

**IN THE MATTER OF THE INQUIRIES ACT 2005
AND IN THE MATTER OF THE INQUIRY RULES 2006
BEFORE HH CLEMENT GOLDSTONE QC**

THE PUBLIC INQUIRY INTO THE DEATH OF JERMAINE BAKER

COUNSEL TO THE INQUIRY'S OPENING STATEMENT

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I. Preliminary Matters

Introduction

1. On Friday 11 December 2015 officers from the Metropolitan Police Service (the MPS) were taking part in an ongoing investigation into a planned escape from custody which was known as Operation Ankaa.
2. At 9am on 11 December 2015 Jermaine Baker was sitting in the front passenger seat of a stolen Audi vehicle which was parked in Bracknell Close in the Wood Green area of London. The vehicle and its occupants were the subject of an armed interception by MPS firearms officers.
3. During the planned dynamic interception the officer known by the cypher W80 discharged a single shot from his firearm into Jermaine Baker's upper chest and neck area.
4. Mr Baker suffered fatal injuries. There was no live firearm recovered from the vehicle. There was an imitation BB firearm recovered from the rear footwell of the vehicle.
5. Mr Baker was born on 16 March 1987. He was 28 years old at the time of his death. He was father to two children. Mr Baker and his family resided within the London Borough of Haringey.

6. On 12 February 2020 you were appointed by the Home Secretary pursuant to Section 1 of the Inquiries Act 2005 as the Chairman of this Inquiry to ascertain who the deceased was, how, when, where and in what circumstances he came by his death, the particulars (if any) required by the Births and Deaths Registration Act 1953 to be registered concerning the death and to make any such recommendations as may be appropriate.

Representation

7. Before I begin the substance of our Opening Statement, I turn to introduce the parties.
8. As you know, I appear – with Nikita McNeill and Aaron Moss - as Counsel to the Inquiry (“CTP”). Our role is a neutral one. We are not here to pursue the interests of any of the Core Participants, nor do we have a case to make. Our function is to identify and gather all relevant evidence, to place that evidence before you, and to provide you with independent advice as to any legal or procedural issues that may arise. We shall present the evidence to you fairly, impartially and dispassionately – whilst seeking to ensure that you have all of the evidence that is necessary and relevant to discharge your terms of reference.
 - a. Mr Baker's family is represented by Phillippa Kaufmann QC and Fiona Murphy, together with Michael Oswald and Amy Ooi of Bhatt Murphy.
 - b. W80 is represented by Duncan Penny QC, together with Scott Ingram and Leona Wyn Roberts of Slater & Gordon.
 - c. The MPS is represented by Matthew Butt QC and Ruby Shrimpton, together with Daniel Futter and Grace Bovill from the MPS' Directorate of Legal Services.
 - d. The National Crime Agency (NCA) is represented by Neil Sheldon QC, together with Anthea Brookes of the NCA.

- e. The Independent Office for Police Conduct (IOPC) is represented by Danny Simpson, with Liz Parsons and Catherine Hall of the IOPC also in attendance.
9. Each of the people and organisations that I have mentioned are Core Participants in the Inquiry, and have been granted such status by you.

Timetabling

10. Two days have been set aside for Opening Statements. I hope to conclude my oral Opening Statement today. You will then hear from:
- a. Ms Kaufmann QC on behalf of the family who expects to take 90 minutes;
 - b. Mr Butt QC on behalf of the MPS who expects to take 2 hours;
 - c. Mr Penny on behalf of W80 who expects to take 30 minutes;
 - d. Mr Sheldon QC on behalf of the NCA who expects to take 15 minutes.
11. The written opening statements will be published on the Inquiry website and available for public viewing.
12. We will then hear a testimonial to Jermaine Baker, prepared by his family and friends, sometimes referred to as a “pen portrait.” This will comprise a video compilation and evidence given from here in the Inquiry room by his mother and his partner.
13. The Inquiry’s first witness will be Catherine Hall from the IOPC (formerly the IPCC, The Independent Police Complaints Commission). She will provide background information about the Inquiry and the IOPC investigation.¹

¹ IPC0001059

14. Thereafter, the Inquiry will hear evidence in CLOSED session. This relates to evidence of a highly sensitive nature from the NCA which, by law, cannot be heard in public. On 26 March 2021 you made an order pursuant to section 19(2)(b) of the Inquiries Act 2005 (“the Act”), read together with section 19(3) of the Act, to remain in force indefinitely unless you varied or revoked it at any point.² That order included the following provisions:

- a. That there shall be no disclosure of any part of the NCA material by the Inquiry to the Core Participants, the media, or the public.
- b. The Material shall be held securely by the Inquiry and the Inquiry will ensure that access to the NCA Material is restricted only to those Inquiry personnel who hold appropriate security clearance.
- c. Any documents created by the Inquiry which contain any reference to the contents or substance of the NCA material, or otherwise contain information deriving from the NCA material, shall be subject to appropriate security marking and shall be subject to the same restrictions as the NCA material.
- d. Any oral evidence given by any witness relating to the contents or substance of the NCA material is to be given entirely in CLOSED session.
- e. CLOSED sessions have a restricted attendance of the Chairman, Counsel to the Inquiry, who hold appropriate security clearance, Solicitor(s) to the Inquiry, who hold appropriate security clearance, Inquiry personnel and court staff who hold appropriate security clearance and whose attendance is necessary for the administration of the hearing, NCA legal representatives and personnel who hold appropriate security clearance and Metropolitan Police Service legal

² [Restriction Order- Anonymity](#)

representatives and personnel who hold appropriate security clearance and have a direct interest in the evidence to be given at the hearing.

15. It is presently planned to hear live evidence from 5 witnesses in CLOSED sessions at the beginning of these hearings, and a further CLOSED witness will be called during the “lessons learned” portion of your evidence. When this takes place, you will consider if some of the evidence, or a gist of it, can be disclosed in OPEN session. We realise that we, as CTI, carry a heavy burden thoroughly to test the evidence of the witnesses in the CLOSED hearings. That is, of course, one of the principal reasons why this Inquiry was established in place of the Inquest - the facility to hold such CLOSED hearings means that this type of evidence can be taken into account rather than remaining outside of your consideration, as would have been the case in an Inquest. The ability of CTI to test such evidence in CLOSED hearings and the ability of the Chair to reach conclusions upon it is imperative in this Inquiry. In such CLOSED hearings we shall be dedicated and diligent in pursuing relevant issues as identified in the submissions of the CPs.
16. Once this evidence is complete, the Inquiry will begin to hear evidence principally in OPEN session, although there may be occasions on which it will be necessary to receive some evidence, from some witnesses, in CLOSED session. We have timetabled the evidence by reference to the following five broad headings which reflect the Terms of Reference³:

1. *Introductory Evidence*
2. *Information and Planning*
 - (i) *evidence concerning the escape plan and*
 - (ii) *evidence concerning planning and briefings*

³ [Terms of Reference](#)

3. *Implementation*
 - (i) *C3000 and CMP*
 - (ii) *the surveillance operation*
 - (iii) *civilian eye-witnesses*
 - (iv) *Team A – the prison van*
 - (v) *Team C – Ozcan Eren*
 - (vi) *Team B – the Audi*
 - (vii) *Policing Experts*
4. *After the shooting*
 - (i) *Medical care for Jermaine Baker*
 - (ii) *Izzet Eren's arrival at court*
 - (iii) *W80 post-shooting*
 - (iv) *Expert evidence*
5. *Practice, Policies and Procedures*

17. It is presently planned to hear evidence from 62 witnesses in OPEN session. We shall not be sitting on the Friday of each week (unless, due to slippage of time, we need to catch up) and we will not be sitting on:
 - a. Tuesday 15 June 2021;
 - b. Thursday 22 July 2021;
 - c. 6 August 2021- 5 September 2021.
18. The hearings will create inevitable and considerable disruption to the private and working lives of witnesses, and it is right that I should express my gratitude on behalf of the Inquiry for the willingness of the witnesses to cooperate and facilitate the work of your Inquiry.

Establishment of the Inquiry

19. I shall now move to set out some of that context so that all may properly understand both the events which have gone before now, and why this Inquiry begins as it does today, some 5 years and 6 months after Jermaine Baker’s death.
20. An inquest into Jermaine Baker’s death was opened at Barnet Coroner’s Court on 22 December 2015 by HMC Andrew Walker.⁴ It was suspended on that same day at the request of the IOPC.
21. The IOPC finalised its report almost one year later, on 23 November 2016 and it was determined by the CPS that W80 would not be charged with any offence on 14 June 2017⁵. There followed a review of the CPS decision not to bring charges; that decision was upheld in March 2018. Shortly after that, in May 2018, the IOPC directed that the MPS should hold misconduct proceedings in respect of W80. That was the subject of a judicial review, which proceeded to the Court of Appeal, culminating in a judgment in favour of the IOPC on 9 October 2020 and reversing the earlier decision of the Divisional Court⁶.
22. You, Sir, were appointed Assistant Coroner by the Lord Chief Justice on 21 March 2019 and, on 3 August 2019, requested that the Secretary of State for the Home Department establish a Public Inquiry⁷. Before it was established you held two Pre-Inquest Review hearings in October and January, and on 12 February 2020 the Secretary of State announced the Public Inquiry. You have since held three preliminary hearings.

The IPCC investigation

⁴ MPS0003142_39

⁵ IPC0001145

⁶ R v Director General of the Independent Office for Police Conduct [2020] EWCA Civ 1301

⁷ <https://questions-statements.parliament.uk/written-statements/detail/2020-02-12/HLWS104>

23. The shooting of Jermaine Baker came to the attention of the IPCC on 11 December 2015 as a Death or Serious Injury (DSI) referral. On 12 December 2015 it was determined by the lead investigator, Catherine Hall, that there was an indication that the actions of W80 may amount to misconduct or a criminal offence. The investigation therefore was re-referred as a conduct matter.
24. Article 2 of the ECHR imposes an obligation on the state to protect human life. This involves both a prohibition on the state taking life and, in certain circumstances, a positive duty to protect life⁸.
25. It was determined by the IPCC that the circumstances of Mr Baker's death potentially engaged Article 2 because his death was caused by a fatal gunshot wound discharged by a police officer.
26. The terms of reference for the IPCC's investigation were approved by Commissioner Cindy Butts on 5 January 2016. The terms of reference specific to this investigation were:

To investigate the circumstances surrounding the fatal shooting of Mr Baker at around 9.00am on Friday 11 December in Bracknell Close, Wood Green, North London.

Specifically;

- a) To examine the use of force by W80 and whether it may have been justified, necessary and proportionate in the circumstances.*
- b) To examine the planning, decision making and tactics deployed in the pre-planned operation leading to Mr Baker's death.*

⁸ [Article 2, European Convention on Human Rights](#)

To assist in fulfilling the state’s investigative obligation arising under the European Convention on Human Rights (ECHR) by ensuring as far as possible that; the investigation is independent, effective, open and prompt, and that the full facts are brought to light and any lessons are learned.

To identify whether any subject of the investigation may have committed a criminal offence and, if appropriate, send a copy of the investigation report to the Director of Public Prosecutions (DPP) for her to decide whether criminal proceedings are to be brought.

To identify whether any subject of the investigation may have breached their standards of professional behaviour. If such a breach may have occurred, to determine whether that breach amounts to misconduct or gross misconduct and whether there is a case to answer.

On a number of occasions, including at a public meeting at Tottenham Town Hall on 17 December 2015, it has been suggested that lethal force would not have been used had Mr Baker’s ethnicity been different. The investigation will, in accordance with the IPCC discrimination guidelines, pursue lines of investigation which may assist a court or tribunal to determine if that was so.

To consider and report on whether there is organisational learning, including:

- whether any change in policy or practice would help to prevent a recurrence of the event, incident or conduct investigated;*
- whether the incident highlights any good practice that should be shared.*

27. The following police officers were categorised as subjects of the IPCC investigation:

- a. W80 – firearms officer who shot Mr Baker.

- b. Detective Chief Inspector (DCI) Neil Williams – Tactical Firearms Commander (TFC) for Operation Ankaa (and previously referred to as FE16).
28. On 13 December 2015, the IPCC declared the matter a criminal investigation. W80 was served a notice of investigation on 16 December 2015. The severity of the allegations within W80's notice was gross misconduct. It alleged that the force used against Mr Baker on 11 December was not necessary, proportionate or reasonable in all the circumstances.
29. A police force initiates a post-incident procedure (PIP) when police officers have been involved in an incident where a person has died. The police force nominates a post-incident manager (PIM), who facilitates, manages and ensures the integrity of the PIP.
30. In the PIP procedure, the IOPC (as it now is) attends the PIP facilities and obtains the first accounts of the officers involved in the incident. In this investigation, after the initial accounts were obtained, detailed witness statements were prepared by the officers and provided to the IPCC in January 2017.
31. On 17 December 2015, W80 was arrested at a police station on suspicion of the offence of murder. W80 was interviewed by the IPCC on 17 December 2015; 4 February 2016 and 11 August 2016. He made no comment to all questions put⁹.
32. On 28 July 2016, DCI Neil Williams was served with a notice of investigation. The notice was later amended and provided to DCI Williams' representatives

⁹ IPC0000647; IPC0000650; IPC0000651; IPC0000652; IPC0000653; IPC0001146

on 10 August. DCI Williams signed the amended notice on 18 August 2016. The severity of allegations within DCI Williams' notice amounted to gross misconduct. It alleged that as the TFC of the operation DCI Williams:

- a. may not have conducted briefings appropriately;
- b. may not have given appropriate form of words relating to intelligence for briefings; and
- c. may have provided misleading information to officers relating to Operation Ankaa.

33. DCI Williams was interviewed by the IPCC on 18 and 24 August 2016. He made no comment to all questions put. DCI Williams retired from the MPS on 4 October 2016.
34. During the IPCC investigation, a large volume of evidence was gathered. This included in excess of 330 statements, 800 documents and 320 exhibits.
35. During the course of the IPCC investigation, there were delays due to MPS police officers and staff not agreeing to provide the IPCC with witness accounts in person, instead requesting lists of questions to answer. This process is long and drawn-out, often resulting in counter-questions and answers, and more importantly does not achieve best quality evidential statements as there are inevitably still issues remaining that a conversation could clarify¹⁰.
36. The Inquiry may wish to consider if a refusal to provide a witness account to an investigator fails to facilitate and promote public confidence in the evidential process or complaints system when officers will not speak to the investigating body in person.

¹⁰ IPC0001145_103

37. The IPCC report gathered evidence about and looked into the intelligence and briefings and created a timeline of events on the morning of 11 December 2015.
38. The IPCC concluded that DCI Neil Williams had a case to answer for misconduct and W80 had a case to answer for gross misconduct. Misconduct is defined as a breach of the standard of professional behaviour and gross misconduct as a breach that is so serious that, if proven, dismissal would be justified¹¹. The IPCC expressly concluded that there was no or insufficient evidence that either of these officers' actions were influenced by Jermaine Baker's ethnicity¹².
39. In respect of W80, the IPCC concluded he had a case to answer in respect of the standard of professional behaviour concerning use of force. Even if a tribunal found that his mistaken belief was reasonable, it would have to go on to determine whether the force used on the basis of that mistake was necessary, reasonable and proportionate. However, it concluded that a tribunal may find that his account was not mistaken but in fact untrue. If the tribunal were considering the necessity, reasonableness and proportionality of the force, the IPCC believed that it
- cannot... have been unambiguously the case that Mr Baker was reaching into the bag*
- on account of what the investigator concluded '*must*' have been the position of Jermaine Baker's left hand.¹³
40. As to DCI Williams, the IPCC concluded that he had a case to answer. His actions were said not to have arguably caused Jermaine Baker's death, or that

¹¹ IPC0001145_225

¹² IPC0001145_224-446

¹³ IPC0001145_220

DCI Williams knew or should have foreseen that they would do so. Rather, the potential failings affected the calculation of risk carried out by DCI Williams and others.

41. Although the IPCC considered a number of aspects of DCI Williams' actions which might have amounted to misconduct, the majority were dismissed as falling short of the threshold. However, the IPCC concluded that a reasonable tribunal may find that DCI Williams' failure to include specific information in the FA2, the Tactical Firearms Commander's Policy File and Decision Log, amounted to misconduct. The information which was not included was that there had been failed attempts by the subjects of the operation to acquire a firearm. This was compounded, said the IPCC, by there not being a form of words used at the briefings of the firearms officers which was accurate and up to date. The IPCC stressed that there was no evidence of DCI Williams having any improper motive. As I have said, DCI Williams retired on 4 October 2016, despite the family of Mr Baker bringing legal proceedings to prevent this from happening whilst DCI Williams remained under investigation by the IPCC. The effect of his retirement was that no misconduct proceedings could be brought as he was no longer a serving officer.

42. There are some aspects of the IPCC report and its conclusions about which the Inquiry policing experts urge caution relating to
 - a. the timing of fatal shot,
 - b. the time available to W80 to make a decision; and
 - c. general expectations of W80¹⁴.

¹⁴ INQ0000004

43. This Inquiry has at its disposal much of the investigative work done by the IPCC. For the avoidance of doubt, you will be assessing the evidence afresh, and forming your own conclusions, unaffected by the views of the IPCC.

R v (Maughan) v HMC for Oxfordshire [2020] UKSC 46

44. In November 2020, the Supreme Court gave judgment in *R (Maughan) v HMC for Oxfordshire* [2020] UKSC 46. The appeal concerned the standard of proof required for the determination of the result of an inquest into a death where the question is whether the deceased committed suicide. The Court held not just that the standard of proof in respect of suicide is the balance of probabilities, but that the standard of proof for all short form conclusions is the balance of probabilities. This includes a conclusion of unlawful killing¹⁵.
45. This does not directly read across to the jurisdiction of this public inquiry. Neither the Inquiries Act 2005 nor the Inquiry Rules 2006 specifies the standard of proof that the Chairman of a public inquiry ought to apply when determining facts but the 2005 Act and the 2006 Rules do inform the legal position in relation to the standard of proof to which facts may be determined.
46. A public inquiry typically adopts a flexible standard of proof, but the Chairman should indicate, when making findings, the standard of proof to which they are made.
47. It must be recognised at the outset that the function of a public inquiry is very different from that of either civil or criminal proceedings. A public inquiry is inquisitorial, whereas civil and criminal proceedings are adversarial. That distinction is reflected in the fact that a Public Inquiry is specifically prohibited

¹⁵ R v (Maughan) v HMC for Oxfordshire [2020] UKSC 46 §143

by section 2 of the 2005 Act from determining any person’s civil or criminal liability but goes on to specifically state that it is not to be inhibited in the discharge of its functions by any likelihood of liability being inferred from facts that it determines or recommendations that it makes.¹⁶ In making any decision as to the procedure or conduct of the Inquiry the Chairman must act with fairness¹⁷ and must deliver a report setting out the facts, recommendations and anything else that he considers to be relevant to the terms of reference including any recommendations he sees fit to make despite not being required to do so by the terms of reference.¹⁸

48. We invite you to take a flexible and variable approach to the level of confidence or certainty with which you express your factual conclusions or findings. Your starting point should be the civil standard or “balance of probabilities” but, depending on the issue being considered, you may find that a fact has been proved to the criminal standard “beyond reasonable doubt”. Exceptionally, you may choose to make comments expressed in terms of suspicion, but these will not, of course, be findings of fact.
49. In our submission, it would be appropriate in this case – if such a conclusion is available on the evidence – to conclude that Jermaine Baker was lawfully or unlawfully killed to the civil standard of proof. The necessity of W80 to use force is to be judged on the facts as he honestly believed them to be even if he was mistaken and then only to the extent that the use of force was reasonable.¹⁹

W80 Disciplinary Proceedings

¹⁶ Inquiries Act section 2

¹⁷ *Ibid.*, section 17.

¹⁸ *Ibid.*, section 24.

¹⁹ *Ashley v Chief Constable of Sussex* [2008] 1 AC 962.

50. Upon the IPCC's conclusions, the MPS sought to challenge the finding in respect of W80 by way of judicial review. The matter proceeded through the Divisional Court to the Court of Appeal. The appeal concerned the meaning of the following words in Schedule 2 to the Police (Conduct) Regulations 2008²⁰:

Police Officers only use force to the extent that it is necessary, proportionate and reasonable in the circumstances". The question, in short, is whether the use of force must be objectively reasonable, where the officer honestly believes that the force is necessary and proportionate.

51. The Court of Appeal held that

The IOPC was justified in concluding that it was open to a reasonable panel at a misconduct hearing to make a finding of misconduct if W80's honest, but mistaken, belief that his life was threatened was found to be unreasonable. That conclusion was soundly based in law on the proper and plain meaning of the 2012 Regulations and the Code. The assessment of the disciplinary panel in misconduct or gross misconduct proceedings is not to be made by reference to any imported test relating to self-defence.

52. An application for permission for leave to appeal to the Supreme Court has been made by W80, within the statutory timeframe, and is yet to be determined.

Criminal Proceedings against Operation Ankaa conspirators

53. For their part in what occurred on 11 December 2015, 5 individuals- Ozcan Eren, Izzet Eren, Eren Hayser, Nathan Mason and Gokay Sogucakli were tried at Woolwich Crown Court. They were each indicted on two offences of conspiracy to escape (contrary to section 1(1) of the Criminal Law Act 1977)

²⁰ <https://www.judiciary.uk/wp-content/uploads/2020/10/R-W80-v-DIRECTOR-GENERAL-OF-THE-INDEPENDENT-OFFICE-FOR-POLICE-CONDUCT-judgment.pdf>

and conspiracy to carry an imitation firearm with criminal intent, the intent being to facilitate the escape of a prisoner contrary to section 18(1) of the Firearms Act 1968.

54. All five men had given no comment police interviews upon arrest. They were all charged with the offences on 13 December 2015, save for Izzet Eren who was charged at HMP Belmarsh on 5 January 2016.
55. Eren Hayser was convicted following trial of conspiracy to escape in June 2016. The other four men had all earlier pleaded guilty to both offences. Ozcan Eren had initially entered a not guilty plea but changed this during trial.

Disclosure

56. The Inquiry has received and reviewed approximately 50,000 pages of OPEN evidence, in addition to a range of audio and video files. Of that, the Inquiry has redacted and disclosed almost 25,000 pages of documents.

Anonymity and protective measures (including Special Measures)

57. On 26 March 2021, you gave a written ruling on applications for restriction orders, some of which concerned anonymity of witnesses and special measures to give effect to anonymity orders and to assist witnesses in giving their evidence²¹.
58. The Order was updated on 28 April 2021. By that Order, you granted anonymity or special measures to twenty-two officers of the Metropolitan Police Service, some of whom are serving and others of whom are retired. You gave the reasons in your ruling and I shall not repeat those reasons now.

²¹ https://jermaine-baker.public-inquiry.uk/wp-content/uploads/2021/04/JBI-Restriction-Order-Anonymity-Updated-28.4.21-95845843_1.pdf

59. Those twenty-two officers will be known by cyphers in this Inquiry and related reporting. You ordered the following measures:
- a. *The witness' name and other identifying details be withheld from Core Participants, save for the names of FE3 and FE6;*
 - b. *The witness' name and other identifying details will be withheld from members of the public, including members of the press;*
 - c. *The witness will be identified within these proceedings (whether in documents disclosed for the purposes of the proceedings or in court) by reference to their cypher, and that no reference shall be made within the proceedings to the witness's name or any other identifying feature;*
 - d. *In the event that the witness is called to give evidence, the witness will do so screened from members of the general public but visible to the Chairman, court staff, the legal representatives for core participants, approved family members and any other person, including members of the media, whom the Chairman expressly permits;*
 - e. *In the event that the witness' evidence is livestreamed or published online, the effect of this "screening" be preserved and the witness' image not broadcast;*
 - f. *The witness, or any other witness, will not be asked questions that might lead to their identification;*
 - g. *The witness will be permitted to enter and leave court through a route not available to the public; and*
 - h. *The media will be prohibited from publishing the witness's identity or image or any other identifying feature, pursuant to section 11 of the Contempt of Court Act 1981.*
60. In respect of EG39, one of those twenty-two officers, you further ordered that when he gives evidence, he shall only be visible to you and the Solicitor to the Inquiry. Members of the legal teams, including CTI, shall not see him.

Policing experts – Ian Arundale and Colin Burrows

61. The Inquiry has instructed two policing experts who have written a comprehensive joint report. One of those experts is Ian Arundale QPM, who served as the Chief Constable of Dyfed Powys Police until June 2012 and has more recently been appointed the Deputy Chief Constable of Cleveland Police after the force was graded “inadequate” by an HMICFRS inspection (Her Majesty’s Inspectorate of Constabulary and Fire and Rescue Service). He was previously the Chairman of the National Police Use of Firearms Working Group and as such was responsible for overseeing the production of all national police guidance in relation to the command and deployment of armed officers throughout the country.
62. The second expert is Colin Burrows QPM. He retired as the Acting Assistant Chief Constable Operations in the Police Service of Northern Ireland, having previously served ACPO as their Advisor on a Government led committee on the management of conflict and development and use of less lethal weapons.
63. Together they drafted a report dated 19 February 2021²². In preparing that report the experts have worked closely with the Inquiry Legal Team. Their instructions were to analyse, as far as it is within their expertise, the appropriateness, adequacy and effectiveness of the actions, practices and policies of the police which were relevant to the death of Mr Baker. The experts were provided with an initial significant body of material and further documents have since been provided at the request of the experts, both from documents already disclosed to the Inquiry and documents which the experts suggested the Inquiry ought to obtain. The experts were provided with a list of questions which they might consider, but it was not exhaustive- they were only limited by their expertise and the terms of reference. The result is a detailed report on which the experts will be called to answer questions. Furthermore,

²² INQ0000004

the report has provided a number of lines of evidential enquiry which the Inquiry Team has since pursued.

