canister, how did you
 4 take the impact of this weapon into account in relation
 5 to the operation you were conducting? Tell us.
 6 **A. How did I take it into account?**
 7 Q. Yes.
 8 **A. For all the reasons that you have mentioned, sir. The**
 9 **fact that it does cause people's eyes to be sore, your**
 10 **breathing to be slightly laboured, et cetera, all the**
 11 **areas you have mentioned.**
 12 Q. The effects I have mentioned?
 13 **A. The effects that you mentioned and the desired effects**
 14 **on the subjects is exactly that, which then detracts**
 15 **them and prevents them from focusing on my colleagues**
 16 **and any members of the public that are nearby that**
 17 **subject vehicle at the point of us intercepting them,**
 18 **where we are at our most vulnerable, where the threat is**
 19 **the highest. So if they are in possession of a firearm,**
 20 **which I believed, I honestly believed they had in that**
 21 **vehicle, that they would not be able to aim that weapon**
 22 **or fire it at any of my colleagues moving on to it.**
 23 Q. I just want to get into your head a moment, if I may.
 24 The fact that the CS canister goes into the vehicle,
 25 would render it much more difficult for somebody if they

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1 were minded to use the vehicle, to use it because of the
 2 way that they would be incapacitated in the way that we
 3 have described. Correct?
 4 **A. Certainly, sir.**
 5 **First you'd have the shock of the window going in,**
 6 **the distraction of that, then the canister which was,**
 7 **again, is a further distraction from the people around**
 8 **the vehicle and then obviously the incapacitant itself**
 9 **working on them. So that affords us the time to get**
 10 **safely on to the subject vehicle.**
 11 Q. Tell me this, was that discussed among your colleagues?
 12 **A. No, I think it was something that was recognised from**
 13 **prior training around the use of CS dispersal canister.**
 14 Q. Can you just help the chairman with this. It was
 15 recognised, was it, that you would have these coughing,
 16 spluttering, involuntary movements, difficulty in using
 17 the weapon amongst your colleagues, this is part of your
 18 training, this is what you are saying, yes?
 19 **A. Yes, sir.**
 20 Q. Can I look at an alternative scenario with you, if
 21 I may.
 22 **A. Certainly.**
 23 Q. One of the things that we have been told in this
 24 Inquiry, right, is that firearms officers want to gain
 25 control and compliance of the subjects in the vehicle.

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1 They want to do that as quickly as possible, okay?
 2 **A. Yes.**
 3 Q. Sudden and unexpected movements, in other words not
 4 in -- you know, "Don't move", "Show us your hands",
 5 those sorts of commands, yes?
 6 **A. Yes.**
 7 Q. Those commands that I have been saying are commands that
 8 you are familiar with?
 9 **A. Indeed.**
 10 Q. Those sorts of commands, it is very difficult for
 11 a subject to comply with if they have been affected by
 12 CS gas. Do you understand?
 13 **A. I do understand, yes.**
 14 Q. In fact the very commands that you would be saying to
 15 an individual, "Show us your hands", "Stay still",
 16 "Don't move", "Armed police", right, those sorts of
 17 commands. If somebody is affected by CS gas and they
 18 are having involuntary movements, because of the CS
 19 weapon, they are liable to get shot. Aren't they?
 20 **A. No, sir, I think the implication there is that we stand**
 21 **off in this particular tactic and that we stand off from**
 22 **the vehicle and we challenge them from that. It is very**
 23 **much a dynamic tactic where you are on top of the**
 24 **vehicle, you are in extremely close proximity to it and**
 25 **the subjects are immediately extracted from the vehicle,**

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<p>1 so there would be movement anyway.</p> <p>2 Q. Mr X9, everybody has to be on board with the plan,</p> <p>3 surely? If there is going to be -- if you use the CS</p> <p>4 canister and there is a short period of stand off, let's</p> <p>5 say, let's call it, to allow subjects to be removed,</p> <p>6 everybody has to be on board with that is what the plan</p> <p>7 is.</p> <p>8 Otherwise, and here is where article 2 comes into</p> <p>9 it, the minimise the risk of life to the greatest</p> <p>10 possible extent, if you don't do that, somebody who</p> <p>11 makes a sudden movement, if not everybody is in on the</p> <p>12 plan, you run the risk of shooting one the subjects. Do</p> <p>13 you follow?</p> <p>14 A. The whole tactic is over, as you have alluded to, sir,</p> <p>15 in a matter of seconds, ideally.</p> <p>16 Q. I am going to test what you have just said looking at</p> <p>17 your witness statement now. All right?</p> <p>18 A. Hmm.</p> <p>19 Q. It is your first statement, and I want to take things</p> <p>20 up, please, at the third page, the bottom, page 116.</p> <p>21 A. 116, yes.</p> <p>22 Q. Are you there?</p> <p>23 A. Yes.</p> <p>24 Q. Second to last paragraph at 19.12, there?</p> <p>25 A. Hmm.</p> <p style="text-align: center;">Page 165</p>	<p>1 A. Yes.</p> <p>2 Q. You also, when you are there, you are in a position to</p> <p>3 hear whether or not -- I am not talking about you, I am</p> <p>4 talking about anybody else shouting warnings, yes?</p> <p>5 A. Indeed, yes.</p> <p>6 Q. You don't hear any warnings at this point?</p> <p>7 A. I don't recall hearing any warnings.</p> <p>8 Q. Well, I appreciate that, because we are now five years</p> <p>9 on --</p> <p>10 A. Thank you.</p> <p>11 Q. -- but when you made your statement six days afterwards</p> <p>12 when the events were much fresher in your mind, you knew</p> <p>13 that you were dealing with a fatality, yes --</p> <p>14 A. Yes, we were, yes.</p> <p>15 Q. -- and you had been given six days, you had been given</p> <p>16 some rest period before you made your witness statement.</p> <p>17 Correct?</p> <p>18 A. Yes.</p> <p>19 Q. Nobody was rushing you in terms of doing your witness</p> <p>20 statement, were they?</p> <p>21 A. No. No.</p> <p>22 Q. No. You had proper rest period, you were making your</p> <p>23 statement, and you had time to make your statement</p> <p>24 without being rushed. Would that be fair?</p> <p>25 A. Yes.</p> <p style="text-align: center;">Page 167</p>
<p>1 Q. You talk about the State Red being given and you move</p> <p>2 into the car park. Correct?</p> <p>3 A. Yes.</p> <p>4 Q. You see the car, that the approach is made, go over the</p> <p>5 page, please.</p> <p>6 A. Yes.</p> <p>7 Q. Then you, the top paragraph, you alight from your</p> <p>8 vehicle, before it actually stops. Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. As you have already indicated, you are making your way</p> <p>11 as quickly as you can, a matter of seconds, to the</p> <p>12 subject vehicle.</p> <p>13 A. Yes, sir, yes.</p> <p>14 Q. Let's get to the second paragraph now:</p> <p>15 "I then ran between the front of the bravo car and</p> <p>16 the rear of the alpha car and made my way directly to</p> <p>17 the front passenger window. I remained focused on the</p> <p>18 nearside of the car without delay."</p> <p>19 It is the next couple of sentences that I want to</p> <p>20 focus on. Before you smashed the window, the one thing</p> <p>21 that you and I can agree on is you didn't hear any</p> <p>22 gunshot. Correct?</p> <p>23 A. I didn't hear any, no.</p> <p>24 Q. I have already asked you questions about your hearing</p> <p>25 right at the very beginning, right?</p> <p style="text-align: center;">Page 166</p>	<p>1 Q. All right.</p> <p>2 Nowhere -- because it would be important, wouldn't</p> <p>3 it, it would be an important detail and knowing the</p> <p>4 purpose of this statement, if you had heard warnings</p> <p>5 being given before you broke the windows you would have</p> <p>6 mentioned it?</p> <p>7 A. If I'd had heard it, sir, yes.</p> <p>8 Q. Okay.</p> <p>9 You say you smashed the window, the passenger</p> <p>10 window, and you deploy the canister, and then you say</p> <p>11 this:</p> <p>12 "Mr Grainger [look at your wording, this is your</p> <p>13 wording, not mine] who upon the window smashing appeared</p> <p>14 to me to raise his hands from below the dashboard</p> <p>15 towards his chest height ..."</p> <p>16 A. Yes, sir.</p> <p>17 Q. You at the time, when you are thinking about this, at</p> <p>18 the time when you are thinking about this, you think,</p> <p>19 and some may say not unreasonably, that Mr Grainger's</p> <p>20 reaction is either because of the smashing window,</p> <p>21 a flinch, and you used that word today?</p> <p>22 A. Yes, sir, yes.</p> <p>23 Q. Or because of the deployment of the CS canister. Is</p> <p>24 that fair?</p> <p>25 A. Those are two possible reasons, yes.</p> <p style="text-align: center;">Page 168</p>