Other experts

64. The Inquiry will hear evidence from other experts including Dr Charlotte Randall, Adam Brooks, Khaldoun Kabbani and Stephen Harrington.
65. Dr Randall is a forensic pathologist who carried out the post-mortem examination on Jermaine Baker. Giving evidence as to the cause of death, Dr Randall will describe that Jermaine Baker's death was caused by a gunshot wound to his neck. She will give evidence as to the positioning and nature of his injuries²³.
66. Mr Adam Brooks, a consultant general surgeon, provided a report on instructions on behalf of W80. His evidence concerns the possible positions in which Jermaine Baker might have had his hands and body, which are consistent with the injuries recorded by Dr Randall²⁴.
67. Khaldoun Kabbani is a ballistics expert who examined the weapon found in the Audi, finding it to be an airgun which was in the style of an UZI submachine gun. Mr Kabbani will also comment on the nature of Jermaine Baker's injuries and the extent to which they are consistent with the discharge of a single bullet cartridge from a high velocity rifle²⁵.
68. Stephen Harrington's evidence concerns blood pattern analysis. Mr Harrington considers that the staining to Jermaine Baker's clothing can all be explained by him being shot whilst in the front passenger seat of the Audi. Mr Harrington

²³ MPS0000190, MPS0000046, MPS0000131

²⁴ SLA0000005

²⁵ MPS0000108

does not believe that the blood pattern allows him to draw any conclusions concerning the positioning of Jermaine Baker's left arm²⁶.

Reconstruction

69. As a result of questions raised by Mr Brooks about Jermaine Baker's position at the time of the shot, the Inquiry instructed Mr Kabbani to arrange for a ballistics reconstruction, in cooperation with the experts listed above. The experts used an Audi of the same make and model, individuals of a similar height and weight to Jermaine Baker and W80 to try to recreate the position of both using the forensic evidence about the injuries to Jermaine Baker's body and damage to his clothing. A joint report was prepared and Mr Kabbani, Mr Brooks and Dr Randall will attend to give evidence about their findings.
70. The report concluded:
- a. It is not possible to prove the exact position of Jermaine Baker's body or arms at the time that he was hit by the bullet or a fraction of a second before shot fired;
 - b. There are a range of positions that Mr Baker's body could have been in at the moment the shot was fired;
 - c. Mr Baker's left upper arm and wrist could have been in any one of a number of positions at the time the shot was fired;
 - d. The man bag could have been worn over the right or the left shoulder and positioned either at the side or on the chest of Mr Baker.

II. Armed Policing – The Legislative, Policy and Policing Framework

²⁶ IPC0000288

Introduction

71. When someone is killed by the actions of a police officer it is both appropriate and necessary to hold the organisation to account in relation to whether or not matters were carried out in accordance with relevant policies and procedures. There are, as you would expect, many pieces of legislation, policies, guidance documents and regulations within which the police generally and, in particular, the MPS must work. I will now turn to set out some of these. We will also take a look at the policing principles. I will return to these from time to time as we proceed throughout this opening address
72. Since December 2003, within the UK, the framework in which police operations, especially those which have an armed policing component, are managed has been set within a regulatory and professional framework of good practice. I will explain the nature and status of the pertinent documents and publications that relate to the events that are going to be considered by the Inquiry. I will concentrate on those sections which relate to what we see as the relevant issues, mainly:
- a. The Home Office Code of Practice on Police Use of Firearms and Less Lethal Weapons (HO CoP)²⁷;
 - b. The College of Policing Authorised Professional Practice – Armed Policing (APP-AP)²⁸;
 - c. National Police Firearms Training Curriculum (NPFTC)²⁹;
 - d. The National Decision Model (NDM)³⁰;
 - e. College of Policing Code of Ethics 2014³¹.

²⁷ COP0000054

²⁸ COP0000020

²⁹ COP0000008, COP0000009, COP0000011

³⁰ COP0000023_018

³¹ COP0000023

The Home Office Code of Practice on Police Use of Firearms and Less Lethal Weapons

73. Following implementation of the Police Reform Act 2002, the Secretary of State issued the Home Office Code of Practice on the Police Use of Firearms and Less Lethal Weapons (HO CoP) in 2003. The Code was given statutory effect by Section 39 of the Police Act 1996, which permits the Secretary of State to issue codes of practice relating to the discharge by (what were then) Police Authorities or any of their functions. The Code was replaced in January 2020 by a new Code of Practice on Armed Policing and Less Lethal Weapons issued by the College of Policing but it was the 2003 Code that was in operation in 2015.

74. Section 3.1.1 of the Code is entitled ‘*Nominated senior firearms officer in each force*’ and states that³²:

For the purpose of maintaining standards within each force, chief officers should ensure that an officer of at least the rank of Assistant Chief Constable, or equivalent, is nominated to take the lead within the force in relation to operational policy and practice in respect of weapons requiring special authorisation.

75. In the MPS, for reasons set out in their policy documents, the function of the lead officer for issues associated with Armed Policing is exercised by an Assistant Commissioner (broadly equivalent to a Chief Constable in a provincial police force).

76. The Home Office Code also places specific responsibility on officers who undertake the planning and command of operations where force, and in

³² COP0000054

particular lethal force, may have to be used. Section 3.4.4. of the 2003 Code states³³:

Police officers responsible for planning and undertaking operations where the use of force is a possibility should plan and undertake them so as to minimise, to the greatest extent possible, recourse to force and, in particular, lethal force.

77. It is therefore appropriate that, throughout this Inquiry we address and you consider the planning of the armed deployments on 8 and 11 December 2015, as within each deployment there was the possibility for potentially lethal force to be used by police officers.
78. As you will hear, on 8 December 2015, armed officers were covertly deployed to protect and support members of the MPS Technical Support Unit (TSU) who fitted surveillance equipment into a car which, it was believed, would be used in the escape attempt.
79. On 11 December 2015, there were several armed deployments. These involved:
- a. Covert Surveillance Officers armed for their own protection;
 - b. Firearms Officers who were carrying out Mobile Armed Support to Surveillance (MASTS) in respect of the Prison Escort Vehicle and the Audi vehicle expected to be used by those carrying out the escape plan;
 - c. Armed Response Vehicles with Officers deployed as a Contingency Firearms Officers providing a Small ‘Team Intervention Capability’ (STIC);
 - d. Armed Officers who would be deployed within the Court Complex.
80. In addition to the planning associated with the strategic objectives set for each deployment, planning was also required to address contingencies for any

³³Ibid.

reasonably foreseeable event that might occur. This included, but was not limited to, an intervention to arrest individuals involved in the escape attempt.

81. The 2003 Code required Chief Officers to take account of detailed guidance adopted collectively by chief officers of police³⁴.

Chief Officers of police will make arrangements under this code for the authorisation, deployment and use of weapons requiring special authorisation, taking account of detailed operational guidance updated and adopted collectively by chief officers of police. Guidance in respect of weapons requiring special authorisation is set out in the Manual of Guidance on Police Use of Firearms.

82. The consequence of this is that Police Forces and Chief Officers were under an obligation to ensure that policies and procedures within their Force took account of guidance issued nationally. While the code goes on to specifically mention the previously extant *Manual of Guidance on Police Use of Firearms* the above section is deliberate in referring to operational guidance issued collectively by Chief Officers of Police.

83. The College of Policing had been moving all of what were previously known as Association of Chief Police Officers (ACPO) ‘Manuals of Guidance’, (on a whole range of policing disciplines) into what are now called ‘Authorised Professional Practice’ (APP). These are now presented in an electronic ‘modular’ format. Since October 2013, the College of Policing APP – Armed Policing has been consolidated and updated, consequently the former Manuals of Guidance are now deemed by the College of Policing to be decommissioned obsolete documents.

³⁴ Ibid.

84. In 2015, the police guidance on the deployment of armed officers that the MPS should have been following, and referencing, was the APP-AP and not any of the earlier Manuals of Guidance.
85. The legal framework that underpins armed policing is outlined within the APP-AP. It provides the national guidance for various areas of armed policing. This guidance is adopted by police forces across England and Wales, including the MPS. It is incorporated into MPS local policy, guidance and Standard Operating Procedures (SOP). The main SOP applied to armed policing in the MPS is the MPS Police Use of Firearms and Less Lethal Weapons – Standard Operating Procedure (MPS Firearms SOP) – version 11.0 (dealt with in the next section).

The College of Policing Authorised Professional Practice – Armed Policing (APP-AP)

86. For the most part, the text of earlier guidance contained in the ACPO (2011) Manual of Guidance on the Management, Command and Deployment of Armed Officers was incorporated into the ACPO APP armed policing document and subsequently promulgated as the College of Policing APP-AP and published on their website.
87. The most significant change that has occurred between the issue of the 2013 College of Policing APP-AP and the later iterations of the guide are those that relate to Post-Incident Procedures and contain guidance to officers about conferring following a police involved fatal shooting.
88. Throughout the College of Policing APP there are still references to ACPO, the forerunner to the National Police Chiefs Council (NPCC). However, they should be read synonymously. It should be noted that as with the former

Manual of Guidance, the APP – AP is a 'living document' and is periodically updated and modified.

89. It is expected that all officers involved in the command, management and deployment of armed officers are thoroughly familiar with the APP. The accreditation process for firearms commanders, tactical advisors and AFOs involves testing their knowledge and application of the APP's content and principles.
90. In the opinion of the Inquiry's policing experts, it is apparent from the notes and witness statements made by officers in this case that both the firearms commanders and armed officers were aware of and generally utilised (to an acceptable level) the concepts, considerations, processes and tactical options included in the APP-APP.
91. In the introductory section of the APP, there is a statement indicating that the publication provides³⁵:
- *guidance on the appropriate issue and use of firearms and related less lethal options within the police service.*
 - *a basis for the training of all relevant police staff in matters relating to the operational use of firearms. This includes command issues at strategic, tactical and operational levels.*
 - *guidance on command structures, tactical options and operational issues associated with the deployment of Authorised Firearms Officers (AFOs).*
92. An Authorised Firearms Officer (AFO) is defined in the APP “as a police officer who has been selected, trained, accredited and authorised by a Chief Officer to carry a firearm operationally.” Many AFOs have additional training to equip them to undertake

³⁵ COP0000020

specific armed policing roles. Consequently, the AFO role profile is intended to provide a generic baseline for various armed policing functions.

93. Many AFOs, dependent on their qualifications, are deemed ‘occupationally’ and ‘operationally’ competent across a range of relevant disciplines. In the operation which you will be considering, named Operation Ankaa, the AFOs deployed included officers designated as:
- a. Armed Response Vehicle (ARV) Officers;
 - b. Specialist Firearms Officers (SFOs);
 - c. Counter Terrorist Specialist Firearms Officers (CTSFOs).
94. While many of the core skills overlap, Specialist Firearms Officers (SFOs) typically have enhanced tactical skills in areas such as:
- a. Mobile Armed Support To Surveillance (MASTS);
 - b. Tactical Building Entry;
 - c. Covert Mobile Armed Support to Surveillance.
95. Counter Terrorist Specialist Firearms Officers are part of the highest tier of trained police firearms officers, who are also trained to operate in a counter terrorist environment. The MPS website dealing with CTSFOs provides the following overview³⁶:

“The CTSFO teams deal with MPS and National firearms operations. They provide firearms support to borough and specialist units. They are multi skilled and can deliver all elements of armed policing, including operations to combat major crime, hostage taking and terrorism. All CTSFOs have previously served as ARV officers. Their level of training, exposure and experience in dealing with such a wide range of armed operations lead many to consider the...CTSFOs to be one of the world's leading specialist armed police support units.”

³⁶ See INQ0000004 at para 53

96. ARV officers, SFOs and CTSFOs are all trained in advanced first aid skills, including specific skills relevant to the management of gunshot wounds.
97. The APP-AP outlines the criteria for the deployment of AFOs. This is also duplicated on the MPS Firearms Authority (“FA”) documents:

The deployment of AFOs should only be authorised in the following circumstances:

Where the officer authorising the deployment has reason to suppose that officers may have to protect themselves or others from a person who:

is in possession of, or has immediate access to, a firearm or other potentially lethal weapon, or

is otherwise so dangerous that the deployment of armed officers is considered to be appropriate, or

as an operational contingency in a specific operation (based on the threat assessment), or

for the destruction of animals which are dangerous or are suffering unnecessarily.

98. The term ‘reason to suppose’ is also defined APP-AP³⁷:

Use of the words ‘reason to suppose’ sets the level of knowledge required (about the existence of a threat justifying the deployment of AFOs) at a far lower level than that which would actually justify the use of firearms.

The National Police Firearms Training Curriculum (NPFTC)

99. The NPFTC was first issued by ACPO in February 2004, the introductory paragraph stating that

³⁷ COP0000026

Training is critical to the achievement of successful operational outcomes and the Government, ACPO and Her Majesty's Inspectorate of Constabulary have identified it as such.

100. Unlike the APP, the NPFTC is not an open-source document and access to it is restricted to authorised members of the police service. However, the APP references and sets out the purpose of the NPFTC as providing³⁸:

- *a framework for continuous professional development*
- *consistency and standardisation across the range of training activities*
- *standardised national procedures and terminology for police use of firearms and related activities*
- *a vehicle for the promulgation of good practice in response to lessons learnt*
- *the basis for a professional register of practitioners and managers*
- *a basis for the development of national, regional and local role profiles (in line with the Armed Policing Strategic Threat and Risk Assessment Guide 2012).*

101. As the NPFTC is a restricted document any reference within this Inquiry will be to a relevant module only.

102. The NPFTC is now an integral part of a programme of nationally accredited firearms training. The curriculum has been developed within a framework of integrated modules and units that together, represent a whole programme. The national accreditation of officers is intended to ensure an in-depth knowledge and appreciation of both the APP and the NPFTC. A key component of the training and accreditation is a working understanding of what is now referred to as the National Decision Making Model (NDM).

³⁸ COP0000054

103. All policing decisions are expected to be made in a reasonable and proportionate way and in conjunction with the NDM.

The National Decision Model

104. The NDM is now widely used across the UK police service and, in a slightly modified form, by other emergency services and partner agencies. It has its genesis in an earlier decision-making model known as the Conflict Management Model (CMM) which was used primarily in situations requiring a coordinated response by specialist tactical officers in armed and public order situations. The APP-AP states³⁹:

The National Decision Model is a decision-making model used throughout the police service. It is designed to assist operational officers, planners, advisers and commanders to manage their response to a situation in a reasonable and proportionate way.

The NDM is a scalable model that can be applied before, during and after an incident requiring the deployment of AFOs. It provides a framework for recording command decisions and the rationale behind them and can also be used to brief officers involved in the response.

The NDM is driven by information and intelligence. It is a continuous cycle, constantly reviewed in light of new information and assessment that will, ultimately, affect the response to the incident. The model prompts the decision maker to take action on the basis of the most up-to-date information and intelligence available at that time.

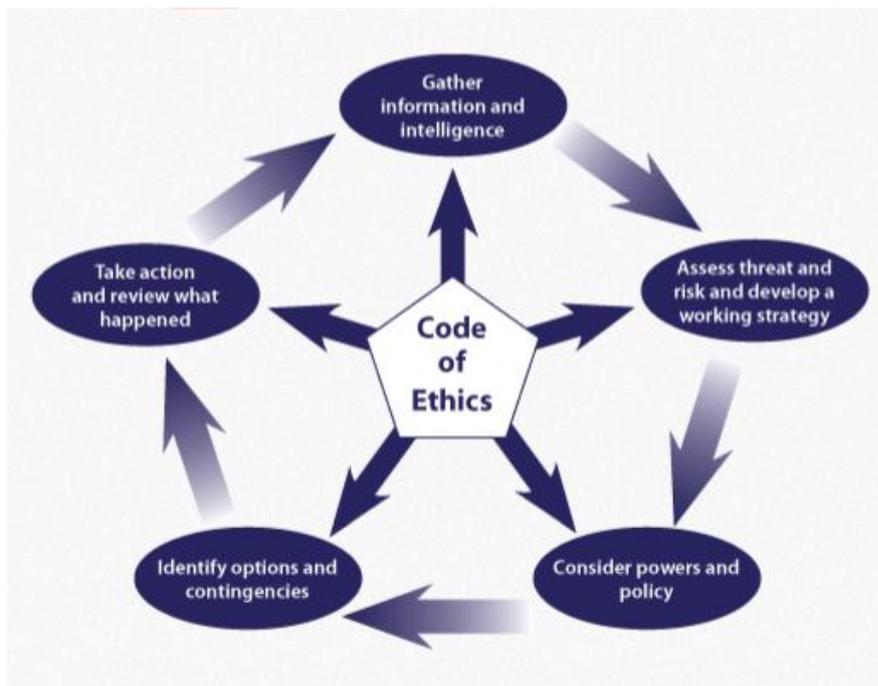
³⁹ COP0000054

Each element of the model may be worked through and reviewed consciously or subconsciously. Decisions and the rationale behind them, can be recorded against each element.

Managers and others can use it to review decisions and actions, and promote learning.

105. It is therefore an appropriate tool to use in respect of reviewing, albeit with the benefit of hindsight, how an incident was managed including key aspects of the command and deployment of resources both armed and unarmed.

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106. As stated, the NDM has six key elements. The element that binds the model together is the Code of Ethics at the centre. The purpose of having the Code of Ethics at the centre is to highlight that the core values and standards of UK policing are to be considered and reflected in the making of all critical decisions. The key 5 areas of the NDM are:

- a. *Gather information and intelligence;*
- b. *Assess threat and risk and develop a working strategy;*
- c. *Consider powers and policy;*
- d. *Identify options and contingencies;*
- e. *Take action and review what happened.*

107. It should be noted that the NDM is presented as a continuous circular model. Consequently, while driven by information and intelligence, subsequent decision-making, and the other areas listed, need to be continuously updated and considered in light of emerging information or intelligence.

108. The Inquiry will want to consider the extent to which officers in command, advisory and operational roles made appropriate use of the NDM when making decisions.

The College of Policing Code of Ethics 2014

109. The Code of Ethics was launched by the College of Policing on 15 July 2014, the same month that the MPS's updated Standard Operational Procedures (SOP) entitled '*Police use of Firearms and Less Lethal Weapons*' was issued. The MPS SOP does not refer to the Code of Ethics and the diagram of the NDM included in the July 2014 MPS SOP does not show the Code of Ethics at its centre.

110. The wording of the Code of Ethics is quoted in the IPCC report. As stated, the NDM has at its centre the Code of Ethics. The Code has a statutory basis and sets out the principles and standards of behaviour that will promote, reinforce and support the highest standards from everyone who works in policing in England and Wales. While the Code applies to all aspects of policing it specifically addresses Covert Policing and Use of Force. As Operation Ankaa

involved both of these elements the following sections of the Code of Ethics are as relevant⁴⁰:

1.5 To achieve legitimate policing aims, it is sometimes necessary to use covert tactics. This is recognised in law.

1.6 Covert tactics must be appropriately authorised and any deployments must be shown to be proportionate, lawful, accountable, necessary and ethical.

1.7 Officers who authorise or perform covert policing roles must keep in mind at all times the principles and standards set out in the Code of Ethics.

111. Section 4 of the Code is entitled ‘Use of Force’ and begins,

I will only use force as part of my role and responsibilities, and only to the extent that it is necessary, proportionate and reasonable in all the circumstances.

112. The Code also contains a section entitled ‘Supplementary Notes’ which sets out the National Decision Model. Under the subtitle of ‘Making Ethical Decisions’, Section 4.1 of the Code of Ethics states⁴¹:

The National Decision Model is the primary decision-making model for police in England and Wales. Individuals, supervisors and others use it to assess potential decisions or decisions that have already been made.

Armed Policing Command Structure in the UK

113. This is set out in the ‘Command’ section of the APP-AP:

The generic command structure used in the UK police service operates at three levels: strategic/ gold, tactical/ silver and operational/ bronze.

114. The APP sets out the command structure to be used when armed officers are deployed. The structure has the three levels to which I have just referred. A national scheme managed by the College of Policing ensures that each Force

⁴⁰ COP0000023

⁴¹ Ibid.

has accredited officers to undertake command at each of these levels. The APP sets out the distinct function of each level of command as follows⁴²:

- **Strategic Firearms Commander (SFC)** – *Determines the strategic objectives and sets any tactical parameters. Retains strategic oversight and overall command and responsibility.*
- **Tactical Firearms Commander (TFC)** – *Develops, commands and coordinates the overall tactical response in accordance with strategic objectives.*
- **Operational Firearms Commander (OFC)** – *Commands a group of officers carrying out functional or territorial responsibilities related to a tactical plan.*

115. It is normal practice that a Firearms Tactical Advisor (FTA) supports the Strategic and Tactical Firearms Commanders. The APP clarifies that the role of a tactical advisor is to advise and not to make command decisions. The responsibility for the validity and reliability of the advice lies with the advisor. However, the responsibility for the use of that advice rests with the commander. The MPS, in common with all other police forces in the UK, operate this three- tier armed policing command system and this is reflected in the various witness statements made by officers in this case.

116. The relationship between the Firearms Commanders and the Senior Investigation Officer is specified in the APP which states:⁴³

The function of the strategic firearms commander (SFC) or tactical firearms commander (TFC) must not be undertaken by the senior investigating officer (SIO) responsible for the investigation of the offence(s) for which the firearms operation is being conducted.

⁴² COP00000024

⁴³ COP00000024

117. The Strategic Firearms Commander in Operation Ankaa, D/Supt Craig Turner (also known by the cypher FE14) stated in a document referred to as the FA3⁴⁴:

I have considered the suitability of DCI Williams to act as Tactical Firearms Commander in this operation and I am satisfied that he is not the SIO.

118. It is, however, noted that DCI Williams, the TFC, was, on a day-to-day basis, the line manager of DI Rob Murray who was the SIO for both Operation Utara and Operation Ankaa.

119. One issue which the Inquiry may wish to consider is the extent to which there was sufficient separation of the TFC and SIO roles to the degree intended by the APP.

The Training and Operational Experience of the Officers involved in Operation Ankaa

120. The extent to which the training, experience and accreditation of the officers in Operation Ankaa complied with the standards set out in the APP and procedures which form part of the National Accreditation process is a matter which the Inquiry will wish to consider. In respect of command roles, the APP distinguishes between ‘Occupational’ and ‘Operational’ competence for Firearms Commanders and Tactical Advisors. The relevant section reads⁴⁵:

Occupational and Operational Competence within Command Roles

When an officer has attended and satisfactorily completed a course of instruction based on a command or tactical advice module in the national police firearms training curriculum (NPF^{TC}), they will be assessed to be occupationally competent to perform that role.

⁴⁴ IPC0001079

⁴⁵ COP0000024

Chief officers are responsible for ensuring that individuals who have been assessed as occupationally competent are professionally developed to ensure that they can be classed as operationally competent. A commander or tactical advisor must remain operationally competent by regularly performing the roles for which they have been trained.

Re-accreditation and refresher process for Commanders and Tactical Advisors

Commanders at all levels and tactical advisors must undergo annual commander/tactical advisor refresher training. This process must consist of the relevant approved annual command or tactical advisor refresher package, supplemented by additional local training which supports force and regional issues identified in the force's armed policing Strategic Threat and Risk Assessment (STRA).

On the annual completion of these packages, a commander or tactical advisor's occupational competence should be formally approved by the lead chief officer, or a person nominated by them, with responsibility for the management, command and deployment of armed officers.

Forces should maintain records of officers' refresher training in order to show their continued competence.

Officers in command and tactical advisor roles must be formally re-accredited at least every five years, but consideration should be given to re-accreditation between three to five years depending on operational exposure.

121. In the opinion of the Inquiry's policing experts, it is evident from the statements provided by each of the Firearms Commanders and Armed Officers

deployed on 8 and 11 December that they were occupationally and operationally competent and accredited for the roles they undertook.

122. There were officers undertaking a ‘shadowing’ role of both the SFC and TFC. Shadowing is a developmental activity that is well established and recognised good practice. The officers undertaking shadowing roles do not appear to have taken any proactive command roles.
123. Due to the complexity of the operation on 11 December 2015, it was decided to deploy two ‘Ground TFCs’. This is slightly outside the norm from a national perspective, albeit it is referenced in the MPS’s Standard Operating Procedures (to which we shall now turn) but the Inquiry may consider this to have been appropriate in the circumstances.

III. Armed Policing in the MPS - Standard Operating Procedures

Introduction

124. Within this Inquiry, emphasis will be placed upon two main pieces of guidance – the APP-AP (which we have just looked at) and the MPS SOP.
125. The MPS, together with the City of London Police, are responsible for Policing the nation’s capital. With more than 44,000 officers and staff, the MPS is the UK's largest police service and has 25% of the total police budget for England. It is therefore not surprising that in terms of organised crime and firearms related crime the MPS face a challenge unparalleled in other parts of the UK.
126. In 2015 there were approximately 2,460 armed officers within the MPS who underwent continual training and assessment, in addition to their standard operational commitments. For many years the MPS has maintained a document

which sets out their Standard Operating Procedures relating to Armed Policing. The SOP which was in force in December 2015 is an extensive document containing 266 pages. What follows is intended to highlight just a few of the pertinent parts of the MPS SOP. There will be reference to these and other paragraphs of the SOP throughout this Opening address.

The Metropolitan Police Crime and Operations Directorate

127. The Metropolitan Police Crime and Operations Directorate and its sub-divisions as relevant to this Inquiry are:

SCO7	Organised Crime Command
SCO19	Specialist Firearms Command
SCO35	Armed surveillance

128. The MPS SOP makes clear that it has firearms capability in a number of its business groups. One such business group is SCO7 and within various sub-branches of SCO7 there are officers drawn from the Superintendent and Chief Inspector ranks who are accredited Strategic and Tactical Firearms Commanders. This enables SCO7 branches to provide integral Strategic and Tactical Firearms command in relation to operations for which they are responsible. SCO7 is the MPS lead command for investigating all serious organised crime, such as kidnap, robbery, firearm/drugs supply, economic crime including cyber- crime, corruption, human trafficking and prostitution. The Organised Crime Command section deals with the proactive investigation of organised crime groups on the basis of threat, harm, risk and opportunity. SCO7 includes the Central Task Force and the Flying Squad. In Operation Ankaa SCO7 Officers were utilised as follows:

- Strategic Firearms Commander (Flying Squad)
- Tactical Firearms Commander (Central Task Force)
- Senior Investigation Officer (Central Task Force).

129. The division known as SCO35 are armed surveillance operatives who covertly monitor those who are actively involved in Terrorism or Serious and Organised Crime. They deploy on a daily basis on those who are involved in the highest level of violent crime within the MPS and when the need arises anywhere in the United Kingdom.

130. In addition, the MPS have a dedicated Firearms Command known as SCO19. The Command is responsible for providing a firearms response capability, assisting the rest of the MPS which is not routinely armed. SCO19 includes Strategic, Tactical and Operational Firearms Commanders, as well as Firearms Instructors, support staff and policy units. In Operation Ankaa SCO19 supplied:

- A Firearms Tactical Advisor (Inspector Rank)
- Counter Terrorist Specialist Firearms Officers (CSFOs)
- Armed Response Vehicle (ARV) Officers
- Armed Officers for security and protection within the bounds of the Court

MPS SOP on Strategic and Tactical Planning

131. Paragraph 6.10 of the MPS SOP states:⁴⁶

It is the responsibility of the Strategic Firearms Commander to satisfy themselves that the tactical plan is capable of meeting the strategic aims of the operation and that the provisions of Article 2 ECHR (positive obligations to protect life) take precedence.

132. The Inquiry will wish to establish if D/Supt Turner was able to so satisfy himself throughout the planning stage of Operation Ankaa.

⁴⁶ IPC0000079

MPS Mobile Armed Support to Surveillance (MASTS) training

133. The MPS has local training for firearms officers when deployed in a MASTS configuration, as was the case in Operation Ankaa. This training is also underpinned by principles within the NPFTC which falls under D8.2 and D8.3 of the NPFTC. It is designed to provide a flexible and mobile platform to intervene once a tipping point or threshold for arrest has been reached. As in the circumstances of Operation Ankaa, the detail of the environment when the threshold is reached is unknown in advance. It could be one person in a vehicle, five people in a vehicle, multiple vehicles, a vehicle in a wide range of situations, a person on foot, a person on a motorbike and so forth.
134. The MASTS platform allows intelligence and evidence to be gleaned from a covert operation, with the capability for specialist firearms officers then to intervene when command directs that a tipping point or threshold has been met. What it isn't is a firearms tactic. The Anthony Grainger Inquiry found in 2019 that a fundamental problem with that operation, in 2012, was a shared misconception that MASTS was itself a firearms "tactic"⁴⁷.
135. Instead, it is an operational method used to support mobile surveillance with an armed officer capability. The reason for making this point is that MASTS commanders and AFOs are trained (or, at least should be trained) to a higher standard and have the capability to deliver the specialist tactical options called "interception" (dealing with a subject prior to the actual commission of an offence and any threat being realised, for example, en route to or from an armed escape) and "intervention" (dealing with a subject whilst they are in the act of committing an offence where potential victims are present at the location, and the subject is physically in a position to carry out the threat) –

⁴⁷ INQ0000002

each of which is a subset of the generic descriptor “*decisive action*”. But these tactics should only be used when they are appropriate to the situation and absolutely necessary. As the Inquiry policing experts observe, the fact that MASTS is authorised should never be taken to indicate that ‘*decisive action*’, in either of the forms that I have described, is approved or necessarily appropriate to the situation.

Guidance on the Discharge of a Weapon

136. Each MPS firearms officers holds a Form 6590 – this is commonly known as an officer’s Firearms Authorisation Blue Card. It is a wallet sized booklet which records key information for each individual officer’s training dates. It also includes a number of short paragraphs printed on the card relevant to the role of firearms officers, including Section 3 of the Criminal Law Act 1967 on the use of force⁴⁸:

3 Use of force in making arrest, etc.

(1) A person may use such force as is reasonable in the circumstances in the prevention of crime, or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large

The ultimate responsibility for firing a weapon rests with the individual officer, who is answerable ultimately to the law in the courts. Individual officers are accountable and responsible for all rounds they fire and must be in a position to justify them in the light of their legal responsibilities and powers.

⁴⁸ IPC0001076

Firearms are to be fired by AFOs in the course of their duty only when absolutely necessary after conventional methods have been tried and failed or must, from the nature of the circumstances, be unlikely to succeed if tried. (It is strongly advised that warning shots are a dangerous option as they may lead a subject or other officers to believe they are under fire or cause collateral injury).

AFOs shall identify themselves as such and shall give a clear warning of their intent to use firearms, with sufficient time for the warnings to be observed, unless to do so would unduly place any person at a risk of death or serious harm, or it would be clearly inappropriate or pointless in the circumstances of the incident.’

1.2 - AFO’s [Authorised Firearms Officers] are first and foremost police officers and in exercising the duties of the office of constable have a personal accountability and responsibility for the protection of life and carrying out duties associated with that office.

1.3 - In all situation it is the individual AFO who must assess the immediacy and proximity of the threat and make an operational decision as to whether it is absolutely necessary to discharge a firearm or take other decisive action’.

1.11 to 1.12 - police officers need to shoot to stop an imminent threat to life...Officers must be able to demonstrate that the degree of force used was absolutely necessary and relative to the threat posed. The use of excessive force is strictly prohibited.

137. The APP-AP states⁴⁹:

Accuracy of shot: Research indicates that the accuracy of shots fired under training conditions is generally greater than in operational circumstances. Police officers are normally trained to discharge

⁴⁹ COP0000028

conventional firearms at the largest part of the subject they can see, which in most cases will be the central body mass...

Threat to life: When it is considered necessary to discharge a firearm at a subject, police officers need to shoot to stop an imminent threat to life. The imminence of any threat should be judged, in respect of the potential for loss of life, with due regard paid to legislation and consideration of absolute necessity, reasonableness and proportionality.

When an authorised firearms officer (AFO) decides to discharge a firearm, the number and sequencing of rounds fired will depend on the circumstances that exist at the time. Officers must constantly assess the threat posed by the subject and the continuance of that threat. Officers must be able to demonstrate that the degree of force used was absolutely necessary and relative to the threat posed. The use of excessive force is strictly prohibited.

The discharge of firearms by police may not necessarily result in the death of a subject. Every effort must, therefore, be taken by police to provide medical assistance.

Accountability for all rounds fired: AFOs are accountable for all the rounds that they discharge and they should be aimed so as to minimise risk (either directly or by ricochet) to any person other than the subject...

C3000/CLIO Policy

138. C3000 is a police operations room which was utilised in Operation Ankaa. It is sometimes referred to as a covert command suite or post. The acronym CLIO stands for Computer Logging of Intelligence Operations and is the system within C3000 used for capturing the history of an operation.

139. The MPS policy relating to monitoring facilities in C3000 is dated 18 July 2008. C3000 does have the capability to record video, audio and radio communications. However, the current policy only has mandatory recording activated for specific counter terrorism related operations. The policy indicates it is the discretion of the SIO to decide for other operations if monitoring

equipment will be activated. The policy also explains the CLIO system as being a⁵⁰:

Computerised log of actions, decisions and strategy in relation to incidents/operations with inputs from operational commanders and intelligence sources.

140. During the course of the IPCC investigation, the MPS was asked to supply any further policy/guidance in relation to the use of CLIO. The MPS informed the IPCC that they did not have any policy or guidance. After the IPCC request, a note was provided by the MPS CLIO administrator - Mr Peter King. Within this document Mr King was of the opinion

It should be noted that during covert operations some information will not be on the CLIO log...Some officers may also keep a separate written policy book depending on their preferred working practice and only put high level entries on the system.

141. The Inquiry will hear evidence about the use of and the running of C3000 during the course of the police operation, the staffing of the command room and the use of the CLIO system in order to determine whether these matters were dealt with in an acceptable manner.

IV. The Facts and Relevant Issues prior to 11 December

Operation Utara

142. Operation Utara was an MPS operation into organised criminal gangs living and operating in North London. By the time of the shooting of Jermaine Baker it had been running for approximately seven years and primarily focussed on violent and organised crime involving individuals of Turkish descent. Much of

⁵⁰ MPS000009

the violence related to a feud between two groups known as the Tottenham Turks/Tottenham Boys on the one hand and the Hackney Turks/Hackney Bombers on the other. There were a significant number of murders associated with the feud. Over the course of the seven years both groups had access to, and had used, firearms to carry out criminal activity and murders. In the commission of some of these offences firearms of various types were discharged by gang members.

143. Responsibility for Operation Utara lay within SCO7. The Senior Investigating Officer was DI Rob Murray. His day-to-day responsibilities included leading a syndicate of the MPS Central Task Force.
144. On 13 October 2015 the operational activities of Operation Utara led to armed uniformed officers stopping a stolen high-powered motorcycle carrying 2 males, Izzet Eren and Erwin Amoyaw- Gyamfi.
145. DCI Williams was the Tactical Firearms Commander for the armed deployment which resulted in the arrest of these two individuals. At the time of their arrest, the men had been travelling across London on a stolen high-powered motorcycle, wearing balaclavas and two sets of clothing, and were in possession of a loaded Skorpion submachine gun and a loaded Tokarev pistol. The Tokarev 9mm pistol contained six rounds of ammunition and the Scorpion machine pistol had a full magazine. Both weapons had their safety catches in the “off” position, ready to discharge.
146. The Skorpion submachine gun was originally manufactured for the Czechoslovakian military. Worldwide, there are many variants of this military grade submachine gun in circulation. A submachine gun is a short-barrelled weapon that is designed to be capable of automatic fire. This means that when a loaded magazine is fitted to the weapon, the weapon is made ready to fire and

when the safety catch/fire selector lever is set to the automatic fire setting, the weapon will fire continuously until either the finger is taken off the trigger or the magazine is empty. The weapon has what is referred to as, a cyclical rate of fire of between 850 and 1000 rounds per minute. Consequently, depending on the magazine capacity, if the fire selector was placed to automatic and the trigger was depressed continually for just 1 second, the weapon would discharge approximately 15 rounds as a continuous (and very difficult to control) burst.

147. The weapon is very small in size, measuring just 10.6 inches when the wire stock is folded. It is therefore often referred to as a submachine pistol. Fully automatic weapons, of the size of the Skorpion, are difficult to hold on target when being fired (with or without the stock being folded out). Hence the term 'spray and pray' has often been attributed to such weapons when used by untrained individuals. A close quarter encounter with someone armed with such a weapon would be a terrifying experience, even for the most experienced armed officer. When fired with the wired stock extended using single shots (as opposed to automatic fire) and retained in the shoulder, accurate fire is achievable to a distance well in excess of 50 yards and the danger area behind a target can, dependent on the angle of the weapon, extend for a considerable distance.

148. The Tokarev self-loading pistol was the standard military pistol of the Soviet Union from the mid 1930s until 1951. The most common version of the weapon is known as the Tokarev T33. It was originally chambered to fire a 7.62 x 25mm handgun cartridge. There are also later models that fire the 9mm (Luger) cartridge and it was a 9mm Tokarev self-loading pistol that Izzet Eren was in possession of at the time of his arrest. This is the same calibre round that UK police officers carry in their duty handguns.

149. The handgun was in a man bag which was being carried by Izzet EREN. The Skorpion machine pistol was found in a bag on the ground where Erwin Amoyaw-Gyamfi had dropped it next to the motorcycle on which the two men had been travelling.
150. At the time of his arrest, Izzet Eren was wanted by the Turkish authorities in respect of the murder of a family member committed in that country. Having previously been deported from the UK to Turkey he had returned illegally and was therefore, irrespective of any prosecution, liable to be returned to Turkey.
151. As mentioned, DCI Williams was the TFC for the arrest of Izzet Eren and Erwin Amoyaw-Gyamfi. Given the scale of armed violence that members of the two gangs were involved in, SCO7 and SCO19 officers would have had insight and an appreciation of the type of weapons and the ballistic protection that the subjects may have had access to in attempting to free Izzet Eren from custody.

Intelligence Relevant to the Setting Up of Operation Ankaa

152. Within the police service the terms ‘information’ and ‘intelligence’ have very specific meanings. Since 2013, the College of Policing have had separate APPs for Information management and Intelligence management. The Intelligence Management APP clarifies the relationship between Information and Intelligence⁵¹:

Intelligence is collected information that has been developed for action. It may also be classified as confidential or sensitive. Intelligence collection is a continuous process and there may be specific requirements for its recording and use.

153. As part of the running of Operation Ankaa, the Deputy SIO known by the cypher FE19, DC (now DS) Kinch (who was OIC for Operation Utara and

⁵¹ COP0000049

Operation Ankaa) and DC Sparks dealt with all the incoming intelligence updates on the case.

154. Having been arrested on 13 October 2015, Izzet Eren and Erwin Amoyaw-Gyamfi were remanded in custody to appear at court on 29 October 2015.
155. The MPS retrospectively obtained information that there had been a plan for an organised crime team to effect the escape of Izzet Eren from the prison van conveying him to court on the 29 October 2015. This plan had failed.
156. When Izzet Eren and his associate appeared at court on 29 October 2015, they both pleaded guilty to firearms offences. They were remanded in custody at HMP Wormwood Scrubs until 11 December 2015, when they were due to be sentenced at Wood Green Crown Court. During this second period of remand, Izzet Eren communicated with those outside of the prison, using a hidden mobile telephone, to plan another escape attempt.
157. On 30 October 2015, the MPS created an intelligence report stating
Intelligence indicates that Izzet EREN will escape from custody while in transit.
158. DI Murray was briefed by his team on intelligence that indicated Ozcan Eren (the cousin of Izzet Eren but also erroneously referred to as his brother) was planning the breakout of Izzet Eren, which was likely to be 'firearms enabled' and would happen on the way to, or at the court appearance, on 11 December 2015. Ozcan Eren was a significant individual in the plan. The MPS had several intelligence files on him.
159. One issue which arises from this early stage in the life of Operation Ankaa is the use of the term 'firearms enabled' to describe the belief that those involved in the escape would make use of firearms. It is not a term which comes from any

policy or guidance. It is a term capable of interpretation in one of many ways. Although the term is not part of the lexicon of AFOs and does not appear in the APP-AP the Inquiry's policing experts have indicated that it is well used within criminal justice papers issued by the Home Office, the MPS, wider police services and in academic papers. References to '*firearms enabled*' and '*gun enabled*' refer to the use of types of weapons to threaten, injure or coerce and no distinction is made as to whether they are viable bullet firing weapons, replicas, or airsoft weapons. Kevin Nicholson from the College of Policing has said that it is not, to his knowledge, a term in common use and stated that his⁵²:

interpretation of "firearms enabled", without knowing exactly what context it was used in, would be that it is a succinct way of telling people that the subjects had a firearms capability and were likely to use it in order to carry out their criminal activity.

160. There are several issues here that require consideration by the Inquiry:
- a. Trained and accredited firearms commanders should have a detailed knowledge of the terminology used within the Armed Policing discipline and contained in the APP and NPFTC
 - b. To the greatest extent possible the 'discipline appropriate' terminology used in, policy, procedural and tactical documents manuals should be replicated in training, operational planning, briefings and live time communication
 - c. Where, for any reason, it is necessary to use words or phrases that lie outside the immediate policing discipline then they should be accompanied with an explanation (a particularly important issue when working with other agencies).

⁵² COP0000055

161. These factors are particularly important in situations where fast time communication and rapid decision-making (particularly in life-threatening situations) is required.
162. The Inquiry will wish to consider whether the use of the term '*firearms enabled*' contributed to the circumstances which culminated in the shooting of Jermaine Baker. The Inquiry's policing experts are of the view that the use of the term was not helpful. It would have reinforced the view of all involved that those planning the escape attempt had access to some sort of firearm or firearms which indeed they had but, in addition, that the firearms were live firearms with the enabling ability to kill or cause serious injury. This takes on greater importance when viewed in conjunction with the fact that the intelligence throughout this early period and up until the morning of the 11 December 2015 was that the OCG were having difficulty sourcing a real gun and had not been successful in their efforts. We will return to this issue later in considering what, of this intelligence, was passed onto the ground TFC, OFCs and deployed AFOs and the effect that their level of knowledge had on the decisions that they made. This, of course, will be mostly probed in CLOSED session when you will hear evidence as to the precise nature of the intelligence received, how it was gisted, to whom it was disseminated and whether or not that was appropriate in all of the circumstances.

Operation Ankaa

163. Operation Ankaa was the proactive operation into the escape plan conducted by a team of officers from SCO7 supported by armed officers from the MPS Specialist Firearms Command (SCO19), surveillance officers from SC035 and personnel from the MPS Technical Support Unit (TSU).
164. It will be necessary for the Inquiry to review:

- a. The relationship between those responsible for the investigation and those commanding the armed intervention
 - b. The structure within which the armed deployment was conducted and the extent to which this reflected national guidance on the deployment of armed officers
 - c. The care and planning applied in preparing the operation from the receipt of the first intelligence in respect of a plan to free Izzet Eren until the intervention which resulted in the shooting of Jermaine Baker
 - d. Actions of police officers involved in the planning, command and management of the operation, including those responsible for briefing officers
 - e. Roles, decisions and actions of police officers and MPS staff involved in the command, deployment, and monitoring of the operation on 11 December 2015
 - f. Actions of officers and staff in the immediate aftermath of the shooting and subsequent post incident procedures.
165. The operation was established on 30 October 2015 the day after Izzet Eren's court appearance. Although it was created as a separate entity from Operation Utara, as has already been noted, DI Murray of the SCO7 Central Task Force remained the SIO for both operations, FE19 was the deputy SIO for both operations and DC Kinch was the OIC for both operations.
166. At this early stage there was insufficient information available to the MPS officers to identify who, where or any details of how this offence would be carried out. DI Murray tasked officers with gathering further intelligence in order to assess this opportunity and manage the risk posed to all those involved. He directed that intelligence be passed, via the MPS Prison Intelligence Unit (PIU) to the Security Governor at Wormwood Scrubs prison.

167. The SIO's plan, from the outset, appeared to have three aims - to thwart the escape attempt, to arrest conspirators and to take firearms off the streets of London. Given the potential risks faced by officers who could be deployed on this operation DI Murray considered it necessary for armed support and so he approached DCI Williams an experienced Tactical Firearms Commander (TFC) and the officer who was acting as TFC for the arrest of Izzet Eren on 13 October 2015. They discussed the intelligence and potential opportunities in an attempt to seek to formulate the most appropriate tactical option.
168. During the week of 2 November 2015 DCI Williams was made aware that the operational team had located what they believed was the relevant stolen vehicle, a black Audi A6 bearing false registration plates KML3 YPT. DCI Williams took the view that there were potential tactical options available to them but effective control of the Audi was paramount as this provided the optimum opportunity to close intelligence gaps and conduct any operation safely⁵³.
169. It would appear that, at this stage, no firm decision had been made to conduct a firearms operation. However, given the intelligence available DCI Williams had begun to formulate a plan which, if approved, would require the deployment of covert surveillance teams supported by armed officers. He took the outline plan to his line manager, D/Supt Gilmour who was a 'shadow SFC' meaning that he was not, at that time, a fully '*operationally accredited*' SFC.
170. DI Murray arranged a planning meeting with D/Supt Turner (the SFC for the operation) DCI Williams (the TFC for the operation), S48 (The Tactical Adviser for the operation) and D/Supt Gilmour (the shadow SFC for the operation) which took place on Tuesday 10 November 2015.

⁵³ MPS0000071

10 November 2015

171. The planning of an operation such as Operation Ankaa requires considerable care. The Inquiry will wish to consider if the care here was adequate and appropriate. Planning meetings occurred on:
- a. 10 November – a preliminary meeting to discuss the potential operation
 - b. 13 November – a meeting with prison staff at HMP Wormwood Scrubs
 - c. 3 December – a further planning meeting
 - d. 6 December - SCO19 preliminary discussions.
172. Although an operation involving armed officers had not yet been formally agreed or ratified, there are several points to be noted regarding the invited attendees to this first meeting on 10 November 2015:
- a. DI Murray, DCI Williams and D/Supt Gilmour are part of the same line management structure
 - b. D/Supt Gilmour was not yet a fully qualified SFC
 - c. The meeting was held with D/Supt Turner who was not part of the Central Task Force but was an SFC within the Flying Squad
 - d. S48 is an Inspector from SCO19 Firearms Command.
173. With the exception of D/Supt Gilmour, each of these officers undertook the envisaged firearms command and advisory roles in respect of the armed deployments that took place on both 8 and 11 December 2015.
174. It is important for the Inquiry to consider the extent to which the investigative issues were being considered by the Strategic and Tactical Firearms Commanders during the planning of the operation. In particular, there is a need

to consider whether the SFC ensured that the tactical plan being proposed by the SIO and TFC met not only the strategic aims of the operation but that the provision of Article 2 ECHR (positive obligation to protect life) took precedence in accordance with the MPS SOP which we have just looked at and was properly balanced against any desired investigative or criminal justice outcomes.

175. It will be necessary to consider this - was the purpose of this first meeting really to discuss whether an operation of the type implemented should be mounted or was it to plan the operation with a pathway heading in only one direction?
176. The meeting was chaired by D/Supt Turner. As well as those already mentioned, the meeting was attended by three Central Task Force Detectives and an Inspector from SCO19, the MPS specialist firearms command. D/Supt Turner, has referred to the intelligence that was provided to him during this meeting. It would appear that he was also provided with the basis of a plan already formed. In recounting this meeting DI Murray recalled⁵⁴:

At this meeting I outlined the background of the operation, the intelligence concerning the "break out" ... It was provisionally agreed that provided the control of the stolen Audi A6 vehicle was maintained and this vehicle and its occupants were never able to approach the prison van, then this provided a unique opportunity to identify and arrest unknown offenders who are willing and capable of committing serious firearm enabled crime and to recover those firearm/ s and ammunition in criminal circulation ... This proposed covert operation would involve the deployment of a number of MPS assets including Armed Surveillance, Specialist Firearms Officers (SFO) and support teams although further planning and preparation was necessary.

⁵⁴ MPS0000097

177. The operation had three aims: the prevention of the escape of Izzet Eren, Sustained Public Protection (by preventing future armed criminality) and the recovery of firearms thereby removing illegal firearms from circulation.

At this stage, a discussion was conducted in relation to operational activity needed to mitigate this risk to members of the public, police and the suspects in this investigation, as well as tactical options that were available. During this meeting, and commensurate with my role, I discussed the necessity and potential use of a control room if this operation was to go ahead and the various resources needed at this early stage of the planning. Using the National Decision Making Model (NDM) and through the SIO and TFC, I actioned how some of the intelligence gaps could be addressed.

178. A word or two about record keeping. The APP-AP, under the sub-heading of Record Keeping states⁵⁵:

Individual commanders must be prepared to account for their decisions and to explain their rationale at the time that those decisions were taken. All plans should be documented, including options rejected or progressed, together with the reasons why such conclusions were drawn and by whom... Forces must ensure that the records kept are sufficient to meet these needs. Records and logs maintained by or on behalf of commanders and tactical advisors will be reviewed during operations as well as during post-deployment audits. A comprehensive record of key actions and decisions made by commanders, and the advice given by tactical advisors, in situations where AFOs may be or have been deployed should be maintained in accordance with national minimum standards.

179. However, when the IPCC requested DCI Williams as TFC to provide records or an audit trail of this meeting he said that there was no formal record of this

⁵⁵ COP0000018

meeting. He did not make a note and said that there was no requirement for the officers to do so.

180. In the opinion of the Inquiry's policing experts there is an unacceptable absence of a comprehensive record of planning meetings throughout Operation Ankaa by both the Strategic and Tactical Firearms Commanders. It is normal practice that the chair of a meeting determines who takes minutes or provides a record of the meeting. It is normal practice across the UK Police Service for senior officers to maintain what are now referred to as day books. These are generally officially issued (and numbered) bound books that contain individually numbered pages. They are in effect larger versions of the traditional police pocket-book carried by patrol officers. It is normal practice for officers to include details of meetings held, including persons present and a summary of the reason for the meeting, and decisions made or actions assigned. Where official minutes are taken the officer might simply make reference to the fact that the minutes were taken.