1 Q. Yes. I don't need to choose between the two, but one or
 2 other caused Mr Grainger's reaction, in your opinion,
 3 isn't it?
 4 **A. No.**
 5 Q. You say no. What you say is you say -- you added
 6 a third thing you said either through shock of being
 7 challenged or to capitulate or flinching. That is what
 8 you said, you added flinching today.
 9 **A. Yes, I was trying to describe the type of movement I saw**
 10 **really when I said that.**
 11 Q. After Anthony raised his hands, what did he do?
 12 **A. I don't recall, sir. I don't think he moved.**
 13 Q. Did you not see him move again?
 14 **A. I didn't, because my attention was then diverted**
 15 **immediately to, as I have said, Mr Totton who appeared**
 16 **outside the vehicle and I deemed him to be more of**
 17 **an immediate threat.**
 18 Q. May I suggest another alternative. Is the reason why
 19 your statement is silent upon Anthony, immediately
 20 afterwards, is because you couldn't see, because the
 21 vehicle had been fogged? That would make sense,
 22 wouldn't it?
 23 **A. Sir, I have said in my statement quite clearly that my**
 24 **attention was drawn to this movement outside the vehicle**
 25 **and that is what happened.**

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1 Q. I want to test it though. I know what you have said,
 2 but I am testing it. Let's just think it through, you
 3 have said to us in your statement that you see the
 4 driver, he is either shocked because, you know, you were
 5 there and you have broken the window or he is flinching
 6 because of the reaction, or you said he is capitulating.
 7 These are all important matters. You are not going
 8 to take your eyes off this subject, are you?
 9 **A. There was a constant assessment of the threat around you**
 10 **when you are dealing with these issues and I deemed that**
 11 **Mr Totton outside of the vehicle was more of a threat at**
 12 **that stage --**
 13 Q. You hadn't seen Mr Totton, X9, at this point. Have
 14 a look at your witness statement. Have a look at your
 15 witness statement.
 16 **A. I thought you were referring to why my attention was --**
 17 Q. No, no, no. Have a look at your witness statement on
 18 page 117, second paragraph. At this point in time you
 19 hadn't seen Totton.
 20 **A. Yes.**
 21 Q. You have just broken the window and you are
 22 concentrating on the driver and you see a person in the
 23 back. Out of the two, it is the driver whose reaction
 24 you are describing --
 25 **A. Yes.**

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1 Q. -- right? I am saying to you, and I am asking you to
 2 provide an explanation, because you haven't as of yet.
 3 Here is a person -- let's just run with one of your
 4 theories that maybe he is capitulating. What do you
 5 mean by "capitulating"?
 6 **A. Giving up, giving in, surrendered.**
 7 Q. Sorry?
 8 **A. Giving up, giving in, possibly surrendered, or at that**
 9 **moment is not going to pose any immediate threat.**
 10 Q. You would be interested to ensure that you keep an eye
 11 on his hands, yes?
 12 **A. Sir, as we have said before, it is only a matter of**
 13 **seconds with all this going on, and as soon as the**
 14 **canister went into the car, that is when Mr Totton**
 15 **appeared. Writing it down here does not necessarily**
 16 **explain the time sequence, et cetera, it is a matter of**
 17 **seconds. And when he came into view, Mr Totton, my**
 18 **attention was drawn to him.**
 19 Q. I am going to suggest that you, by your actions -- the
 20 one thing we can agree on, right, we can agree on this.
 21 Mr Grainger was alive when you reached the window, we
 22 can agree on that because you see his hands go up?
 23 **A. I see a movement -- I am assuming that he was alive at**
 24 **that point.**
 25 Q. Yes, well you are certainly not assuming he was dead,