181. However, given the seriousness of the issues being discussed, the Inquiry may find it to be surprising, in the event of the meeting not being minuted, that none of the command officers had at least some record of the meeting, including matters agreed and assigned actions. Although S48 made a note on a piece of spare paper, there was no formal record of this meeting, when it would appear that the basis for the operation had been discussed, if not agreed, and provisionally scoped out by the time that the meeting ended.

The Prison Meeting on 13 November 2015

182. On 13 November DI Murray and DI Mayes of the MPS Intelligence Unit, met with staff at HMP Wormwood Scrubs to brief them on the intelligence and the

MPS proposed plan. It will be evident to the Inquiry that the concept of the policing operation due to take place on 11 December 2015 had been agreed in principle. DI Murray requested that the Head of Security at the prison kept the plans for the police operation in complete confidence.

183. Following the events of 11 December 2015, an investigation was launched by NOMS (the National Offender Management Service) into the escort arrangements on the morning of 11 December 2015⁵⁶. The report of 10 January 2016 concluded that protocols for the sharing of intelligence between the MPS and HMP Wormwood Scrubs and the MPS and NOMS had not been used.
184. Only a month before, in November 2015, the Police National Prison Intelligence Coordination Centre (NPICC) had been established with the specific purpose of sharing intelligence between the MPS and NOMS. This was ignored. In fact, the first time that any NOMS senior staff outside the prison had been told about the police operation was after the escort vehicle had left HMP Wormwood Scrubs. The Deputy Governor of the prison had mistakenly assumed that the police operation had been approved by a senior official in NOMS headquarters allowing the escort to proceed without any additional precautions. NOMS approval for the police operation should have been sought at a senior HQ level in advance of 11 December 2015. This could not have been the case as DI Murray deliberately kept the plan from those who were tasked with taking the prisoners to Wood Green Crown Court for fear of Izzet Eren discovering the police operation.
185. The Inquiry will wish to consider whether or not keeping NOMS and Serco out of the loop and in the path of potential danger was a reasonable decision. A knock-on effect of the lack of information sharing was that, whilst he remained at HMP Wormwood Scrubs, Izzet Eren was only assessed as a Class

⁵⁶ HMP0000025

B prisoner. An application for his status to be raised to Class A (for other reasons) was refused. Had mention been made of the escape plan this application would undoubtedly have succeeded.

186. Over the remainder of the month of November 2015, it appears that investigative work and intelligence gathering was continuing in relation to subjects who may be involved in supplying firearms. Intelligence received on 29/30 November 2015 indicated that Sinan Ozger had been engaged in the movement and safekeeping of firearms and it was he who was believed to have performed this same function prior to Izzet Eren's arrest in possession of a loaded Skorpion submachine gun on 13 October 2015. In addition, there was intelligence of four previous arrests of Sinan Ozger relating to firearms offences between 2008 and 2013.

The Planning Meeting 3 December 2015

187. According to DI Murray's statement to the IPCC, present at this meeting on 3 December 2015 were D/Supt Turner, DCI Williams, DI Murray and S48⁵⁷. Also present were two staff from the MPS TSU (Technical Support Unit) to advise on covert audio equipment and other technical options. Their attendance is not explicitly referred to in the statements of D/Supt Turner, DCI Williams or S48. However, the statements provided by these officers include references to other attendees. The only officer who mentions D/Supt Gilmour being at the meeting is DI Murray. However, D/Supt Gilmour said that the only planning meeting he attended was on 10 November 2015.
188. According to DCI Williams' statement the two additional attendees were representatives from covert policing which possibly suggests armed surveillance officers from SCO35. S48 referred to the meeting being attended

⁵⁷ MPS0000097

by two officers from SCO19 who would be CTSFOs. He later wrote on form FA5 (documented tactical advice) that DI Gosling had attended this meeting. If the additional two attendees were CTSFOs then this appears to be the only meeting that CTSFO officers (apart from S48) had with the SFC, TFC and SIO prior to the briefing that occurred at New Scotland Yard on 10 December 2015.

189. The statements of the attendees each provide differing accounts about what was discussed, in this second and final planning meeting held by the SFC to discuss Operation Ankaa. When the IPCC requested that DCI Williams provide records or an audit trail of this meeting, he said that there was no formal record of this meeting. He did not make a note and said that there was no requirement for the officers to do so. He then gave his account prefaced with the words '*from memory*'⁵⁸. In contrast, S48 in his statement was able to provide the IPCC with notes of the meeting made in his notebook. S48 is the only officer whose statement provides any detail of the issues discussed on 3 December 2015. It is therefore of note that S48's statement provided considerably more detail of the issues discussed than those of the other command officers who, like DCI Williams, appeared to be relying on their memory of the meeting for clarity.

190. To reiterate, it is the responsibility of the chair of the meeting (D/Supt Turner) to have ensured this meeting was minuted/recorded. Officers' daybooks should have at least referenced their attendance at the meeting, the purpose of the meeting and key matters discussed and decided. Reviewers of this operation should not have had to rely on the memory of participants to determine who was in attendance, the main issues discussed, the outcomes and any actions agreed. DI Murray's statement does not provide any clarity as to the purpose of the meeting. Other than his previously noted reference to two officers from

⁵⁸ MPS0000025

the TSU being there to advise on covert audio, the only other reference that he makes to this meeting is that⁵⁹:

The provisional strategy was to conduct simultaneous armed surveillance, with SFO support, on both [the Audi] and the Prison Van carrying İzzet EREN to the court. Unarmed surveillance would be conducted on Özcan EREN throughout this period in order to gather evidence of this conspiracy.

191. Although no formal application for an armed surveillance operation on 11 December 2015 had yet been made, it is evident from DI Murray's statement, that there was at least a provisional strategy in place involving:

- a. *Simultaneous armed surveillance*
- b. *SFO [Specialist Firearms Officers] support*
- c. *Unarmed surveillance on Özcan Eren*
- d. *An intention to gather evidence of this conspiracy.*

192. The Inquiry has received two statements made by DCI Williams which refer to the meeting of 3 December 2015. The issues that he refers to in his account of this planning meeting relate to:

- a. *Inclusion of the senior personnel at Wood Green Crown Court and HMP Wormwood Scrubs*
- b. *Intelligence, both known and unknown, as to the identities of the conspirators*
- c. *Closing intelligence gaps and minimising risks through use of covert audio.*

193. With the exception of '*minimising risks through the use of covert audio*⁶⁰' the issues referred to are all investigatory as opposed to developing and coordinating the tactical plan (a key role of a TFC as set out in the APP-AP and the MPS SOP).

⁵⁹ MPS0000097

⁶⁰ MPS0003871

194. S48's statement sets out key issues discussed at this meeting. Although the use of the NDM is not mentioned by S48, his statement includes references to intelligence, threats, risks, contingencies, powers and policies and actions. According to the statement, evidential threshold and tipping points were discussed and methods of deployment were proposed. His statement clearly articulates that the issues discussed encompassed both the operation planned for 8 December 2015 (the fitting of technical equipment to the Audi, with protective cover from SCO19) and significant issues relevant to the operation being planned for 11 December 2015. His recollections are a very different narrative from the statements of the other attendees and included significant detail of what was discussed at this meeting. It is to be noted, once again, that S48 was a note taker, the other commanding officers were not.
195. By contrast D/Supt Turner stated that the meeting included discussion on gaining control of the Audi through the installation of a covert audio listening device on the vehicle, and a static camera to identify any unknown subjects. This is the only reference in any note or statement to the use of a static camera.
196. DS Gary Kinch has confirmed that a static camera was fitted in an observation post in Palace Gates car park. It was not continuously monitored and was only viewed if intelligence was received to indicate the car may be moved. Officers in C3000 had access to this camera's feed on 11 December 2015.
197. To recap, it is apparent that two operations involving armed officers were being discussed during the meeting of 3 December 2015. These were the covert armed operation to support TSU Officers on 8 December and covert armed protection of the prison van on 11 December and an intervention/interception tactic to arrest the conspirators. Authorisation for the armed deployment that was to take place on 8 December 2015 did not take place until 7 December 2015. But it is to be noted that, by the end of this meeting on 3 December

2015, the decision to conduct an armed intervention/interception to arrest the conspirators had already been discussed and was at an intermediate planning stage. Details decided upon included:

- a. *Continued intelligence gathering*
- b. *Liaison with senior Prison and Court staff*
- c. *The decision to use the Covert Command Suite (C3000)*
- d. *Discussions involving the SFC, TFC, SIO, the Tactical Advisor and several CTSFOs, TSU staff and representatives from Covert Policing*
- e. *The decision that İzzet Eren would, as scheduled, be transported to court on 11 December 2015, by Serco staff in the assigned prisoner transport vehicle*
- f. *The intention to run an operation involving armed surveillance teams supported by CTSFO officers monitoring the prison van and the conspirators, unarmed surveillance on Özcan Eren, armed officers at Wood Green Crown Court and armed officers to escort the prisoners back from court after sentencing.*

The Criteria and Authorisation Process for the Deployment of Armed Officers

198. The APP-AP contains a subsection entitled ‘Specific authority for the issue of firearm’ which reads:⁶¹

To address situations where there is a requirement for officers to be issued with and carry firearms operationally and there is no standing authority in place, forces should, as part of their standard operational practice, identify at what level and by whom such authority can be given.

199. Where officers are being deployed operationally, in an armed capacity, the APP-AP states that⁶²:

The deployment of AFOs should only be authorised in the following circumstances:

⁶¹ COP0000030

⁶² COP0000026

where the officer authorising the deployment has reason to suppose that officers may have to protect themselves or others from a person who:
is in possession of, or has immediate access to, a firearm or other potentially lethal weapon, or
is otherwise so dangerous that the deployment of armed officers is considered to be appropriate, or
as an operational contingency in a specific operation (based on the threat assessment),
or
for the destruction of animals which are dangerous or are suffering unnecessarily.

200. Use of the words ‘*reason to suppose*’ sets the level of knowledge required (about the existence of a threat justifying the deployment of AFOs) at a far lower level than that which would actually justify the use of firearms. The MPS SOP contains a verbatim reproduction of the APP-AP criteria for the deployment of armed officers. Given the circumstances of the arrest of Izzet Eren and Erwin Amoyaw-Gyamfi, and the long-running feud between the Tottenham Turks and the Hackney Bombers, there was ‘*reason to suppose*’ that those planning the escape may be armed and, if confronted officers may have to protect themselves.
201. Each of the armed deployments being considered required to be authorised in advance of the dates on which they would occur. In the opinion of the Inquiry’s policing experts, the criteria for each of these deployments was clearly met. In addition, in respect of the deployment on 8 December 2015, there was good reason to deploy armed officers as an operational contingency as it was reasonably foreseeable that those who had acquired the Audi might approach the vehicle during the fitting of the technical equipment. If this were to occur there was reason to suppose officers may have to protect themselves or others

from a person (or persons) who was in possession of, or has immediate access to, a firearm or other potentially lethal weapon.

Forms used by the MPS to Authorise Armed Deployments and for Recording Tactical Advice and Command Decisions

202. The forms used by the MPS to document deployments are not national forms. The MPS SOP has a section entitled ‘Authorising Armed Operations’ which commences at paragraph 6.39⁶³. The section runs to over 5 pages and, from this document, the understanding of CTI is that the following forms are used in the MPS:

- a. *FA1 Initial request for authorisation*
- b. *FA2 Authorisation in respect of the same operation or incident*
- c. *FA3 Strategic Firearms Command Log (and can be used to record authorisations of the FA2)*
- d. *FA4 Cross border/force protocols (not relevant to this Inquiry)*
- e. *FA5 Tactical advice.*

203. The wording on the firearms authority forms is instructive. In an operation which has been planned with the luxury of time, the Inquiry will want to look at the words chosen as evidence of the thought processes undertaken by those in command and control of this operation. A number of issues arise for the Inquiry’s consideration which will assist in the determination of whether or not proper and effective risk assessment took place.

204. Separate versions of forms FA 2, 3 and 5 were completed by DCI Williams (TFC), D/Supt Turner (SFC) and S48 (Tactical Advisor) in respect of the deployments that took place on 8 and 11 December 2015. These forms appear

⁶³ IPC0000080

to be standardised comprising a series of copy/paste options. The Inquiry will note the danger in this – that, whilst they may look comprehensive, only a small part is operation specific reflecting, perhaps, a lack of sufficient bespoke discussion.

205. In respect of both deployments, no FA1 was ever completed or submitted. This is something about which the Inquiry will wish to give some consideration. These were pre-planned operations so would not be subject to the exception within the MPS SOP regarding spontaneous operations. The reason given by DCI Williams for not having needed an FA1 is he had been the TFC on 13 October 2015 (the arrest of Izzet Eren), and he had been appraised of the intelligence between then and 7 December and had been present at planning meetings between those dates⁶⁴. He said that completing an FA1 on this occasion would have been an unnecessary duplication of effort when he was already aware of the full intelligence case.

206. DCI Williams' explanation for deliberately failing to complete and submit an FA1 and his involvement in making the application to the Crown Court for the presence of firearms officers indicates that he was operationally involved in Operation Ankaa and although he was not officially designated as the SIO he was in fact the most senior officer playing an operational role. Whilst technically compliant with the MPS SOP, the purpose of separating the roles of TFC and SIO appears to have been largely defeated. The audit trail of forms for these two operations were left incomplete after a conscious decision made by the TFC.

207. The armed deployment intended to provide protection for TSU staff whilst they fitted the probes in the Audi was initially due to take place on 7 December

⁶⁴ MPS0002791

2015, but was postponed until 8 December 2015. It appears that the following FA forms were completed:

- a. *FA5 was completed by S48 on 3 December⁶⁵*
- b. *FA2 was competed by DCI Williams on 4 December and submitted to D/Supt Turner⁶⁶*
- c. *FA3, approval for the deployment, was completed that same day (4 December) by D/Supt Turner⁶⁷.*

208. The Tactical Advice submitted by S48 on the FA5 is, for the most part, written specifically around the proposed operation. The FA5 is dated 3 December 2015, indicating that it was completed the same day as the second planning meeting. In the FA5 S48 writes:

I have ... received a FA2 from the TFC and I am aware of the current intelligence picture.

209. However, the FA2 prepared by DCI Williams is dated 4 December 2015, the following day. DCI Williams does not state at what time on 4 December 2015 he forwarded the FA2 to D/Supt Turner but the SFC subsequently signed form FA3 at 1400 hours on 4 December 2015.

210. The FA2, FA5 and FA3 forms utilise the NDM template. Intelligence, threats and contingencies, in terms of the operation being considered, are well documented and appear to be adequately addressed. The diagrams on page 4 of the FA5 set out the core elements (with some additional notation) of the NDM and the Code of Ethics is situated in the centre of the diagram. This is of note as the MPS SOP had not been updated and did not have the Code of Ethics central in the diagrammatic representation of the NDM.

⁶⁵ IPC0001081

⁶⁶ IPC0001080

⁶⁷ IPC0001079

211. The following entries in the FA forms prepared for 8 December 2015, are also relevant to the operation which occurred on 11 December. FA2 section 2.1 page 8 states⁶⁸:

The threat is unknown as the identity and location of other conspirators is not known, however this OCG have access to firearms and a propensity to discharge against rival groups.

212. The known factor that the OCG ‘have access to firearms’ was a key risk that, irrespective of any verified intelligence regarding actual firearms possession in future deployments, required to be factored into the proposed operation. The only subjects/suspects (other than Izzet Eren) mentioned on this FA2 are Ozcan Eren and Sinan Ozger. The following two references are noteworthy:

Ozcan Eren [Section 1.2, page 3] will be kept under surveillance – he is the organiser of the escape plot and

Sinan Ozger [Section 1.2, page 4] Intelligence this week has indicated that Sinan Ozger has been engaged in the movement and safe keeping of firearms ... performed this same function prior to Izzet EREN'S arrest in possession of a loaded Scorpion (sic) sub machine gun on 13th October.

213. The section that addresses, ‘Threat to the General Public’ [Section 2.3 page 9] reads⁶⁹:

There is no specific intelligence that any armed offence will be committed. There is no intelligence to suggest that the subjects are routinely armed.

214. This entry appears to distinguish between ‘routinely armed’ and the earlier entry that the OCG ‘have access to firearms’ (section 1.2). It is to be noted that, elsewhere

⁶⁸ IPC0001080

⁶⁹ IPC0001080

in the material provided to the Inquiry, there was intelligence that Ozcan Eren carried a pistol for his own protection, and that on occasions he wore body armour.

215. The IPCC report at paragraph 149 states⁷⁰:

Intelligence dated July 2015 suggested Mr Ozcan Eren was in possession of a German Luger firearm.

216. This piece of intelligence was not included on the FA2. Two matters arise here for consideration. First, Ozcan Eren, throughout Operation Ankaa, was being cited as the organiser, and a likely participant, in the bid to free Izzet Eren. Intelligence suggesting that he was in possession of a firearm, albeit 5 months before the planned escape, was highly relevant and should have been included in the forms requesting authority. Further, given this intelligence, it is of note that a decision was made that throughout the operation and, in particular, on 11 December 2015, Ozcan Eren was the subject of unarmed surveillance.

217. By 6 December 2015, two SCO19 Sergeants (S105 and V64), responsible for CTSFO teams, had been appointed to Operation Ankaa and had scoped out the operational aspects of the deployments that were scheduled for 8 and 11 December. 2015 They were also tasking team members, including W80, with reconnaissance and planning work for the deployments. Although S48's role was that of the Firearms Tactical Advisor, he also appears to have been the liaison officer between SCO7 and SCO19 staff. The APP-AP clarifies that the role of a Tactical Advisor is to advise and not to make command decisions. The responsibility for the validity and reliability of the advice lies with the Advisor, but the responsibility for the use of that advice rests with the Commander.

⁷⁰ IPC0001145

218. The Azelle Rodney Inquiry raised concerns regarding what they referred to as the ‘Double Hatting’ of the Tactical Advisor and the Silver Commander⁷¹. In Operation Ankaa, S48 was not undertaking a command role. However, if he was responsible for the initial briefing and tasking of the SCO19 officers and responsible for planning the operational and tactical responses, then this would be a departure from the spirit if not the letter of the APP-AP guidance.
219. On Sunday 6 December 2015, operational CTSFOs commenced planning for the forthcoming armed deployments linked to Operation Ankaa. It is clear from S105’s statement that the discussions were not restricted to the operation due to occur on 8 December 2015 but included the whole operation. After the initial briefing on 6 December 2015, W80 and K78 undertook a reconnaissance (referred to by officers as a ‘recce’) of the area around Wood Green Crown Court and Eastern Road which is where the stolen Audi was parked up. It is of note that W80 and K78 (also part of the team who on the 11 December 2015 were involved with the interception of the Audi) were the first (reported) SCO19 officers to conduct reconnaissance of the area in which the operation of 11 December 2015 would take place. This was important preparatory work for the forthcoming TSU protective operation together with W80’s involvement in the covert protective operation on 8 December 2015. It meant that W80 was to take an active part in the crucial briefings of officers that occurred the following week.
220. On Monday 7 December 2015, whilst W80 continued with planning work for the two armed deployments (preparing maps and diagrams), DCI Williams submitted an FA2 for the second of these operations scheduled for 11

⁷¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/246478/0552.pdf

December 2015. There is a discrepancy as to the timing that this form was sent to D/Supt Turner for his approval. As with the earlier TSU protective operation, forms FA2 and FA3 were completed in respect of the operation being planned for 11 December 2015. The criteria for deployment was clearly met as there remained ⁷²:

reason to suppose officers may have to protect themselves or others from a person (or persons) who is in possession of, or has immediate access to, a firearm or other potentially lethal weapon.

221. Although the operation on 11 December 2015 was to be the second day on which armed deployments were being planned, it was a discrete operation independent of the one which took place on 8 December 2015. It was therefore entirely appropriate that a TFC request for an armed deployment was made, that the SFC objectively considered the request and that full cognisance was taken of tactical advice. This would indicate that by 7 December 2015, not only was the operation scoped out but that the personnel who would undertake ‘ground’ command roles had been identified.

222. The FA2 was 31 pages. It was made up of four main sections:

- a. Information/Intelligence*
- b. Threat and Risk*
- c. Powers and Policy*
- d. Options and Contingencies*

223. As can be seen, these headings each form constituent elements of the NDM.

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⁷² IPC0001083

224. In the Information/Intelligence section, the history of the arrest of Izzet Eren on 13 October is set out together with the involvement of Ozcan Eren in formulating an escape plan. There are several matters to note about this form. The date of the aborted escape plan is repeatedly stated as having been 1 November 2015 rather than 29 October 2015 which was the correct date. In relation to the Audi vehicle, the form contended that (page 4):

Technical control has now been obtained on this vehicle.

225. This was not correct. Such technical control was not obtained until 8 December 2015 and so cannot have happened prior to this form being signed (on page 18) by DCI Williams on 7 December 2015.

226. Also on page 4, :

Intelligence received today [7 December] has confirmed that this offence is still planned, and that Ozcan EREN has recruited a team which includes unknown IC3 males.

227. IC3 is the police coding for a black person. Paragraph 1108 of the IPCC report expressed concern regarding the potential for racial stereotyping and unconscious bias. Reference was also made to later briefings in which one officer referred to those being recruited to carry out the escape attempt as being 'four big black males'. However, it is to be noted that the FA2 completed on 7 December by DCI Williams refers to 'IC3 males' and that the word 'black' has been placed in parentheses by the IPCC writers to explain the meaning of IC3.

228. The FA2 continues (page 4)⁷³:

⁷³ IPC0001123_04-05

The Audi has moved today for a period of about twenty minutes, which suggests this vehicle is till [sic] the intended vehicle to be used. Intelligence indicates this was overseen by Ozcan EREN.

The intelligence suggests that the intention is to attack the van in the Bounds Green area before it arrives at Wood Green Court.

Whilst there has been no further intelligence updates to indicate that firearms will be used on Friday I take the view that there is every likelihood that this will be the case, given the antecedents of this OCG and the fact that any successful attempt would involve considerable threat and duress to any custodians.

229. DCI Williams accepted in his voluntary statement under caution that he was aware that the persons planning the escape had been trying to source firearms. The sentence, “Whilst there has been no further intelligence updates to indicate that firearms will be used” could be a reference to this intelligence.

230. One question which arises is whether or not this statement in the FA2, adequately reflects the positive intelligence, that the persons planning the escape had tried but failed to obtain a real firearm at the dates of submitting this document. This is an important statement and one that should have been kept under continuous review and updated as any new intelligence was received. The Inquiry will wish to establish if this was the case. In the absence of any update confirming a change to this intelligence, it is also a statement which should have featured in all future briefings. The Inquiry will hear evidence that it didn't so feature.

231. The FA2 continues (page 5):

I have reviewed the intelligence, threat assessment and strategy in line with the NDM. I take the view that the rationale for the deployment of a firearms has been met in that I have grounds to suspect that the subjects and associates will have possession of firearms or immediate access to firearms and also as an operational contingency to ensure the safety of all parties.

232. The form continues to describe the other operational opportunities to remove the threat prior to the deployment which have been reviewed but rejected by DCI Williams. These included the prospect of arranging for Izzet Eren to appear on video link from prison, thereby removing any possibility of a successful escape plan (page 5):

To purely disrupt Friday's plan will leave vulnerabilities should an attempt be planned at a hospital visit for example when we do not have the same quality of intelligence or operational assets. If we are to remove one side of this long running feud, we will make a substantial difference to gun crime and provide sustainable public protection in Haringey and Hackney.

233. It will be necessary for the Inquiry to consider whether or not sufficient consideration was given to this option before it was roundly rejected.

234. The FA2 continued (p5):

Consultation and briefings have taken place with Governor Nicholls at Wormwood Scrubs, the Resident Judge at Wood Green Judge Pawlak and the Wood Green Court Manager Zeb Johnson...all of who are content with the MPS response and have provided authority for MPS officers to operate within their respective premises.

235. The Inquiry will wish to establish if the consultation and briefings referred to here were designed to engage the authority figures at the prison and the court in the decision-making process of how the escape plan should be thwarted or,

in the alternative, presented the dynamic interception as the only option and one that was settled by the time that those named above were approached as cogs in the wheel of the plan to thwart the criminal activity mid-conspiracy.

236. One question which arises is, if this is the case, did the prison Governor or those dealing with matters at the Crown Court have the opportunity, information and the power to question the wisdom of what was going ahead? Should more have been done to ensure that this was a plan which had integrity and had struck the right balance? Were Article 2 considerations properly at the forefront of minds of those requesting and providing the requisite authority? If the approval sought had not been forthcoming the tactic of allowing the conspiracy to run as far as it did would not have been viable.

237. Finally, the Inquiry will wish to note that although Judge Pawlak and the Court Manager may well have been spoken to about the prospect of having armed police officers in and around the Court on the morning of 11 December 2015, that authority had not been given by 7 December 2015 when this was written in the FA2 form by DCI Williams. There were further steps which had to be taken in obtaining such authority.

- a. The requisite application form was submitted to Sweeney J, then the Lead Presider in the South Eastern Circuit on 8 December 2015⁷⁴;
- b. That afternoon DCI Williams, together with DCS Manson (who was in charge of the MPS Organised Crime Command) met with Sweeney J;
- c. A revised written application was submitted to Sweeney J on 9 December 2015;⁷⁵
- d. The application was discussed between Sweeney J and the Senior Presiding Judge for England and Wales, Gross LJ.

⁷⁴ CTS0000009_09-12

⁷⁵ CTS0000009_17-20

e. It was signed and returned on 10 December 2015.⁷⁶

238. Governor Nichols had mistakenly assumed that NOMS and Serco had been informed about the police operation and it was on that basis that he provided his approval. This was not the case.

The Deployment on 8 December 2015

239. On 8 December 2015, W80 and colleagues provided covert armed support to TSU staff who fitted technical surveillance equipment to the Audi – a GPS tracker and two microphone probes. One of the probes provided live time transmission and the other recorded and stored for later retrieval. A static camera was also deployed to cover the position where the vehicle was being stored in the carpark.

240. The deployment provided an opportunity for vehicle specific intelligence gathering, an excellent opportunity for the MPS to conduct a detailed close quarter reconnaissance of the vehicle including:

- a. The number of doors
- b. The type of locking mechanisms
- c. Whether there was a means of automatically locking the doors from the inside
- d. The type of windows
- e. The nature and extent of any tinted or security glass fitted to the vehicle.

241. Photographs of the target vehicle, together with a detailed description of the vehicle, including any distinguishing features should have formed part of the

⁷⁶ MPS0003705

Intelligence briefing pack for the operation planned for 11 December 2015. This does not seem to have happened.

242. The issue of tinted windows has been one featuring in other police involved shooting incidents, both in the UK and internationally. The following quote from the Inquiry report into the fatal shooting of Anthony Grainger by armed officers from Greater Manchester Police demonstrates the importance of proper intelligence and briefing in respect of what is referred to as ‘privacy glass’. Paragraph 6.127 reads⁷⁷:

... the commanders responsible for planning the deployment ... failed to brief AFOs about the presence of tinted “privacy glass” in some, but crucially not all, of the stolen Audi’s windows. Astonishingly, they said nothing whatsoever about it, even though, following many weeks’ close surveillance of the vehicle, they must have been fully aware of the true position.

243. Whilst the subsequent witness statements of W80, W112 and K78 contend that the Audi had at least some windows with tinted glass, in fact the car had no such feature. There are no references to the state of the windows in any of the FA forms or any of the transcripts of any of the briefings following 8 December 2015.

Further Preparations for Deployment on 11 December 2015

244. The FA5 was completed on 9 December by S48 setting out his written advice to the SFC and the TFC regarding the tactical deployment of firearms officers.

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⁷⁷INQ0000002

245. At page 6 the document S48 confirmed that the advice was being provided following a meeting with the SFC, the TFC, the SIO and others on 3 December 2015. S48 went on to write⁷⁸:

I have previously prepared further tactical advice relating to other Operation Ankaa deployments and this advice relates to an armed deployment on Friday 11 December 2015. I have had several detailed telephone conversations with the TFC in relation to the developing intelligence picture. Detailed telephone discussions with the TFC and SIO. I have also had the opportunity to read the FA1 and FA2 and attached document.

246. This last sentence will cause the Inquiry to pause for a moment and reflect on the opportunity that was afforded to S48 to read the FA1 document. This was never submitted for reasons explained by DCI Williams. If it was never submitted, how could S48 have been given an opportunity to read it? The following matters fall for consideration: how has S48 got this so wrong? Is this due to a lack of care in completing this form? Is it explained by a thoughtless repetition of what would normally have been the case but for DCI Williams' own decision not to comply with the MPS SOP? Many aspects of these forms are generic. Was this simply a mistake in cutting and pasting from a previous case? Or does this glaring and embarrassing error provide an insight into the superficial manner in which these authorisation forms were handled by MPS Commanders? That, from the very outset, the deployment of a large number of AFOs had been tacitly and quietly agreed by the SFC, the TFC, the Tactical Adviser and the SIO and they were all only paying lip service to the requirement that these forms were completed, submitted and approved?

247. Another odd feature of this form appears at page 9⁷⁹.

⁷⁸ IPC0001133

⁷⁹ IPC0001133

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When the TFC is in possession of intelligence or information which suggests the subject/s is in possession of the firearm, a covert armed interception using the MASTS team should be undertaken.

248. If this was right, then the calling of State Red (which will be explained later in this Opening Statement) would have been done much sooner than 9am. The “tipping point” as the Inquiry will discover was somewhat more involved than simply the possession of a firearm. The same considerations as we have just aired pertain to this odd detail.

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249. The FA5 sets out five tactical options in respect of the arrest of the subjects in this operation.

Tactical Options

The following tactical arrest options are available to the TFC to support this covert operation:

Arrest subject(s) at identified premises prior to the commission of an offence

Conduct Mobile Armed Surveillance to establish sufficiency of evidence and on the direction of the TFC intercept/ arrest Subject(s) prior to substantive offence taking place

Intervene/ arrest subjects prior to offence taking place at a known location

Intervene/ arrest subjects during the commission of the offence

Arrest subjects after the commission of the offence.

250. Although S48 sets out each of these options and on pages 13 to 17 documents the implications and considerations in respect of each the Inquiry may wish to consider it the decision in favour of option 2 had already been made a number of days before at the meeting of 3 December 2015.

251. On page 16 of the FA5, S48 wrote:

The options which are most likely to achieve the strategy are:

B. Conduct a covert armed surveillance operation to identify, locate and arrest subjects once sufficiency of evidence is obtained...Option 2...

In these circumstances the following outcome is expected:

The full offence may be prevented by armed interception and arrest of the subjects prior to any armed criminality offence taking place once sufficiency of evidence is established. This may be implemented by the MASTS team prior to arrival at the intended scene, with the protection element maintained.

Subjects meeting up, on route or arriving at a location to commit an offence are likely to be in possession of incriminating evidence, possible LOS vehicles and firearm(s) thereby exposing their intention and providing best evidence.

Any threat to life may be prevented by implementing an armed interception at an appropriate time and location prior to any offence against the person being committed.

Other subjects or associates may be identified and may also be in possession of incriminating evidence, thereby exposing intention and providing best evidence.

252. On the same page of the FA5, S48 continued by explaining his rationale for recommending this option:

Rationale

To solely thwart offences being committed is not appropriate in these circumstances. Police have identified possible suspect(s). Making contact with the transported subject(s) or conducting overt surveillance may simply shift the timing of the offence to a time when the subject(s) are not under police control thus endangering victims/public at a later date. It does not satisfy the strategic intention of the operation, which is to protect life.

However, this option should not be dismissed and as a contingency may have to be implemented. Insufficient intelligence is currently available to identify the specific storage location of any firearms. Any decision must always be balanced against the risk to the public if further offences are committed which are within police control to prevent.

253. The Inquiry will note a distinct lack of any strategic risk assessment which would balance the operational gains of running the operation (as planned) against the risks inherent in a MAST's intervention against unknown subjects in a vehicle. This risk assessment/analysis would be expected to be set out in the earlier FA2 prepared by the TFC and SFC. It is not there either. The nearest reference to a strategic reason for running the arrest operation appears at page 6 of the FA3⁸⁰.

⁸⁰ IPC0000255

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Video Link the Court appearance or change courts. This has been considered but I take [that] the view that an operational response ultimately provides the best opportunity to remove the threat posed by the Erens in the long term to the communities of North London. To purely disrupt Friday's plan will leave vulnerabilities should an attempt be planned at a hospital visit for example when we do not have the same quality of intelligence or operational assets. If we are to remove one side of this long running feud, we will make a substantial difference to gun crime and provide sustainable public protection in Haringey and Hackney.

254. Just before we leave this document, let's take a quick look at the next paragraph, numbered point 5. The SFC D/Supt Turner appears to have made the same error as the TFC DCI Williams. He has listed the Court appearance of Izzet Eren during which the aborted escape attempt occurred as having been on 1 November 2015 rather than 2 days previously. D/Supt Turner makes this mistake not once, but three times, as did DCI Williams. In fact, this section of "Information/Intelligence Summary" is lifted word for word from the FA2. Now, whilst it may be both understandable and acceptable in the spirit of brevity for such a chunk of information to be copied and pasted from one document to another, for the SFC to have blindly done so without checking the accuracy of the document to which he is putting his own name the Inquiry may consider is neither understandable nor acceptable.

255. At page 18 of the FA5, S48 states:

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Specific advice in relation to the intelligence provided. It is not possible to predict the tactical option which would be most likely to achieve success within the working strategy at this time. All of the likely scenarios, along with their implications and considerations, have been recorded within this document. It is recommended that the

TFC explore the evidential and intelligence thresholds in detail to ensure the OFC is in the best position to understand when an interception/arrest is likely to be required.

256. It is important to note that, in relation to the specifics of what action would be taken to arrest suspects (when directed to do so by the TFC), S48 refers to the ‘SCO19 toolbox’ stating at page 23:

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SCO19 toolbox risk assessments adequately cover the recommended tactical options and contingencies for this operation. The Tactical Firearms Commander will be responsible for any further dynamic or specific assessed risk for the deployment of armed officers which is presented at the time of the activation of a tactical option, or is identified throughout the course of the operation.

257. This is the extent of the reference to risk assessments.

258. The risk assessment was, it seems, being left to the MASTS officers to deliver. Despite the fact that the IPCC report describes the S48’s ‘MASTS tactic’ MASTS deployments are not a tactic, they are a mobile (vehicle) platform designed to provide armed support to surveillance officers. They are also a platform from which tactical interventions may or may not take place. Indeed, this is not unlike the overt use of Armed Response Vehicles that patrol 24/7, they are not a tactic, but rather an overt armed patrol which can be called upon to use a range of tactics. This distinction is not always clearly understood by some involved in armed policing deployments who mistakenly consider MASTS deployments as purely a ‘tactic’ designed for the delivery of intervention/interception. This issue was the subject of discussion and comment in the Anthony Grainger Inquiry. The recommendations section of

the report addressed the importance of understanding that MASTS was not a tactic per se, by making the following recommendations⁸¹:

Recommendation 6: All documents and training relating to Mobile Armed Support to Surveillance (“MASTS”) should:

clearly differentiate between MASTS as an operational method of supporting surveillance (and delivering a standard range of tactical options), and the additional tactical options of “intervention” and “interception” that MASTS- trained authorised firearms officers (“AFOs”) can deliver;

make clear that a MASTS deployment authorisation should not be taken to imply that “intervention” or “interception” are pre authorised or preferred tactical outcomes;

note that decisive action by MASTS officers is a high-risk option and explain what factors lead to higher risks (for example, the presence of a subject inside a stationary vehicle); and

make clear that the reasons for any strategic or tactical command decision in a firearms operation (including any decision to authorise such an operation) must be recorded at the time the decision is made unless it is impracticable to do so, in which case such reasons, together with a full explanation for not recording them at the time, must be recorded as soon as possible.

259. It would appear that by the end of Wednesday 9 December 2015, the operation had been approved and planned. The Inquiry will wish to assess, as the evidence unfolds, the extent to which the MPS ensured that this operation was planned and controlled by the authorities so as to minimise, to the greatest extent possible, recourse to lethal force⁸². The crux of the McCann judgement was whether the operation as a whole (not just the potential armed encounter)

⁸¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/816313/Anthony_Grainger_Inquiry.pdf

⁸² *McCann & others v UK [1995] ECHR 31*

was controlled and organised in a manner which respected the requirements of Article 2.

200. The Court which respected the requirements of Article 2 accepts that the soldiers honestly believed, in the light of the information that they had been given that it was necessary to shoot the suspects in order to prevent them from detonating a bomb and causing serious loss of life...

201. The question arises, however, whether the anti-terrorist operation as a whole was controlled and organised in a manner (art. 2) and whether the information and instructions given to the soldiers which, in effect, rendered inevitable the use of lethal force, took adequately into consideration the right to life of the three suspects.

260. It may be important to reflect upon the role undertaken by SCO7 in disrupting organised crime, removing weapons and drugs from the streets of London, investigating organised criminal activity, arresting suspects and reducing threats of violence. When DCI Williams and D/Supt Turner were presented with the intelligence regarding the planned escape from custody, the possibility of firearms being used and the information that the police were aware of one of the vehicles that might be used, there was an obligation on them to determine the most appropriate course of action. It was the responsibility of the designated SFC to determine whether any proposed plan was appropriate. Given that the embryonic plan would require armed officers to be deployed, the operation as a whole needed to be risk assessed.

261. The APP-AP includes a section which references ‘*Generic Tactical Options*’. The section reads⁸³:

⁸³ COP0000018

Strategic and tactical firearms commanders should consider each option, having regard to:

feasibility of success measured against the strategy

acceptability of consequences

risks involved in taking forward a specific option or taking alternative action

262. The tactical option being considered, from the start of this operation, was one of direct-action involving vehicle interception by CTSFOs covertly deploying from a MASTS platform. CTI have been unable to find any detailed consideration by the SFC or TFC, of the feasibility of success or the consideration of any of the consequences.
263. The similarity of what was being planned, in terms of intervention from a MASTS platform, should have had echoes of the Azelle Rodney and Mark Duggan cases. Therefore, the Inquiry policing experts would have expected legacy considerations and recommendations from these, and other cases, to have been worked through by the SFC and TFC, as well as other senior officers being briefed regarding the proposed operation.
264. There are references in the FA2 and FA3 forms to a concept called ‘*sustained public protection*’. However, there is no documented detailed consideration of the risks involved in taking forward a specific option or taking alternative action in the manner suggested in the relevant section of the APP-AP. In determining what was the most appropriate action to take, the SFC was required to balance, ‘*sustained public protection*’ whilst minimising the risk to members of the public, police officers and suspects. The long running feud between the Tottenham Turks and the Hackney Bombers and associated violent armed criminality presented such a challenge. The term was not included in the October 2013 APP-AP but was referenced in the NPFTC. The Police Service’s lead for

Armed Policing, Deputy Chief Constable (now Chief Constable) Simon Chesterman, undertook a peer review of the National issues that had been identified. The summary of findings was published on 5 July 2013 and included⁸⁴:

National Recommendation 4

Firearms commanders often have to weigh up longer term sustained public protection against delivering a short term deterrent. This is a subjective decision that is based on sound judgement but is not afforded enough clarity and protection by the recognition of this challenge within the APP.

I recommend that I work with the CoP to create an approved reference to this subject within an updated version of the APP.

265. Subsequently, the APP-AP was updated on 16 October 2014 and included the following paragraphs:⁸⁵

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Effective strategy

An effective strategy should:

provide clarity of purpose

recognise public safety as a priority

reflect the multidimensional threat assessment in priority order

be achievable

be dynamic to reflect changes in circumstances

be specific to the operation.

⁸⁴ https://www.met.police.uk/SysSiteAssets/foi-media/metropolitan-police/priorities_and_how_we_are_doing/corporate/peer-review-of-armed-policing-within-the-mps-and-debrief-of-operation-tayport.

⁸⁵ COP0000024

When formulating a working strategy, firearms commanders are required to consider the role of the police in protecting the public alongside the wider duty to investigate crime and bring offenders to justice. Sustained public protection may be characterised as an acknowledgement that an extended duty of care to the public exists in some more complex operations.

Sustained public protection

The objective of any police investigation must be to protect the public through the detection and prevention of crime. This includes obtaining sufficient evidence to bring arrested persons to justice. While this objective legitimately includes an attempt to secure sufficient evidence to demonstrate the full extent of the planned and criminal intention, this must be balanced against any associated risk to the public.

Action taken to mitigate risk in the short term may only serve to displace or delay that risk and may not address the longer-term public safety considerations. It may only be possible to effectively eliminate risk to the public through the detention, successful prosecution and subsequent lengthy imprisonment of the subjects, particularly where they are committed or recidivist offenders. It may not, however, always be possible to develop a plan capable of securing sufficient evidence to do so without risk.

In a covert armed policing operation, the decision to activate a tactical arrest plan and move to an overt phase may have to take account of competing considerations in terms of evidential sufficiency and the safety of those potentially exposed to risk. Where the policing operation relates to more than one subject, evidential sufficiency may have to be considered in the wider context.

It is appropriate to assess the level of risk to the public in both the short and longer term. This may include consideration of whether the means by which more imminent risk is mitigated may increase risk in the longer term as a result of reduced police control and intelligence opportunities.

In deciding when to authorise the activation of the tactical arrest plan, a commander is, therefore, entitled to take into account the strength of the evidence against the subject(s) and to consider whether:

there is sufficient evidence to warrant the detention and prosecution of the subjects

overt police action at an early stage will reduce the likelihood of a successful prosecution

early overt police action will notify the subject(s) of the covert police operation and result in reduced control and intelligence opportunities the longer-term public interest will be served by the activation of the tactical arrest plan at this stage.

Any armed policing operation must be planned and controlled so as to minimise, to the greatest extent possible, recourse to lethal force and risk to the public.

Any command decisions which may potentially increase the short-term risks associated with the tactical arrest plan in order to reduce the long-term risk to the public must be fully rationalised and justified. In such cases commanders should seek to implement appropriate safeguards to minimise identified short term-risks where possible.

266. Operation Ankaa was born during the week of 2 November 2015 when DI Murray first approached DCI Williams. This was over a month before any escape attempt was to be made. This was not an operation formed at short notice and with the pressure of time. The APP-AP sets out the strategic and tactical roles and responsibilities of the SFC:

- a. *has overall strategic command, with responsibility and accountability for directions given*
- b. *should consider any tactical parameters to be placed on the police response*
- c. *must ensure that the firearms strategy complies with the wider strategic aims of the overall operation*
- d. *should test the tactical plan against the established strategy, where practicable and/or time allows*
- e. *is responsible for overall resourcing in respect of the deployment of AFOs.*

267. It is therefore clear that responsibility and accountability of whether the operation should have been undertaken in the manner authorised, lies with the SFC, D/Supt Turner.

268. In his statement of 11 December 2015, D/Supt Turner stated⁸⁶:

I further reviewed the TFC working strategy, based on all of the information available which was to minimise risk to:

The public

To SERCO Custodians and prisoners on the prison van including Izzet EREN.

Unarmed Police Officers.

Armed Police Officers.

Unknown subjects.

⁸⁶ MPS0000133

I considered this initial working strategy, including my aim which was the sustained long term protection of the public using the most appropriate methods whilst balancing the risk and harm to all. I therefore adopted the initial working strategy and formalized it as my own firearms strategy for this operation. I also adopted the hierarchical status of each group based upon the threat assessment.

269. The APP-AP clarifies that an ‘*Effective Strategy*’ should be specific to an operation.

270. The FA2 documented that the level of risk to each of the 5 groups that I have just listed was low. Options available on the FA2 form were, High, Medium, Low or Unknown. This grading of low risk to all is continued on the notes and DCI Williams’ log used on 11 December 2015.

271. Included on the FA2 that the TFC DI Keely Smith was using on 11 December 2015 is a handwritten matrix which shows the continued timing of the Low (L) threat assessment to each of the parties as the operational deployment progressed. This level was only increased to medium as state amber was called and, even then only to medium which, as the Inquiry will see, did not reflect the assessment and feelings of the AFOs as they were approaching the Audi.

272. *Display IPC0000006_51*

Threat Matrix

Time	Threat Groups								
	Serco	Armed	Imp	Whomo	Schmas John	Subjects	LMSC		
0600	L	L	L	L	L	L			
0635	L	L	L	L	L	L			
0740	L	L	L	L	L	L	L		
0800	L	L	L	L	L	L	L		

273. The FA5, submitted by the TA, does not speak of risks being low but of ‘managed risks’. In particular, under the Implications and Considerations of Option 2 (the vehicle interception prior to commission of the offence), S48 acknowledged that this option takes an armed operation into the public domain thereby increasing risk to the public. Although not stated by S48, any confrontation with subjects believed to be in possession of firearms also creates a significant risk to officers who, unless they are in a position of hard ballistic cover, will be in a vulnerable position.

274. The Inquiry has received pertinent statements about threat and risk from the following officers:

V 68 When I approached the Audi ... I expected the next thing to happen would be the window breaking as the driver fired out at me in a bid to escape. That's how convinced I was there were guns in that car⁸⁷.

P2 I remember feeling very uncomfortable stood in front of the dark window so I stepped left and kept my right hand on my weapons grip and used my left to open

⁸⁷ MPS0000101

the door. I swung it open and then swept from right to left with my weapon trying to use the boot side as some cover⁸⁸.

W80 *I moved around the rear of our vehicle and I started to move down the nearside of the Audi. I thought we were going to get shot⁸⁹.*

275. There appears to be a disparity between the SFC's and TFC's assessment of threat and risk and the level of threat and risk that armed officers, who were required to carry out the intervention, actually perceived. It is also clear that an armed intervention would present a considerable risk to subjects – armed officers may perceive any movement on the part of the subject as a threat to themselves or others. The SFC should ensure that the firearms strategy complies with the wider strategic aims of the overall operation.

276. In Operation Ankaa, there appears to have been an absence of detailed consideration in the FA forms to 'sustained public protection', as is recommended in the APP-AP⁹⁰:

Any command decisions which may potentially increase the short-term risks associated with the tactical arrest plan in order to reduce the long-term risk to the public must be fully rationalised and justified.

277. The Assistant Commissioner (Pat Gallan) and Commander for Specialist Crime and Operations (Duncan Ball) had been briefed during the preparation and planning stage of this operation. Assistant Commissioner Pat Gallan was approached with Property Interference Applications for authority to install a tracker and an audio probe in the Audi. She received a personal presentation on the operation on 13 November 2015. Both applications were granted.

⁸⁸ MPS0000091

⁸⁹ SLA0000006

⁹⁰ COP0000024

Commander Duncan Ball received information on 12 November 2015 and a face to face briefing from DCI Williams on 19 November 2015. Both recall being informed that disrupting the attempted escape, for example through the use of video link would not prevent the long term problem of a future attempted break from custody.

278. Commander Ball's application for Armed Security within the Wood Green Crown Court Precincts includes the wording: "*Careful consideration has been given as to the necessity of an operational policing response to this threat*" and he makes a direct reference to "*sustained public protection*".⁹¹

279. The wording included in the application is, for the most part, copied from the TFC's FA2, however, the FA2 application does not include the words '*careful consideration*'.

280. In comparing the Working Strategy Overarching Principles in the TFC's FA2 at p14 with the SFC's in his FA3 at p12 the order in which the objectives are listed has changed.

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281. It is not specifically stated whether this is a hierarchical prioritised list of objectives. However, it very much reads as such and an SFC and TFC will often create a hierarchy of objectives, placing protection of life at the top of the list with evidential issues having a distinctly lower priority.

282. The SFC has placed '*minimise risk to any potential Serco Custodians*' at point 1 (it is point 2 on the TFC's list). Although the Prison Governor was briefed regarding the proposed operation, there was concern regarding the potential integrity of

⁹¹ CTS0000009_11

the Serco staff who were not briefed about the operation. It is also clear that those planning the operation did not want to take any action that would alert Izzet Eren to the fact that a police operation was in progress. That much is understandable. However, we are not aware of a documented rationale as to why, once the three prisoners were secured in the vehicle, that armed police were not substituted for the Serco staff. The Inquiry's policing experts believe that this could have:

- a. Ensured that the prison van always travelled on a known route;
- b. That there was no risk to Serco staff;
- c. In the event of an attack taking place at an unanticipated location the vehicle's occupants were in a position to defend themselves.

283. The SFC's second overarching principle is '*minimise risk to the general public/in or outside court.*' Given that an intervention or interception on the Audi was being considered by the SFC, the Inquiry may find it surprising that there was no risk identified to the general public during any contact with subjects attempting to free prisoners from the prison van.

284. The fourth objective, set out by the TFC, was to '*minimise the risk to the subjects.*' However, the SFC has modified this to '*minimise risk to unidentified suspects.*' This appears to be an intentional change of wording by the SFC which may demand an explanation.

285. The SFC makes no change to the fifth objective which reads;

Identify, locate, contain and neutralise the threat posed by the unknown subjects

286. The APP-AP addresses generic tactical options, these are set out under the section entitled, *Identify options and contingencies*. The introductory section includes the following paragraph⁹²:

Generic tactical options set out the different ways in which a particular objective can be undertaken in a manner which minimises risk and harm. They are broad descriptions of the options the police may have available to them when dealing with an incident which requires the deployment of armed officers. Along with the primary aim of securing public safety, consideration should be given to whether it is possible to identify, locate and contain the subject and take appropriate action to neutralise the threat posed.

287. The concept of ‘Identify, locate and contain’ are the building blocks of nearly all armed police tactics. However, it should be noted that the reference is to neutralise the threat posed, not the person posing the threat.

288. There are many ways in which a threat may be neutralised and this includes activity not related to the discharge of firearms. This can include denying the subject access to their intended target, a tactic often referred to as ‘*target denial*’. This does not necessarily result in the potential for arrest. The Inquiry police experts are of the view that, in this operation, an option that could have been considered was to direct the prison van to divert from its intended route as soon as the evidential threshold was met. At that point the necessity for an immediate intervention on the Audi would have ceased to exist and the following actions could have been considered:

- a. *Slowing down the intervention phase*
- b. *Continued monitoring of the covert radio transmissions*

⁹² COP0000018

- c. *Continued surveillance of the vehicle once they realised the prison van was no longer en route*
- d. *Arrest of the occupants when they were preparing to abandon the vehicle and preparing to destroy it*
- e. *Continued surveillance of the individuals after they abandoned the Audi and arrests at an appropriate point.*

289. Given that the MPS had over six weeks to consider the appropriate course of action, there was ample opportunity to systematically work through all potential tactical options and document the process including the rationale for options selected and discounted.