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1 because you would have said so?
 2 **A. Correct.**
 3 Q. Right. The reason why you have put this in your witness
 4 statement is you are describing that I thought
 5 Anthony Grainger was alive, he is putting his hands up,
 6 he is either giving in, he was shocked or he was
 7 flinching. That is what you say?
 8 **A. Yes.**
 9 Q. You don't flinch if you are dead?
 10 **A. No.**
 11 Q. All right. So we can agree on that?
 12 **A. Hmm.**
 13 Q. We can also agree on the fact that very shortly after
 14 you have seen this the canister would have dispersed
 15 into the vehicle?
 16 **A. Yes.**
 17 Q. We can agree it would have fogged the vehicle and it
 18 would have had the effect that we have been describing,
 19 the involuntary effects, the coughing, the spluttering,
 20 the involuntary movements. We can agree on that?
 21 **A. Yes.**
 22 Q. The next thing we can agree on, it is some time
 23 afterwards, I am talking about a short period of time,
 24 a very short period of time, that you hear another bang?
 25 **A. Yes.**

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1 Q. It is a short period after that that you hear
 2 an indication from your colleagues that the man in the
 3 front has been shot?
 4 **A. I think the sequence was actually after the first shot**
 5 **I was then aware of Mr Totton and had gone to deal with**
 6 **him and as I am dealing with him there is another**
 7 **further shot and then --**
 8 Q. I agree, I was just -- I haven't dealt with Totton
 9 because I am focusing on Mr Grainger.
 10 **A. Sorry.**
 11 Q. But yes, you are right. That doesn't take away from
 12 what I am putting to you. The point is there are shots,
 13 and then there is an indication that the man in the
 14 front has been shot.
 15 **A. Yes.**
 16 Q. Yes?
 17 **A. Yes.**
 18 MR THOMAS: Thank you very much.
 19 **A. Thank you.**
 20 THE CHAIRMAN: It is 4.30, Mr Weatherby.
 21 It really rather depends how long you think you are
 22 likely to be and whether anybody else has questions and
 23 if so how long --
 24 MS WHYTE: I will be less than four minutes.
 25 THE CHAIRMAN: Less than four.

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1 MR WEATHERBY: I am not going to be that accurate. I would
 2 guess I would be about 15 minutes.
 3 I am happy to do it now or I am happy to do it in
 4 the morning.
 5 THE CHAIRMAN: How do you feel, X9, would you prefer to come
 6 back in the morning?
 7 **A. I am fine to carry on.**
 8 THE CHAIRMAN: You are fine to carry on, it could be another
 9 20 minutes or so.
 10 **A. That is fine. If it is all right with you, sir.**
 11 **MR WEATHERBY: Sorry, before you make a decision, my client**
 12 **would like it to be done tomorrow if it is not too**
 13 **inconvenient --**
 14 THE CHAIRMAN: It is not inconvenient. It is not a matter
 15 of inconvenience, I am not going to refuse that. It is
 16 the normal stopping time and if your client prefers that
 17 it be done at the proper time tomorrow I am happy to do
 18 that. It is only if everybody is agreeing that it
 19 should take place now.
 20 MR WEATHERBY: Thank you very much.
 21 THE CHAIRMAN: I am sorry, there we are. You will need to
 22 come back for 10.30 tomorrow, but as I say it looks as
 23 if it will be for about 20 minutes or so.
 24 Please do not discuss this case or your evidence
 25 with anybody else between now and then.

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1 **A. I will not.**
 2 THE CHAIRMAN: Thank you.
 3 Mrs Shaw will be round in a moment to escort you
 4 away.
 5 (4.34 pm)
 6 (The Inquiry adjourned until 10.30 am the following day)
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