290. The Inquiry may wish to consider whether, from the first meeting, the only option considered, in terms of arresting the subjects, was an armed interception and extraction using a MASTS platform.

291. It is also noted that the two additional objectives, set out by the TFC,

- a. *Recover any firearms*
- b. *Secure and preserve evidence leading to the arrest and prosecution of offenders*

do not appear on the SFC's list.

292. Neither the SFC nor the TFC list '*locate and arrest conspirators*', as an objective of the operation. This may be surprising, given that in discussions and planning meetings repeated reference was made to the unparalleled opportunity to identify and arrest offenders involved in serious armed criminality and take them off the streets of London. Given that this appears to have been the core rationale behind the whole operation, it is unclear why this issue was not clearly set out by the SFC on the FA3 and then incorporated into the briefing

documents used during the tiered briefings that took place on 10 and 11 December 2015, to which we shall now turn.

293. By way of recap, in the lead up to 11 December 2015, there had been substantive investigative and intelligence work undertaken. A number of SCO7, SCO35 and SCO19 officers had been notified of an intended operation and their intended roles. CTSFOs from SCO19 including W80 had undertaken reconnaissance and planning activity. The SCO19 Firearms Tactical Advisor S48 had been involved from the first meeting held a month earlier on 10 November and was, by 10 December 2015, in receipt of the FA2 and FA3 signed by the SFC and TFC.
294. The proposed operation was sophisticated, complex and well-resourced. It was also an operation that had had been briefed upwards to the most senior levels within the Specialists Crime and Operations Directorate of the MPS. There was a requirement for the operation to be explained to all those who would be involved, and this was undertaken by a series of tiered briefings.
295. The Inquiry will wish to establish whether or not these briefings were undertaken in accordance with established protocols and policies, the APP-AP and the MPS SOP. Issues which arise include the attendee lists of the briefings, the recording of the briefings, and, as to their content – what was included and what wasn't but perhaps should have been included. The briefing at New Scotland Yard on Thursday 10 December 2015, was to be the first of a series of tiered briefings.

The Briefing at New Scotland Yard on 10 December 2015

296. The APP-AP states⁹³:

⁹³ COP0000018

AFO's must be continually updated with information relevant to their role during their deployment.

297. The briefing on 10 December 2015, did not include all staff (W80 was the only SCO19 officer present). Any briefing should contain not only the objectives that are to be used but also the tactics authorised that should be clearly explained and clarified with those being briefed. The main part of the briefing was audio recorded. There is nothing within the transcript⁹⁴ of this briefing or the PowerPoint⁹⁵ providing any clear explanation of the tactics which CTSFO officers would use, if they were required to intervene.

298. Chapter 7 of the MPS SOP has a section on briefings. Section 7.35 says that in situations where AFO's are deployed they should be given as full a briefing as possible:

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7.38 - The TFC should ensure that information, intelligence and details of reliability are included in the briefing where it is relevant to the working strategy. The TFC should also ensure that the level of threat assessed, the reasons for it, and the reliability of the information are included in the briefing.

7.44 - Officers conducting briefings should be mindful that the content of the briefing may directly affect the response of armed officers to any subsequent perceived threat from a subject...

7.46 - It is the responsibility of the TFC to ensure that all main briefings for firearms operations are audio recorded. This is the minimum standard and Commanders may wish to consider recording all briefings for best practice.

⁹⁴ IPC0000257

⁹⁵ IPC0000071

7.47 - *The exceptions to this policy are:*

Where audio equipment is faulty or unavailable, or

Where the location, circumstances or time restraints make it inappropriate or impracticable to do so.

7.50 - *For both sensitive and non-sensitive recordings the process should be the same.*

The TFC or designated briefing officer (appointed by the TFC) will be responsible for the co-ordination and recording of these briefings. It will be that officer's responsibility to ensure the briefings are recorded and these guidelines are followed.

7.51 - *An officer will be appointed as the recording officer. At the commencement of the briefing that officer will start the recording device and state that the briefing is being audio recorded and the time, date and location. The briefing will then take place while being audio recorded. It is important that all intelligence should be disseminated at the briefing; however its source should be protected.'*

299. The MPS SOP does not provide any exception allowing for turning off the recording during the intelligence element of the briefing being delivered. In order to manage any sensitive content that may be recorded the MPS SOP 7.63 states that the recording:

will be stored along with all other sensitive unused material produced as part of the operation.

300. The intelligence relating to Operation Ankaa was sensitive and in accordance with management of sensitive information the MPS SOP states:

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7.53 - If the intelligence is from sensitive sources, firewalls to protect the integrity of this information for briefing purposes will be put in place. The intelligence picture

will be agreed by the SIO and the TFC prior to the commencement of the briefing in a 'Form of Words' making no reference to the source of the intelligence. This will help to ensure both the accuracy of intelligence and protection of sensitive sources. It is that form of words that will be given at the briefing.

301. There is no evidence that any form of words was agreed between DI Murray and DCI Williams. V64 has said that no form of words was supplied for the 3.00am 11 December 2015 Leman Street briefing and so V64 used the content of the FA2. There is no recording of any intelligence briefing. Surveillance Officers had a key role to play in the operation that was being planned and this included providing live time intelligence to those in the command suite and to the firearms officers as to the movements of vehicles or subjects relative to the prison van, the vicinity of the prison and the Audi. Authorised Firearms Officers needed to know the actions that the SFC and TFC wanted them to take in the event of the sighting of suspects in or around the prison van, an attempted escape by the prisoners, an enforced stop of the prison van, an attack on the prison van or an attempt to free the prisoners in and or around the precincts of the prison.
302. This operation would include the deployment of two 'ground TFCs', one of whom would have responsibility for the armed deployments in and around the prison van, during its journey to and on arrival at the Court. The other had responsibility for the surveillance officers and MAST team monitoring the movements of the Audi. For each of these teams there would be an OFC accompanying the Ground TFC in a command vehicle, each CTSFO MASTS team would have an OFC and each designated ARV crew would have their own OFCs. The importance of everyone knowing how each strand sits in relation to the overall operational objectives will be obvious to the Inquiry. Supervisory and team leaders, from each of the SCO19 components of the

operation, were not present at this briefing on 10 December 2015. As S105 (the OFC for the deployment on the Audi) was on leave, W80 was asked to attend the briefing instead. W80 was the only SCO19 officer at the briefing. There is no such explanation for the absence of the other OFC S111.

303. The briefing was led by the DCI Williams and DC Gary Kinch from the SIO's team. Although the SFC was present, he did not have an input into the briefing. The Inquiry may consider that this was an opportunity missed for the SFC to stress the importance of his strategic objectives for this complex operation, as well as outlining any constraints or tactical parameters he was imposing, before handing over to the TFC and the rest of the briefing team. Included in the briefing was the fact that the people coming together to carry out this offence would be dangerous individuals. A PowerPoint presentation by DC Kinch included a photograph of the Audi (no reference was made to the TSU equipment) and that Ozcan Eran was code named 'Borg'.

304. DCI Williams then stated⁹⁶:

We have good intelligence, good evidence that these individuals come together in this vehicle e.g. good control, and we'll take them out long, before the van ever gets anywhere near the Crown Court. The over-arching objective is that that...car and any other mission car that these subjects have does not come anywhere near that prison van.

305. Although DCI Williams made reference to 'these subjects' and several subjects were shown in the PowerPoint presentation and referred to in the briefing, the only subject the officers identified as a 'certainty' to be involved is Ozcan Eren. It is not known whether he would be in the Audi or whether other vehicles may be involved.

⁹⁶ MPS0003419

306. The Inquiry may wish to consider what was missing from this briefing. In the transcript provided there is no mention of the conspirators putting together a team of suitable individuals or the ethnicity of such a team as had been set out in the FA2. By 10 December 2015 information had been received that the people the MPS believed to be planning the escape, were having difficulty obtaining a real firearm. If this information was available to the SIO, SFC or TFC prior to the briefing it should have been conveyed during that briefing session.

307. In closing the briefing DC Kinch stated that:

We also have a camera to cover the mission vehicle.

308. He informed those present that ‘*more specific information and intelligence*’ about each team’s location would be imparted during briefings scheduled for the following morning.

V. 11 December 2015

309. There were a number of briefings conducted on 11 December 2015, these included:

- a. The 3am pre deployment briefings at Leman Street for CTSFOs;
- b. 5am briefings at three different locations for the Teams that would be deployed in respect of The Prison van, The Audi and Ozcan Eren;
- c. A briefing for staff at the Central 3000 Covert Control Room delivered by DCI Williams.

The 3am briefing

310. A number of the CTSFOs who were to be deployed on 11 December 2015 stayed in a hotel the night before the operation. At 3am, a briefing for CTSFO staff was held at their Leman Street base. The briefing was conducted by Sergeant V64, W97 and W80 who participated in the delivery of briefing. The briefing was not recorded.

311. The APP-AP makes a number of points in respect of briefings and, under the sub-heading 'Keeping a Record'⁹⁷ states:

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A record should be maintained of all briefings, including the persons present and information given. The method of recording may include:

contemporaneous notes

use of formal briefing documents

audio recording

ICT systems

command and control logs.

As far as practicable, the most comprehensive method of providing an accurate record of the briefing should be used. Where officers are being briefed while travelling, or are in a remote location, consideration should be given to using radio or telephone recording to provide a record of the briefing.

312. The issue of the audio recording of briefings has been raised in several high-profile police involved shootings. In 2013 in the Azelle Rodney Inquiry Report

⁹⁷ COP0000018

Sir Christopher Holland confirmed that he believed that it should be possible to audio or videotape the formal briefings given to staff⁹⁸.

313. Although this early morning briefing was not a formal briefing being delivered by the Ground TFC, it was an important briefing and the APP-AP deliberately states a record should be maintained of all briefings and as far as practicable, the most comprehensive method of providing an accurate record of the briefing should be used. It is the view of the Inquiry's policing experts that all pre-deployment briefings should as, far as the circumstances permit, be audio recorded.

314. Although this 3am briefing was not audio recorded, V64 has produced a typed document entitled '*SC019 Briefing note – Op Ankaa*'. In his statement of 11 December 2015 V64 refers to this document as a '*briefing crib sheet*'. This briefing document contains the following statements⁹⁹:

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Reliable and high graded intelligence indicates that there is an ongoing conspiracy to assist Izzet EREN in escaping from custody on Friday 11th December 2015. The intelligence suggests that those seeking to carry out this offence will be in possession of firearms and other weapons.

315. The Inquiry will wish to establish if this information was a true reflection of what was known by those in command and those delivering the briefing at that time.

⁹⁸https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/246478/0552.pdf

⁹⁹ IPC0000537

316. V64's briefing sheet also contains the following relevant issues:

There is no intelligence that any attempt will be made whilst Izzet EREN is at Court, or to smuggle weapons into the premises by breaching existing security measures. The EREN's represent the Tottenham element of the long running feud with the rival Hackney Turks, which has seen numerous shootings and murders dating back to 2009 in both London and Turkey. Given the antecedents of this criminal network and the fact that any successful attempt would involve considerable threat and duress to any custodians, it is assessed that firearms will be used to effect the escape. The operational response to this threat is being led by Detective Chief Inspector: FE16 [DCI Williams]; from the Specialist Crime and Operations Directorate. The Assistant Commissioner and Commander for Specialist Crime and Operations have been briefed in the preparation and planning stage of this operation. The operational team have identified a stolen Audi motor vehicle. It is our intention to conduct an armed interception of this vehicle once there is sufficiency of intelligence and in advance of the prison van arriving at the court. The vehicle will be under conventional and technical surveillance control of police on the 11th December 2015.

317. In V64's statement he said¹⁰⁰,

During my part of the briefing I also made reference to points to note during the respective team briefings, such as the working strategy, areas of responsibility, Limits of Exploitation, communications discipline and protocols, the MASTS FAPs.

318. The term FAP may have a specific meaning within the lexicon used by MPS CTSFOs. The Inquiry's policing experts are aware of a military use term Final Assault Points (FAP). They are uncertain what V64 was attempting to convey when he references MASTS FAPs. This is not a term used in the APP-AP, nor to their knowledge in the National Police Firearms Training Curriculum.

¹⁰⁰ MPS0000074

319. The Inquiry may wish to reflect upon the opinion of its policing experts who are of the view that combative terms such as ‘*assault*’ should not become engrained in policing culture and the Armed Policing tactical lexicon should reflect operational objectives related to the protection of life and the securing of evidence.
320. Following this V64 detailed the command and control team’s and also the SC019 team’s call signs. He then handed over to W97 who explained the tactical plan for the enhanced protection package around the prison van and following this W80 detailed the tactical briefing for the MASTS element that would be operating in the Wood Green area. W80’s statement contains information as to what he recalls was contained in this part of the briefing¹⁰¹:

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This was a tactical briefing given by V64 who was the Operational Firearms Commander (OFC) for the security of the prison vehicle, and W97 and I who had been involved in the recce of the area and the stolen Audi. This briefing was not recorded. V64 gave the team the intelligence briefing which included information regarding the operation, the fact that the OCN would be armed and use firearms to effect the escape of the named individual from the prison van and the fact that the individual who was to be broken out was being sentenced for an offence of possession of a loaded machine pistol. I gave information as to the current position of the stolen Audi in relation to the court. The SFO teams were given their postings of who would be in what vehicle and their individual roles.

¹⁰¹ IPC0000016

321. V64's briefing included information that Izzet Eren had requested that no boys were to be used for this job and to make sure that his helpers on the outside got big men to do it. There was mention of getting four big black males to carry this plan out.¹⁰²

The 5am briefings

322. The 5am briefings took place at four different locations:

- a. The C3000 Control Room – Command staff and loggist
- b. Alperton Traffic Garage – Team A (prison van)
- c. Lincoln Road, Enfield, - Team B (Audi)
- d. Holborn Police Station – Team C (Ozcan Eren)

323. The Central 3000 briefing was conducted by DCI Williams. The briefing was not recorded and no contemporaneous note was made of it. There is no record of who was present in the room when the briefing took place. Staff were invited to introduce themselves and state their responsibilities. The briefing commenced with a short overview of the three separate operational deployments. The operational briefing sheet was displayed on an electronic screen throughout the morning for all staff to view. All staff were to take time to familiarise themselves with the technical equipment and ensure that radio communication was effective with the three outside teams. Staff in the control room had a central and important role to fulfil in this complex, multi-faceted operation. Ensuring that they received a comprehensive and role appropriate briefing was essential. The recording of the briefing would have assisted in addressing post incident issues such as the ability to establish clarity as to which officer was fulfilling which role.

¹⁰² MPS0000128

324. The Team B briefing at Lincoln Road lasted for 20 minutes and was audio recorded. During this briefing, a PowerPoint presentation was shown to officers present. This appears to be the same PowerPoint that was shown to the staff who attended the NSY briefing the previous day. There was input from DI Keely Smith, S105 and DC Kinch. The only reference to intelligence, in respect of the possession of firearms, was provided by DC Kinch and related to the arrest on 13 October 2015, when the subjects had two automatic firearms in their possession which were loaded. One with the safety off ready to go.
325. The Inquiry's policing experts would expect that such a briefing would specifically set out the SFC's Strategy for the operation. The transcript of the briefing shows Det. Inspector FE1 referring to '*the SIO's Strategy*' which may have been a mistake by DI Keely Smith FE1 who intended to say "*the SFC's strategy*."¹⁰³.
326. Records indicate that S105 asked a DC with responsibility for staffing an observation post in Eastern Rd (thought to be DC Kinch) if anything was known about any type of firearms and the answer was '*no*'. It was mentioned that some '*heavies from Tottenham*' were recruited to do the job. It would appear that DI Keely Smith was present during this conversation, but she did not make any notes of what was being said. As far as she was concerned all relevant information and intelligence that was available to her had been given in the taped briefing. The information from DC Kinch would not, in her opinion, change anyone's mindset nor did it effect the planning or tactics of the operation.
327. The Inquiry will wish to establish if this response by DC Kinch, that nothing was known at that time about the type of firearms, was a fair reflection of the

¹⁰³ IPC0000238

state of the intelligence known at the time and, if it was not, the reason for any inaccuracy, and whether such inaccuracy would have the effect of misleading those listening to the briefing.

328. The opinion of the Inquiry’s policing experts is that it is good practice to make a record of any additional information made after the formal briefing. The tape should not be turned off until after the ‘any questions’ session has been completed. If additional informal conversations impart further information, a contemporaneous note should be made of the update. In relation to the part of the briefing provided by DI Keely Smith, there is no record in the transcript of her setting out:
- a. Her own role vis-a-vis that of the overarching TFC and the OFC
 - b. Evidential thresholds, operational tipping points or contingencies.

329. She did, however, set out the threat and risk assessment to the general public, Serco custodians, unarmed police, armed police which she assessed as being ‘low’.

330. During the briefing the OFC S105 stated¹⁰⁴:

You've heard about the weapons that these guys have got access to in the past ... please treat these people as armed until we know otherwise.

331. Issues regarding Identity, Capability and Intent (commonly referred to as ICI) are important matters that will determine the ‘mindset’ of officers tasked with any sort of intervention or interception. There is concern about the extent to which information regarding the identity, capability and nature of weaponry could affect the mindset of armed officers, despite what DI Keely Smith believed.

¹⁰⁴ MPS0000093

332. An analysis of statements made by some of those present at this briefing has identified information about which they were informed that does not appear in the transcripts of the briefings including the following:
- a. some 'heavies from Tottenham' were recruited to do the job;
 - b. 'professionals' were expected to be used for the 'job';
 - c. Intelligence that by 7 December Ozcan Eren had recruited a team which includes unknown IC3 males.
333. Izzet Eren's parents lived opposite Wood Green Crown Court on Winkfield Road, relevant because of there is a large Turkish community in the area of Wood Green and if Izzet Eren got out of the car it would have been more difficult to spot him.
334. The Inquiry may wish to establish, as far as it is possible to do so, the state of knowledge of those in Team B in the hours and then the moments running up to the interception of the Audi.
335. R116, the driver of the Alpha car in which W80 was travelling stated¹⁰⁵:

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I do not recall being told at the tactical briefing that the gang would definitely be armed. We were given intelligence at some stage that it was believed the gang would be armed. I believe the link to firearms was based on a number of strands of intelligence: the fact that the two subjects currently on remand had gang links and had recruited a team of males who were going to attempt to break them free from custody... that the brother was involved in the plan, and ... was believed to have been the person who had supplied the Scorpion machine gun and

¹⁰⁵ MPS0000115

hand gun for the original offence. Even if there was no direct evidence at the time of the briefing there was a strong inference that the gang was likely to be armed. In an intelligence update very shortly before the incident we were told that any action carried out by the males would be done so with the use of firearms. This is the gist of what we were told, I cannot remember the precise words used. Having been informed of the listening device within the vehicle during my briefings I believed this latest intelligence update to be reliable in that it was likely to have come from overheard conversations by the suspects in the vehicle.'

The Use of the Term 'Firearms Enabled' and Related Transmissions

336. The first use of the term '*firearms enabled*' in time in connection with Operation Ankaa appears in the post incident statement of DI Murray dated where he stated¹⁰⁶:

On the 30th October 2015 I was briefed by my officers on intelligence which indicated that Ozcan EREN was planning the "break out" of Izzet EREN, which was likely to be firearm enabled.

337. Although the term is not part of the lexicon of AFOs and does not appear in the APP-AP it is well used within criminal justice papers issued by the Home Office and the MPS. Trained and accredited firearms commanders should have a detailed knowledge of the terminology used within the Armed Policing discipline and contained in the APP and NPFTC. The importance of clarity of communication was one of a number of critical issues identified in the review that followed the fatal shooting of Jean Charles de Menezes at Stockwell Underground Station in London on 22 July 2005. Recommendation 7 of what became known as the Stockwell 1 review by Her Majesty's Inspectorate of Constabulary reads¹⁰⁷:

¹⁰⁶ MPS0000097

¹⁰⁷ <http://policeauthority.org/Metropolitan/downloads/scrutinities/stockwell/hmic-response1b.pdf>

To review existing policy and guidance to ensure absolute clarity exists in the use of operationally specific terminology.

338. The Inquiry may wish to consider if the use of this term was helpful or not. The use of the term would have reinforced the view of all involved that those planning the escape attempt had access to some sort of firearm or firearms (which indeed they had). However, a key issue of some importance was that the intelligence that the OCG were having difficulty sourcing a real firearm does not appear to have been passed to the ground TFC, OFCs and deployed AFOs. The first radio transmission in which the term *'firearms enabled'* was used was at 07:29 on 11 December 2015 by Bill Scammell, working in room C3000, having been tasked to do this by DI Davies (FE20) using words provided by DCI Williams. Despite the fact that DCI Williams' approval was also commented on by S48 and DI Davies, DCI Williams denies that he provided the words.

339. On DCI Williams' FA2 there is a handwritten note timed at 07.30 which bears an entry that appears to read¹⁰⁸:

Van BX11TXM intel attack firearms enabled. Passed to OFC.

[The Registration Number BX11TXM is a reference to the vehicle registration number of the prison van in which Izzet Eren was to be transported to Court.]

340. The transmission from Mr Scammell was received by Officers in Team B which included all of those in the Control vehicle the Ground TFC DI Smith who passed the information to the OFC (S105). He considered that this meant that the subjects would, in all likelihood, have ready access to firearms. He knew that the intelligence was coming from the Audi probe and considered that this was a known rather than an assumed fact.

¹⁰⁸ MPS0003577

341. When this transmission was made at 07:29 Izzet Eren was still in the prison building and had not yet been transferred into the prison van. There was therefore ample time for any of the Ground TFCs or OFCs to seek clarification of what was meant by the term. There is no record of this happening.

342. W80 described hearing the term “*firearms enabled*” coming over the radio. He believed this came from C3000. W80 believed this information had come from the monitoring of the device recording conversations in the Audi.

343. Transmissions from the Audi were monitored from approximately 06:35. At 06:40 transmissions from inside the car indicated that the windows were steamed up. At 06:57 there was the first reference to something that might be a reference to a firearm when one of the occupants asks¹⁰⁹:

What’s this, the ting?

Yeah

344. As well as making handwritten notes on his FA2, DCI Williams also kept a handwritten log. (Neither are particularly legible. His failure to utilise the CLIO system will be dealt with shortly.) At 6:58 am DCI Williams noted the following information from DS FE19:

Intelligence suggests they will have at least an imitation firearm at the time of the offence –no intel they have it now.

345. The intelligence passed to DCI Williams at this point reaffirmed what had previously been understood - that the people involved in the escape plan had, at the time the intelligence was received, not sourced a real firearm. This intelligence had arisen the previous evening and so was somewhat stale by the

¹⁰⁹ IPC0000281

time it was passed to the TFC. Nevertheless, it indicated that a replica was all that had been sourced.

346. Within this Inquiry the following gist has been approved for dissemination to the Core Participants by the NCA:

In the days and weeks prior to 11 December 2015 information indicated that the persons planning the escape of Izzet Eren were attempting to source a firearm, but despite numerous attempts they were not successful. By the evening of 10 December 2015 information indicated that only a replica firearm was available to them.

347. Prior to the 07:29 'firearms enabled' transmission, the following references to a firearm had been made by those in the Audi:

Display MPS0001209__03

What's this, the ting?

Yea

(page 4)

Where's the shottey?

G

The shottey?

Yea

What, the big ting?

Yea

I don't know

You don't know?

...

(page 5)

Ting's underneath you innit

...

So where's the shottey? [07.03]

The shottey, we're not getting it

But where is it?

It's best to have two tings, you know

I told him bruv, he said don't bring the real ting. I asked the same, I told him bruv we need the real ting though bruv. He said bruv, what the point? Even if you had the real ting nobody (inaudible) let you bust it ... you lot bust it you get (inaudible) the real ting. You get caught you lot are fucked, he said.

...

(page

You know what that big ting's for? You see that door, if it don't open that fucking side door just shoot the lock three times fam and open it, do you understand?

Or even just bark it off

at the door

You know, them ones. Just bark it off.

What's this ting gonna do? Nothing, bruv nothing, it's just gonna look like...

Two minutes

Bruv, nah, I told them bruv, two minutes (inaudible) we're gone, fam

Tow minutes? Thirty seconds

Thirty seconds, yea bruv, fuck it, thirty seconds bruv. Say "Oi, Oi" if he presses the alarm, we're gone. You understand that? He presses that alarm we're gone fam...if we stop that van and he presses the alarm, bruv, it's not our fault, you understand?

...

(page 7)

Oi, listen, See that ting yea, make sure it comes back in the car. Because there's a canister in there with my prints and his print on it. [07.06]

What ting?

In that fucking ting.

Ah, don't worry man, I would never do that.

...

(page 15)

I wish is those pussy Serco people bruv, I hope one of them don't try to be a superman

Nah, they're not allowed to though [07.23]

When it's life in danger they're not allowed to do shit

Couple of them already told me yea that, as soon they see a gun in their face...

They put their hands up

...straight away doing whatever we want to

348. The following issues arise in relation the information coming, at this point, from the Audi car:

- a. There are clear and repeated references to '*we are not getting the shottey*';
- b. There are clear references to an intention to use a firearm of some sort in order to effect the escape;
- c. The reference to the 'canister' suggests some form of 'gas' or explosive device or a CO2 cannister inside a replica BB gun;
- d. The reference to *just shoot the lock three times* suggests a firearms capability but when viewed in the conversation is a reference to the additional capability of a real firearm which has not been provided over a replica one which is in the car.
- e. The term *as soon as they [Serco staff] see a gun in their face* suggests some sort of firearm will be used during the incident against prison couriers.

349. The Inquiry will hear from Nathan Mason and Gokay Sogucakli who will give evidence as to the actual meaning of these conversations. Considered now and

with the benefit of hindsight it is clear that what was being discussed was the lack of a live firearm and the disadvantage that this brought to their plan.

350. The Inquiry will determine whether or not it is reasonable to expect that those listening to the live feed should have appreciated the meaning and effect of this conversation. If so, did they adequately pass this on to DCI Williams. If so, was the use of the term *'firearms enabled'*, without a pre-agreed understanding of its meaning, acceptable from DCI Williams? Or would have conveyed an indication that the command team believed the subjects possessed/had access to live firearms?

351. The Inquiry may consider the following issues to be relevant:

- a. It was a reasonable assumption that, if security staff were going to be intimidated into releasing the prisoner, that a real or imitation firearm would be used.
- b. That any firearms produced would 'in the absence of very specific intelligence' be treated as real – until the contrary could be verified.
- c. If there was uncertainty as to what type of firearm(s) (if any) the OCG may have access to, that Team B OFC's advice to his team, at the 5am Lincoln Road briefing, to *'please treat these people as armed until we know otherwise'* was appropriate.
- d. If there was, thereafter, clear references amongst the conspirators in the Audi to them not getting the *'shottey'* or the *'big ting'* or the *"real ting"* but only being armed with a replica BB gun, then this should have been communicated to the Team B OFC and, in turn, to the AFOs on the ground.

352. The Inquiry may conclude that the decision to utilise the C3000 suite to manage the operation on 11 December 2015 was entirely suitable in the circumstances.

This afforded officers the opportunity to use the most up to date technology and software to run a complex operation such as Operation Ankaa.

353. The Inquiry has received assistance from Mark Brown who is a subject matter adviser on audio surveillance¹¹⁰. He is the National Training Coordinator at the College of Policing responsible for technical surveillance disciplines. He has advised the Inquiry that in relation to the technical deployment of an audio probe it is imperative that the product is of a quality that enables accurate intelligence to be obtained. All of the devices used on the Audi were of a suitable quality to fulfil the requirement to capture audio footage and reasonable given what was available commercially at the time. The equipment must only be installed by staff who have received appropriate training.
354. The Inquiry has sought assistance from a subject matter adviser on the planning of the CMP, C3000 and the training of those who were chosen to operate the system. In his opinion, there was insufficient focus directed to the preparation, planning, staffing and conduct of the CMP. This was partly as a result of the decision not to identify and appoint a trained and experienced / authorised CMP Manager at an early stage. This was further exacerbated by the lack of training and experience of the officers assigned roles in the CMP. With no experienced leadership they were left to deal with issues on the day of the operation and whilst some familiarisation of the equipment was carried out, there was not a briefing specifically for their role which may have instilled confidence and addressed any concerns.
355. There were, however, several issues that arose during the course of the operation. First, the system which was devised to get the intelligence to DCI Williams in C3000 was inadequate. During the operation the live feed from the

¹¹⁰ URN report/statement

Audi was being monitored live time by officers present in an adjacent room to C3000. This was called the Covert Monitoring Post or CMP. The officers appointed to monitor the conversations were present during DCI Williams briefing in C3000 on the morning of 11 December 2015.

356. The system appeared to be that DC Hawthorn, listening to the live feed in the CMP, relayed what he heard to DCs Reddy and FE12. They made a note and then walked with their note into C3000 (located down the corridor in the same building) and passed on the information to DCI Williams who made a note on his Operational Log. There was no full audit trail of what information from the live feed was shared with DCI Williams.
357. The CLIO system could have been utilised for this aspect, which again would have led to greater transparency and accuracy. It is clear from the evidence available that some aspects of the conversations from the Audi were misinterpreted or missed altogether by the listeners, in particular relating to the conspirators not being provided with the '*real ting*'. One of the listeners, DC Reddy has told the Inquiry that he recalls the live audio feed being very clear with very little ambient noise. He had no concerns about the quality of the feed throughout the period of time in the operation.
358. There is, however, no evidence that the listeners were informed of the full intelligence picture relating to replica firearms. Had this briefing been recorded then the Inquiry would be in a position to assess the quality and adequacy of what was said to the officers in the CMP and C3000. Had they been fully briefed, they may have been less likely to have missed or misinterpreted what they were hearing about the crucial access to firearms. This in turn would have improved the accuracy of information relayed to the firearms officers involved in the interception of the Audi.

359. Second, at some point during the morning of 11 December 2015, the rewind/review facility on the live feed failed to operate. The listeners were not able to clarify anything of which they were uncertain. Although checked during and after the operation by MPS engineers no explanation has been given for this failure. Mark Brown has identified a common problem - in the absence of regular use, the bearings in the computer can seize and cause intermittent issues in either the spinning of the drive or the drive head recording or accessing data on the drive. It is also possible that the touch screen functionality of the device for start/stop and review did not operate correctly. The equipment in the CMP was tested and approved in the days running up to the 11 December 2015. Those operating the equipment in the CMP and listening to the product attended a familiarisation session including how to play back/review the live feed recording on 10 December 2015. It is not immediately apparent what went wrong but whatever it was, it hampered the ability of the listeners to review what was being heard.
360. Third, an additional aspect of the store and retrieve device which didn't function properly was the voice setting used to activate the recorder. The system failed to capture all speech. According to Mark Brown, a different system or level of calibration should have been used that would have produced a more comprehensive result.
361. Fourth, very little use was made of the CLIO system by DCI Williams who didn't liaise adequately with his allocated CLIO loggist and seems to have made only handwritten notes at any time. These notes, whilst providing some assistance on the day were likely to have been inadequate for refreshing his memory when he came to make his statement to the IPCC six months later. Having the use of the CLIO system and loggists allowed commanders to more efficiently log their decisions and key events. In particular, DCI Williams'

records of the conversations from within the Audi were also not transferred to CLIO. There is no evidence of any breach of any policy and procedure in this regard. However, using the CLIO system fully would have created more transparency and greater accuracy. It would have also allowed others to have an accurate picture of DCI Williams' thought processes and assessment.

362. Fifth, radio communications for covert operations in C3000 are not routinely recorded by the MPS and were not recorded for Operation Ankaa. Therefore, there has been no examination of the content of radio communications as part of this Inquiry.

363. D/Supt Turner, S48, and FE19 were all present in the control room complex when the information regarding possible references to firearms was being listened to and conveyed to DCI Williams. This information all came through prior to 07.30. At this stage the van had not yet left the prison and there was an opportunity to evaluate this information. The Inquiry may have expected that any such discussion to have included the SFC, TA, an intelligence team leader and the SIO (if present) and to focus on:

- a. What could be reasonably deduced from the conversations recorded so far?
- b. Was there sufficient intelligence to meet the evidential threshold for a conspiracy conviction and to make early arrests? Mention had been made of firearms, threats and Serco.
- c. What information should be shared with the ground TFC and control car OFC?
- d. If information was to be shared, by what means could it be communicated i.e. radio transmissions to all of the teams or discrete communication to the ground TFCs for their information and consideration.

364. The above considerations are not documented in the handwritten section of the FA2 log being maintained by the TFC.

365. In his statement under caution, DCI Williams said¹¹¹:

Display MPS0000071_12

At 7.06am... I was updated from the audio feed that a conversation from within had included reference “to the best attack would involve two teams”. This indicated to me that a second vehicle might be involved. There was also a discussion regarding “bringing a real TING”. My understanding of this phrase was reference to a real firearm and the indication was that the occupants were therefore not in physical possession of such a weapon at that precise moment. However, the likelihood of the subjects having a real firearm during the commission of an offence remained probable. This was corroborated when further reference was made to “shooting the lock three times”.

366. Over the next 90 minutes significant activity included:

- a. Continued monitoring of transmissions from the Audi;
- b. Surveillance of the Audi (*at 0727 it had been driving at speed and windows were steamed up*);
- c. Surveillance of suspects on foot and in vehicles;
- d. The probable route(s) that the prison van might take;
- e. The placing of Izzet Eren into the prison van;
- f. Covert surveillance of the Prison van including MASTS;
- g. An armed deployment at the Court.

¹¹¹ MPS0000071

367. The tactics to be used in the various aspects of the operation are not set out in the notes of DCI Williams nor do they appear to have been individually risk assessed. The *'threat and risk'* assessments documented in the FA forms in respect of all parties, who could have been placed at harm, in this operation was *'low'*. The only reason that Izzet Eren was being taken to court, as scheduled (as opposed to the discounted options – video appearance or rescheduled court appearance etc.), was to create the belief in his co-conspirators that an escape bid was still feasible. Although the only known threat was from the occupants of the Audi, and other OCN members engaged in the escape, these were significant risks. These potentially included an attack on the prison van coming from some other quarter for which there wasn't any documented protection. It is noted that V64, at the 5am Alpha Team briefing stated¹¹²:

our side of the operation is an enhanced protection package ... could possibly be some form of ambush that has blind sided us....

368. In addition to the two Serco custodians the prison van contained Izzet Eren, Erwin Amoyaw-Gyamfi and one other unidentified prisoner. The appears not to have been any detailed Article 2 ECHR considerations of the management of the threat and risks presented by:

- a. Allowing the Serco van to be driven by Serco Staff;
- b. Permitting Erwin Amoyaw-Gyamfi and the other unidentified prisoner to be transported in the cellular vehicle.

369. The APP-AP sets out the respective responsibilities of the TFC and SFC in respect of the responsibility for carrying out a threat assessment stating¹¹³:

¹¹² IPC0000351

¹¹³ COP0000024

- a. The Tactical Firearms Commander – *must assess and develop the available information and intelligence, and complete the threat assessment.*
 - b. The Strategic Firearms Commander – *must set, review, communicate and update the strategy based on the threat assessment and the available intelligence.*
370. There is no evidence of the TFC assessing the risks posed by the MASTS tactic and what, if any, contingencies should be in place. Nor is there any reference in any of DCI Williams' paperwork of a continuing consideration of precisely how the MASTS tactic would be used. If arrests were to be made, how tactically would these be carried out?
371. The role of the SFC is not a passive one but a proactive one. Consequently, the term *intrusive* is often used during command training to reinforce the need for the SFC to ask probing and challenging questions about how the operation is being developed. This should have included maintaining a strategic overview of the development of the operation on the morning of 11 December 2015. However, on that morning, CTI are unaware of D/Supt Turner reviewing or updating the strategy or being substantively involved in the way the operation was developing.
372. Given the level of planning, the number of surveillance officers included in this deployment and the static camera on the vehicle at the time that it was removed by the conspirators, it may surprise the Inquiry that, on the cusp of Izzet Eren being placed in the prison van for conveying to Wood Green Crown Court, neither the SFC, TFC(s) nor the AFOs knew:
- a. The identity of the individuals who were planning the escape attempt;
 - b. The number of individuals in the Audi;
 - c. Their capability in terms of experience or criminal antecedences;

- d. The type of firearms or weaponry they might have (although the conversation of the occupants of the Audi indicated an imitation firearm)
373. There were concerns regarding other potential conspirators in a different Audi and suspects who were on foot near the courthouse.
374. At 07:45 surveillance teams were not in control of Ozcan Eren (code name Borg) who was believed to be coordinating the escape plan. Additionally, there was still uncertainty as to who else would be involved and what weapons would be involved by him.
375. Between 07:45 and 08:27 on 11 December 2015, when Izzet Eren was reported to have been placed in the prison van DCI Williams was provided with various intelligence feeds coming from the monitored conversations and from surveillance officers. Issues from the Ground TFC's (FE1 DI Keely Smith) statement are particularly noteworthy¹¹⁴:
- At 7.50am transmissions from the surveillance team indicated that KM13YPT had settled at the rear of Wood Green Crown Court.*
- At 8am the KM13YPT had been located in Bracknell Close the occupants however could not be confirmed...*
376. This is approximately one hour before the dynamic interception took place.
377. At 08:10 DI Smith received information that Izzet Eren and Erwin Amoyaw-Gyamfi were in the holding area at HMP Wormwood Scrubbs. At 08.44 DI Smith noted that it was confirmed (by the surveillance team) that the Audi did

¹¹⁴ MPS0000107

not have blacked out windows. This appears to be inconsistent with the evidence of W80, P2 and W112 who describe the windows as “*tinted*”. W80 would have been in a good position to know as he was involved in the 8 December installation of the probe. However, the original owner of the vehicle has confirmed that none of the windows in the Audi were tinted.

378. At 08:48 DCI Williams became aware of discussions within the Audi relating to the Prison van registration number. At that point he had a discussion with his Tactical Advisor (S48) and the surveillance coordinator Chris Davies. Izzet Eren had transmitted text messages to the organiser of the escape plan containing not only the registration number of the prison van but also where he was positioned within it and at 08.50 the conversation with Nathan Mason picked up by the probe in the Audi included the suggestion that the van would be at the court location in about “*half an hour*”.

379. By now:

- a. The Audi had been located in the parking bay for some time and was under surveillance;
- b. The Prison van was on the move and under the protection of the covert MASTS team;
- c. There was concern about another vehicle and individuals on foot;
- d. The live feed from the Audi now included references to the registration number of the prison van and Izzet Eren’s position in the van.

380. At 08.57 DCI Williams increased the threat level to the armed officers and the subjects to “*medium*” and asked for ‘*State Amber*’ to be declared over the working radio channel.

381. A word about this traffic light system: 'State Green' is the information and intelligence gathering phase. At this stage it is a surveillance operation during which police try to satisfy an evidential threshold that an offence has been committed. Once the TFC (in this particular case situated in the Control room) is satisfied that this threshold is achieved, they will then declare 'State Amber' meaning they are now satisfied that there is sufficient evidence to justify the suspects being detained/arrested. 'State Red' is declared by the Alpha OFC and that means that all resources are in the correct place behind the target pedestrian / vehicle and a 'stop' is imminent. The phrase 'Strike, Strike, Strike' is then given by the Alpha OFC over the working channel to denote the implementation of the stop.

382. The vehicles in this operation were configured (as was usual in such interceptions) as three unmarked covert ARVs – Alpha, Bravo, Charlie as well as a control vehicle.

The Dynamic Extraction and the Shooting of Jermaine Baker

383. A 'strike' was now imminent. The OFC (S105) who was in the Control car with the 'Ground TFC' DI Keely Smith said¹¹⁵:

I then spoke with Insp S48 on the phone and told him we were sat in middle of a busy street, I needed an 'amber' before we got seen by a lookout. The 'State Amber' came back immediately over the phone from Insp S48. I hung up and before I could put it out over the radio – C3000 stated it was 'State amber over working channel. This was around 0900 hrs. I called up surveillance to say that Trojan [The Alpha, Bravo and Charlie vehicles] were moving forward.

384. State Red was never declared. S111 the OFC in the Alpha vehicle explained why:

¹¹⁵ MPS0000093

As we turned left into Bracknell... I didn't have enough time to put out 'State Red' on the mainset, as it is something I would do as we take over the commentary from surveillance ... but I knew surveillance officers would give commentary of our approach & arrest phase of the operation. R116 [the driver] pulled up where I wanted him to.

385. The officers were about to engage in a dynamic extraction. The Inquiry will want to consider the state of mind of the officers as they approached the Audi, armed with loaded weapons and without doubt in a high state of apprehension.:
- a. What did they know or believe to be awaiting them?
 - b. How did their state of knowledge or belief affect their actions and reactions?

386. None of the information relating to the lack of a real or live firearm was provided to the ground TFC's, or transmitted over the radio, consequently it was not disseminated to firearms officers. At 07.45 on 11 December 2015, DCI Williams had conducted an NDM review which is recorded in his handwritten schedule. It stated

Still no confirmation that weapons are in the Audi A6

387. This was a good 30 minutes after the conversations in the Audi where the occupants are discussing the drawbacks of not having a real firearm after which the position had not changed. This statement, written in DCI Williams' log was not conveyed to anyone on the ground. No further communication on the status of firearms was made to the ground TFCs or AFOs.

388. Although the APP-AP is not prescriptive about exactly what relevant information should be updated to AFO's when deployed, the Inquiry may

conclude that updated information relating to firearms should have been deemed as information relevant to their role on 11 December 2015.

389. W80 stated that¹¹⁶:

At no time was I given any information to suggest that the weapon or weapons the suspects were armed with might be imitation.

390. On the morning of 11 December 2015 DCI Williams had responsibilities for the safety of members of the public and the firearms officers, as well as to the persons involved in the escape attempt. He was working in an operational environment and had to make judgments about how to update the firearms officers, evaluating intelligence from more than one source as it was received. He recorded his assessment in these terms:

the likelihood of the subjects having a real firearm during the commission of an offence remained probable

391. A number of issues arise for the Inquiry's consideration:

- a. Was DCI Williams overstating the risk?
- b. If so, was this a conscious and deliberate decision?
- c. If so, to what end and with what intention?
- d. Did the failure to disseminate the lack of a real firearm in the Audi have an effect on the actions of the AFOs?
- e. Did the failure to disseminate the lack of a real firearm in the Audi have an effect on the actions of W80?

392. W80 stated¹¹⁷:

¹¹⁶ IPC0001075

¹¹⁷ SLA0000006

I got out of the offside rear passenger door. I moved around the rear of our vehicle and I started to move down the nearside of the Audi. I thought we were going to get shot. I believed that the occupants had firearms, probably machine pistols, they were experienced, and they were intending to attack a prison van and break free a dangerous criminal and I believed the occupants would fight their way out rather than surrender.

I do not recall being told that there was any intelligence as to how the gang might react on being confronted by armed police and I assume therefore that in the absence of any intelligence that they would be likely to fight their way out rather than surrender. This does not mean that there was no risk and this would be part only of our individual risk assessment in that we would do a dynamic risk assessment as we confronted the suspects. On the basis of all of the information I received up to the point of having to confront the occupants of the vehicle I considered the risk to me and my colleagues to be high.

393. The Inquiry may wish to establish what information was provided to the AFOs on the likelihood of the occupants of the Audi fighting their way out of a dynamic extraction in what would almost certainly be a deadly shootout? Although there had been no identification of those within the Audi, there was a high probability that they were connected in some way to Izzet Eren whose liberty they were intending to bring about. When faced with arrest by armed police Izzet Eren and Erwin Amoyaw-Gyamfi had not fought their way out. They had each discarded their loaded weapons and were safely arrested. CTI are unaware of any information or intelligence suggesting that the occupants of the Audi were unlikely to be compliant. If this information had been conveyed to the AFOs it may have caused W80 to pause before drawing the conclusion that the occupants of the Audi would fight their way out.

394. While Team B were still in their holding area S111 stated that¹¹⁸:

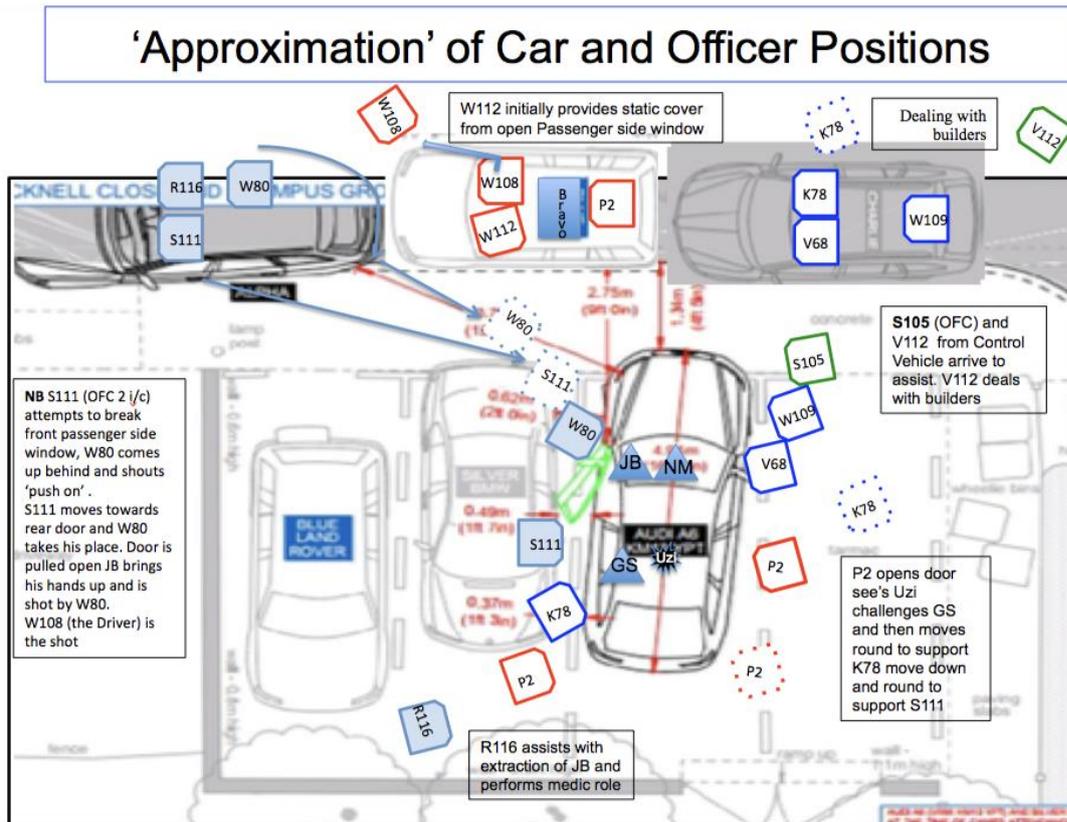
The time now is approximately 0830 hrs ... We as a team then push out of Quicksilver Patrol Base and park in Mayes Rd pointing towards Lordship Lane. We stay there for about 30 minutes, the Audi A6 has remained in that location, I task the surveillance unit to give us an exact location of the vehicle that is parked somewhere in Bracknell Close. They then inform me that the vehicle is parked in a residents parking bay, just past the junction with Olympus Grove on the nearside but pointing out towards the road, they cannot tell me how many people are in the vehicle but the windows have steamed up indicating people are in there. I formulate a plan and pass it on via the radio to the team. I am an Operational Firearms Commander and 2 1/c of my team...The plan is for Alpha, Bravo Charlie (B) and Control to drive into Bracknell Close, nice and gently, so as not to alert occupant of Audi A6, Alpha will push past subject vehicle and stop with alphas (A) rear bumper about 1-2 metres beyond subject vehicle, Bravo to pull up directly in front of A6 and Charlie just short of subject vehicle, basically blocking the subject vehicle in, so it can't ram its way out if they wanted to. Everyone in Alpha, Bravo & Charlie were aware of the area of responsibility and were happy with the tactics.

W80...I had a conversation in the car to the effect that I was not going to take the Benelli shotgun which is an entry gun used to deflate vehicle tyres if it is suspected that the vehicle might make off. I said this to my colleagues as at that time I perceived that the threat was so great that I needed my primary weapon so as to be able to respond to any firearms threat from the occupants of the Audi. We were parked up just outside Quicksilver ready to be able to respond quickly.

395. The Alpha, Bravo and Charlie cars rounded Bracknell Close and came to a stop across the front of the Audi, blocking it in.

¹¹⁸ MPS0000037

Display- INQ0000021¹¹⁹



396. All nine CTSFOS disembarked from their vehicles and five of the officers moved rapidly forward to deliver what is referred to in the MPS Training Power Point as the ‘strike’. As they were doing so, they were joined by S105 and V112 from the Control vehicle. However, V112 moved off to deal with the builders and pedestrians who are nearby. The three officers, who did not become involved in the ‘strike’ until after the shot was discharged, were W112, K78 and W108.

397. P2 (rear seat passenger of Bravo vehicle) said¹²⁰:

Armed stops of this nature rely on the element of surprise and verbal stunning and are very fluid in that there are no set positions to go to for each officer. It depends on

¹¹⁹ INQ0000021

¹²⁰ MPS0000033

who gets to the vehicle first and the others, “fill the gaps” when cover with firearms is put on.

398. W112 (front seat passenger Bravo vehicle) initially performed the role of ‘static cover’ from inside the passenger seat of the Bravo car, having opened the passenger window as they were travelling towards the Audi. This is an assigned role and an onerous responsibility, which places this officer in a very vulnerable position, as he is unable to move to cover¹²¹:

As we drew closer I donned my high vis police baseball cap ... W108 stopped our vehicle almost directly in front of the Audi and I pointed my MCX towards the front windscreen, taking the safety catch off as I did this. I saw that the front windscreen also had an element of tinting on it. I shouted 'Armed Police' towards the vehicle and activated the weapon mounted strobe light and laser. I did this to reinforce to the occupants that my firearm was being pointed towards them and also to hopefully act as a distraction to them ... I remained in my seat providing cover until I saw an officer move in from the left pointing an MCX. At this point I was confident that the vehicle was being covered by multiple officers and I could exit my vehicle ... I saw that the dark skinned male was on the floor, and W109 was covering him with her MCX ... I could hear W109 shouting at the male. As I moved towards them I lowered my body and struck the male in the left side of his rib area with my right knee. I did this to hopefully distract the male from grabbing any firearm he might have on him. ... I couldn't see his right hand at this point. I tried to move his left hand to put it behind his back in order to apply plasti-cuffs but it wouldn't move ... I shouted for him to stop resisting ... I then delivered a knee strike with my left knee towards the left side of the males face ... At some point during this I heard a gun shot discharged ... I then heard shouts of medic...

¹²¹ MPS0000052

399. V68 (front seat passenger of Charlie vehicle) unsuccessfully attempted to smash the front driver side window¹²²:

I deployed from my vehicle, I now had my blue police baseball cap on and I got out with my SIG MCX in my hands. I saw that the Black AUDI'S side windows were steamed up. I had no vision inside ... I placed my selector lever to fire and pointed my gun at the drivers window all the time shouting armed police ... My sole focus was on the driver ... As I came to the drivers window ... attempted to smash it with my gun by striking it. This was to gain vision inside quickly. This failed so I ... opened up the drivers door ... I was shouting at him that I was armed police and keep his hands where I could see them. I saw that his hands were on top of the steering wheel and they didn't move.... I grabbed hold of him and dragged him out and to the floor, I was shouting at him to get down, I was still pointing my firearm at him when I was aware other officers were starting to join me. I'm not sure how but between us a set of soft rope like handcuffs were applied to the male. It was during all of this I heard a loud bang.

400. W109 (rear seat passenger of Charlie vehicle) took up position at the front driver's side providing firearms cover for V68¹²³.

I had by this point put my marked police baseball cap on and a face covering. I was armed with my GLOCK 17 and SIG MCX and made my way to the drivers side of the car shouting an armed challenge. The windows on the vehicle were steamed up and I could not see within, I had my SIG up on aim at the drivers door waiting for it to be opened as I'd seen V68 go for the handle. At this time I didn't feel comfortable knowing these males who potentially had automatic firearms and the intent to use them were definitely within the vehicle and I couldn't see them. I know the devastation an automatic firearm can cause and it would have easily gone through

¹²² MPS0000095

¹²³ MPS0000084

the soft skinned vehicle and far beyond. Once the door was opened, I believe I shouted, "POLICE SHOW ME YOUR HANDS".

401. P2 added¹²⁴:

I put on my police cap and got out of our car and ran around the back and up to the offside of the Audi. My SIG Carbine was pointing into the car and my selector level was to fire due to the information we had been given regarding the subjects and potential weapons ... I continued round to the back door behind the driver. The rear passenger window was completely blacked out ... I used my left [hand] to open the door... I instantly recognized ... an UZI sub- machine gun in the footwell behind the drivers seat...It was sat on top of a dark coloured holdall with brown leather detailing...I saw a male of Turkish appearance with facial hair wearing dark clothing sat in the rear nearside seat. I pointed my weapon at him and shouted to put his hands on his head. At some point here I heard a loud bang in the vehicle and instantly saw smoke inside the cabin and I could smell that it was from a firearm although did not know where it had come from. The rear seat passenger briefly looked at me and put his hands up but almost simultaneously his door was opened and he was extracted by one of my colleagues. I also noted a silver 'I' shaped metal wheel brace was positioned on the middle seat next to where the male was sitting. I then shouted 'Gun' to alert my colleagues to what I had seen in the car and I moved to the rear of the Audi to where I saw K78 pulling the rear seat passenger to the ground.

402. Both S111 and W80 (front seat and rear seat passengers in Alpha vehicle) moved towards the front passenger side of the vehicle. As they moved forward, S111 was in the lead position. Due to the presence of an uninvolved vehicle parked alongside KM13YPT there was only a narrow gap between the two cars.

¹²⁴ MPS0000091

S111 unsuccessfully attempted to smash the front passenger window and was told by W80 to 'push on'.

403. S111¹²⁵:

I attempted to smash the front passenger window with the muzzle of my gun 3 times, as I did the 3rd, W80 said "push on, I've got it" or words to that effect. There was not a great deal of room between subjects car and parked car, about 18 inches, again I couldn't see inside the rear near side passenger window, it was also steamed up. I opened the door as I passed it and shouted, 'Armed Police'.

404. The following account, of what happened next, is an extract from W80's statement¹²⁶:

S111 was immediately in front of me ... The front windscreen was steamed up and I could not see into the vehicle. S111 stopped adjacent to the front nearside passenger door and tried to smash the window with the muzzle of his weapon. He tried at least twice to smash the window. I could not see into the vehicle, I was not sure of the number of occupants and I was concerned that there might be someone in the rear of the Audi armed with a firearm and at that stage there was no firearms cover into the rear of the Audi. There was not enough room between the nearside of the Audi and whatever was to our right for me to get past S111 so I told S111 to move down or push on ... S111 moved down towards the rear of the Audi. I did not attempt to smash the window because I had seen S111 try and fail to do so. I took my left hand off my weapon and opened the nearside front door handle. Everything from this moment happened very quickly. I put my left hand back on the fore grip of my weapon. I believe I was looking through the gap between the doorsill and the now open nearside front passenger door. I could see the male sitting in the front passenger seat. He was wearing dark clothing. He was wearing a balaclava pulled

¹²⁵ MPS0000037

¹²⁶ SLA0000006

down over his face ... I was shouting armed police armed police. I shouted at him to put his hands on the dash board. I believe I shouted this several times. His hands moved quickly up towards his chest area. He was wearing a shoulder type bag high in the area of his chest. I was focused on his hands. This quick movement of his hands and his failure to put his hands on the dash and to obviously surrender made me believe he was going for a gun. I perceived an imminent threat to my life and the life of my colleagues. I could not wait to see if he produced a gun because if I did by that time he would be in a position to shoot me or my colleagues. I decided that I had no option other than to fire in order to achieve rapid incapacitation to prevent an imminent threat to life. I fired one round. The laser was shining on his upper chest area. I did not have time to take careful aim and I fired instinctively. I cannot be certain precisely where I was at the time that I fired. I believe I was standing outside the open car door with the door between me and the male and that I fired with my weapon pointing somewhere through the gap created by the open car door and the side of the front windscreen. I cannot be certain if the muzzle of my weapon was over the door. I could not immediately see any visible sign that the shot I had fired had struck him. But very shortly afterwards I saw the males hands drop and then I heard R116 say something like get him out or get him to me. R116 is a medic [and was the driver of Alpha car in which W80 had also been travelling]. I remember having to push the door slightly closed to enable me to move down the gap so as to be able to grab hold of the male's left arm to pull him out of the car. By then I could see blood coming from a wound in his upper chest. R116 and I pulled the male out of the car. Because it was narrow, I pulled him out initially and then R116 helped me pull him to the front of the Audi, just to the rear of the ALPHA vehicle in order to start first aid. S116 said to get a first aid kit. I went to the rear of the ALPHA vehicle and collected a first aid kit and took that to where the male was now lying on the ground. I gave R116 the first aid bag. I pulled the balaclava off the face and head of the male and put an oxygen mask on his mouth and nose and turned on the oxygen. The male was still conscious at this stage. I could see an

obvious wound to his upper chest. Very quickly other officers came to assist in giving first aid.

405. The location of W80 as he approached the proximity of Mr Baker sitting in the front passenger seat of the Audi, would have resulted in W80 only having a limited view into the vehicle. S111, the front seat passenger in the Alpha vehicle and one of the Ground OFCs, approached the passenger side in front of W80 and attempted, several times, to break the passenger window with his weapon. Realising that this was unsuccessful, W80 ordered him to push on and W80 approached and opened the passenger door, remaining on the outside of the door and peering inside. The gap between the frame of the windscreen and the frame of the open door was slight. With many sources of evidence indicating there was no visibility into the vehicle due to the steamed-up windows, the Inquiry may have little difficulty in concluding that W80's view inside the Audi was limited even once the door was opened.

406. The shot fired from W80's weapon occurred in a matter of a couple of seconds after the passenger door was opened. The Inquiry will wish to analyse the explanation provided by W80 for discharging his weapon and the cogency, reliability and integrity of this explanation when considered together with what was and is known of the surrounding circumstances of the incident.

407. The MPS Firearms SOP at 1.11 to 1.12 states that when it is considered necessary to discharge a firearm¹²⁷:

police officers need to shoot to stop an imminent threat to life...Officers must be able to demonstrate that the degree of force used was absolutely necessary and relative to the threat posed. The use of excessive force is strictly prohibited.

¹²⁷ IPC0000073

408. In a prepared statement to the IPCC W80 stated that Mr Baker moved his hands up towards his chest and towards the bag, which W80 described as being ‘slung’ round Mr Baker’s shoulder. W80 also stated¹²⁸:

I was shouting armed police. I shouted at him to put his hands on the dashboard. I believe I shouted this several times. His hands moved quickly up towards his chest area. He was wearing a shoulder type bag high in the area of his chest. I was focused on his hands. This movement of his hands and failure to put his hands on the dash and to obviously surrender made me believe he was going for a gun.

409. The pathologist and ballistic experts both provide evidence relating to the injury to Mr Baker’s wrist. The positioning of this injury would indicate at the very least that his left hand was raised at the time he was shot. Forensic evidence identified ballistic damage to the strap of Mr Bakers bag that he was wearing at the time that he was shot. Mr Baker was not in possession of a firearm, nor any sort of lethal weapon that he could have used against W80. There was nothing contained within the bag that could have caused injury to W80 or to anyone else. There was a bicycle pump in Mr Bakers bag which was seen by S111 with the handle protruding from the open bag after it had been removed from Mr Baker and placed away from his body by R116. No other witness mentioned seeing the pump handle protruding from the bag and it is likely it was only showing after the bag had been removed from Mr Baker by R116. There is no evidence supplied by W80 or any other witness to suggest that the pump handle (or anything else) was protruding from his bag at the time W80 says Mr Baker raised his hands towards its position on his chest.

410. Whilst W80 may well have been ordering Mr Baker to put his hands on the dashboard, the other officers approaching and surrounding the Audi were shouting other commands. There is significant contradiction between

¹²⁸ SLA0000006

instructions to put hands up and to put them on the dashboard. The recording devices in the Audi captured the time of the dynamic interception of the vehicle. It cannot be identified which, if any, of the shouting voices were W80. Nor can it be expected that Mr Baker would know which of the commands, to put his hands up or to put them on the dashboard was addressed to him.

Play MPS0003938 from 23.00 until asked to stop

- a. 23.00 - quiet in car, breathing heard*
- b. 26.30- telephone call*
- c. 29.09- telephone call*
- d. 29.39- interception*

411. During the course of the reconstruction tests were conducted to explore the effect of the white flashing strobe light that was activated by W112 on his firearm as the officers were approaching the Audi. The visual effects were noted whilst it was activated. This resulted in a glare whilst looking through the windscreen from within the surrogate Audi car.

412. During the reconstruction a number of photographs were taken of the possible positions of Jermaine Baker's arms at the time that he was shot:

Display images found at INQ0000027:

Page 12 figures 9 and 10

Page 13 figures 11 and 12

Page 14, figure 15

Page 15, figures 16 and 17

Page 16, figures 18 and 19

413. W80 said that from opening the front passenger door
everything from this moment happened very quickly

414. Taking into account that the audio suggests that the shot was within seconds of the first shout of armed police and that S111 had attempted to break the window before moving to the rear nearside door and making way for W80, the Inquiry may concluded that the shot must have been fired a very short time indeed after the opening of the passenger door. The speed at which this occurred indicates that W80 may not have allowed Mr Baker sufficient time to observe oral warnings being directed at him by W80 and the other AFO's surrounding the vehicle in keeping with local and national policy.

415. Early in the IPCC investigation, there were suggestions that Mr Baker may have been sleeping at the time he was shot. Evidence provided by Mr Mason and Mr Sogucakli said that they were of the opinion that Mr Baker may have been sleeping at the time police approached the vehicle. Mr Sogucakli recalled Mr Baker having his hoody up over his head and a scarf or jumper covering his mouth while he slept.

416. In the period just prior to the interception the live feed audio recorded significant periods when there was no talking amongst the occupants of the Audi. There were also heavy breathing and snoring type noises from within the car. It is likely during this time Mr Baker and/or the other occupants could have been sleeping. Mr Mason said he had himself been sleeping and was woken by the telephone ringing at around 09.00, moments before the officers approached the vehicle.

417. W80 stated

I could see his eyes which were open but I cannot say whether he had eye contact with me.

418. W112 is the only officer who said they had sight of the faces of the front seat occupants when approaching the Audi. He said that when panning across the windscreen of the Audi with a weapon mounted strobe light and laser, prior to Mr Baker being shot,

I could make out their faces...and their eyes which I saw were open and looking towards the front.

419. W80's evidence was initially that Mr Baker was wearing a balaclava when he was shot; he recalled removing the balaclava from Mr Baker's mouth area to apply oxygen during first aid. S111 also had a recollection of Mr Baker wearing a balaclava. There is evidence that Mr Baker, along with the other occupants of the Audi, may have had balaclavas rolled up on their heads at the time. However, the evidence given by W112 contradicts that Mr Baker's had been pulled down at the time of the interception, as does evidence provided by Mr Sogucakli and R116 who was one of the first officers to give first aid and has no recollection of Mr Baker wearing a balaclava. The CMP evidence is that Mr Baker and the other occupants of the vehicle were aware that the prison van was still approximately 30 minutes away at the time of the interception and so the Inquiry consider whether it is unlikely that Mr Baker would have pulled down the balaclava at that time.

420. In his evidence to this Inquiry W80 has accepted that he may be mistaken and that what he pulled over Mr Baker's mouth was a scarf or jumper which, together with his hoody, had stopped W80 seeing his face.

421. W80 discharged his shot within a very short time of opening the car door. It is not a requirement to wait for a weapon to be produced before a firearms officer discharges a weapon.

422. It has been suggested (including at a meeting at Tottenham Town Hall on 17 December 2015), that lethal force would not have been used had Mr Baker's ethnicity been different. Also, that officers may have acted to disrupt the escape plan at an earlier stage and therefore avoided an armed interception with the risks to life which are involved if Mr Baker's ethnicity had been different.
423. The police standards of professional behaviour provide that officers act with fairness and impartiality and do not discriminate unlawfully or unfairly. The IPCC discrimination guidelines recognise that it is common in discrimination cases for there to be little or no direct evidence available to support an allegation (direct evidence might be CCTV footage that recorded use of discriminatory language, for example). This is particularly the case if the allegation is about discriminatory actions arising from prejudiced assumptions or attitudes. Operation Ankaa targeted subjects of Turkish decent who were known to be involved in Serious Organised Crime – namely Ozcan Eren and Izzet Eren.
424. The evidence from DCI Williams is that he had no intelligence on who would be assisting in the escape plan beyond Ozcan Eren and Sinan Ozger; if he did not know their identities it follows that he could not have known what their ethnicity would be. However, it is clear from the FA2 that some intelligence indicated 'IC3' males would be recruited to assist in the plan. K78's evidence included that there was mention of '*four big black males*' being involved¹²⁹.
425. Although the Audi had been under surveillance prior to the interception there is no evidence that those carrying out the surveillance had identified the ethnicity of the occupants. Nor is there any evidence that those listening to the CMP had attributed any ethnicity to the occupants. W80 did not describe the

¹²⁹ MPS0000128

ethnicity of the man he shot in any of his statements. There is good evidence that it was not possible to see the occupants of the car during the firearm's officers' approach to it because of the steamed-up windows. W80 would not therefore have been able to identify Mr Baker's ethnicity prior to opening the door and, W80 discharged his weapon very shortly after opening the car door.

426. W80 was asked questions in interview if the ethnicity of Mr Baker influenced his decision-making on the day. W80 did not answer these questions or provide any evidence in relation to Mr Baker's ethnicity and the impact it may have had upon his decision making.

427. In some circumstances, comparator evidence may be available, for example stop and search records record ethnicity and so it may be possible to identify that an officer stops disproportionately high numbers of people from one ethnic group. Although there is well-known concern about the deaths of black ethnic minority men following contact with the police, that cannot of itself be evidence that discrimination played a part in W80's actions. Armed deployments in which people are shot are fortunately rare and occur in widely different circumstances; there is therefore no meaningful comparator data to assist the Inquiry about whether W80 treated persons of ethnicity differently in similar situations. W80's disciplinary record has been considered; there are no substantiated findings of discriminatory behaviour.

428. There is evidence that the firearms officers believed that those who would be carrying out the attack on the prison van would be black and that K78 at least believed there would be *'four big black males'*. Whether the latter was a phrase used in briefings, or is K78's interpretation of words used, it may be of concern to the Inquiry that this raises issues of stereotyping and the potential for unconscious bias. There is recognition in literature about racism, particularly in

the context of deaths following police contact, that ‘*big black males*’ are ubiquitously considered threatening. However, there is no evidence that W80 used similar language and on the evidence available, W80’s personal perception of risk appears to have been based on the aspects of the briefing concerning Izzet Eren’s antecedents, in particular his possession of a machine pistol on 13 October 2015. There is no evidence that at the time of this decision DCI Williams knew of the identity or ethnicity of Mr Baker. There is no evidence that Mr Baker’s treatment by officers after he was shot, in particular administering first aid, was influenced by Mr Baker’s ethnicity.

Could the Death of Jermaine Baker have been avoided?

429. The IPCC report at paragraph 486 states

*The Interception of KM13YPT used the Enforced stop and Extraction option*¹³⁰.

430. This is factually incorrect as there was no enforced stop. What took place was a dynamic interception and extraction of subjects in a stationary vehicle.

431. At the point where DI Keely Smith (as the overarching TFC) declared State Amber, the Inquiry may consider that there should have been clear instructions relayed by her or the OFC in the Control Vehicle (S105) as to the tactic to be implemented. Was a dynamic intervention or interception and extraction of subjects, from either a static or moving vehicle, the default tactic that was always envisaged? And if this was really the plan from the outset, from start to finish, this may give the Inquiry cause for concern. This concern was prevalent in the Anthony Grainger Inquiry which also made the following recommendations in respect of MASTS¹³¹:

¹³⁰ IPC0001145

¹³¹ INQ0000002

Recommendation 6: All documents and training relating to Mobile Armed Support to Surveillance (“MASTS”) should:

clearly differentiate between MASTS as an operational method of supporting surveillance (and delivering a standard range of tactical options), and the additional tactical options of “intervention” and “interception” that MASTS trained authorised firearms officers (“AFOs”) can deliver;

make clear that a MASTS deployment authorisation should not be taken to imply that “intervention” or “interception” are preauthorised or preferred tactical outcomes;

note that decisive action by MASTS officers is a high risk option and explain what factors lead to higher risks (for example, the presence of a subject inside a stationary vehicle).

432. According to the Inquiry’s policing experts, there is a lack of documented assessment indicating that a dynamic intervention or interception on a stationary (or moving) vehicle is a high risk (albeit sometimes high benefit) option. When an armed intervention-type tactic considered high risk is employed, the Article 2 ECHR principles of ‘absolute necessity’ should be applied. This should include a strategic assessment as to whether the desired outcome could be achieved by a less intrusive, lower risk tactical option(s). Consideration should also be given to whether fast time intervention, with the benefit of surprise (as opposed to slower time tactics such as contain and call out) is necessary to prevent significant harm or loss of life, destruction of evidence and the escape of offenders.

433. The Inquiry will wish to consider if there was a predisposition towards a dynamic tactic to the exclusion of other lower risk tactical options? Was the use of a fast time intervention/interception a predetermined resolution to Operation Ankaa? In the FA5 document, S48 sets out various scenarios in

which CTSFOs may have to become involved in an interception of suspects on foot or in a vehicle. Three main types of vehicle interceptions are referred to in the FA5: Enforced stop, Compliant stop and Natural stop. The following description is supplied of a ‘Natural Stop’¹³²:

- a. *This is where the subject vehicle stops of its own accord without any request from the police. This may include parking at the side of the road or in a carpark.*
- b. *Once the vehicle has come to rest [or in this case already parked] the subjects can be dealt with by utilising a number of tactics, these include Armed Enquiry, Containment, Communication and Extraction.*

434. Inspector S48 does not set out any prior consideration as to which of these tactics should be used in any particular situation.

435. The APP-AP addresses what are referred to as Generic Tactical Options. The relevant section reads¹³³:

Generic tactical options set out the different ways in which a particular objective can be undertaken in a manner which minimises risk and harm. They are broad descriptions of the options the police may have available to them when dealing with an incident which requires the deployment of armed officers. Along with the primary aim of securing public safety, consideration should be given to whether it is possible to identify, locate and contain the subject and take appropriate action to neutralise the threat posed.

436. The nature of the fast time decisive action undertaken, with the benefit of surprise, is not included in the APP. However, it is one of the tactics included in the NPTFC and is commented on by Mr Nicholson.

¹³² IPC0000406

¹³³ COP0000018

The options provided within the NPFTC for dealing with armed occupants within a stationary vehicle are; armed enquiry, contain and callout and extraction.

437. In this case, at the point of intervention, the circumstances were these:
- a. The vehicle contained an unknown number of occupants;
 - b. Their identity, capability or their response to being intercepted was unknown;
 - c. The vehicle was parked in a bay blocked in from behind by a fence;
 - d. The windows were ‘completely steamed up’ and some were later (erroneously) described as tinted which gives an indication of the level of transparency at the time of the intervention;
 - e. There was reason to believe that the occupants might not be armed with a live firearm;
 - f. The vehicle was effectively blocked in by the three MASTS vehicles;
 - g. There were vehicles and builders in the immediate area;
 - h. The three MASTS vehicles created an effective barrier, acting as a cordon between the members of the public.
438. Once the Audi was effectively blocked in, the use of a ‘contain and call out’ tactic would have enabled a slower time intervention. Contain and call out would involve positioning police vehicles and armed officers so as to prevent the vehicle moving and calling the occupants to come out of the vehicle one by one.
439. The Inquiry’s policing experts advise that this would have permitted the use of what are often referred to as the BUGEEL principles.¹³⁴ It is their understanding that these principles now form part of the training of Firearms Commanders. Although the BUGEEL-C/L mnemonic is not used in the APP

¹³⁴ INQ0000004

it is based on guidance included in the APP which can be found under the subheading of ‘*Defusing the Situation*’. Variations of this are used in police training and briefings by a number of UK police forces. Sometimes the mnemonic ends in C or L, both are referring to the same issue – Consideration of Less Lethal Options). Typically, the mnemonic is expressed as:

Back off if safe to do so

Use effective cover

Give time and space de-escalation

Evacuate the immediate area

Early negotiation

Consider Less Lethal Options.

440. The Inquiry will wish to explore what consideration was given to these principles in the circumstances that presented once the Audi had parked up on Bracknell Close. One explanation for persisting with the dynamic interception may be that those in command, for whatever reason, continued to treat the unknown number of occupants of the Audi as armed. This could have meant up to four armed men to be extracted from the vehicle.

441. Although the CTSFOs had been deployed in plain clothes, the officers make reference to putting on their high visibility police baseball type caps as they were entering the intervention phase. Mention was made of the wearing of these police baseball caps in the 5am briefing. Advice was given for officers to wear these together with ballistic vests. The wearing of high visibility baseball type caps meant that they were not wearing ballistic helmets. The nature of the intervention meant the officers were approaching the subject’s car, in fast time, without ballistic shields having been told to treat the unknown number of the occupants of the car as armed. It should also be noted that most body armour only covers the main areas of the torso. The face, neck, arms, lower stomach,

groin and lower body are left unprotected. These are very vulnerable areas that contain major organs and arteries.

442. If the subjects in the vehicle were armed with live weapons, the officers were in an extremely vulnerable position as they closed in, on foot, to the Audi.
443. The Inquiry may wish to consider if there were less dynamic and less lethal options available to those in command – thereby better protecting the AFOs, reducing the pressure that they felt and removing the occupants at a slower and safer pace.
444. I'm now going to turn to describe the types of the firearms used by the officers in this intervention which is another factor for the Inquiry to consider in deciding if Jermaine Bakers death could have been avoided.
445. The 9mm Glock self-loading pistols, 5.56mm SIG Sauer MCX carbines and Benelli shotguns used by the MPS in this case all fall within the generic weapon classes set out in the APP. The Benelli shotgun (assigned to but not used by W80) was to be used for a specific purpose – rapid tyre deflation. The descriptors include 'Hatton Rounds', 'Ram Rounds' and 'Steel Batons'. These types of cartridge are generically referred to as 'breaching rounds', designed to remove hinges from doors and they can also be also for tyre deflation.
446. The ammunition configuration, approved for use by Police Forces in England and Wales, in most bullet firing weapons comprises a jacketed soft point projectile. This type of bullet is designed to expand on impact, increase effectiveness and minimise the potential for over penetration. However, it is important to note that this expansion will occur on first impact with surfaces

such as glass and car doors. This can increase the potential for fragmentation, or changes in the direction of the projectile.

447. The MCX carbine, as issued to the MPS CTSFOs, was fitted with a projected laser dot and torch light. In addition to increasing visibility in poor light, this can reinforce to the subject that a weapon is pointed at them. As part of the 'weapon system' there is potential for a strobe light mounted to firearms to have both intended and unintended consequences and possibly direct human affects. This was deployed by at least one officer, W112.
448. The MCX carbine used by W80 (and most of the other officers who deployed) only entered service with the MPS earlier in 2015. To the knowledge of the Inquiry policing experts, this incident was the first operational discharge of this type of firearm by a UK Police Force.

W80...I had a conversation in the car to the effect that I was not going to take the Benelli shotgun which is an entry gun used to deflate vehicle tyres if it is suspected that the vehicle might make off. I said this to my colleagues as at that time I perceived that the threat was so great that I needed my primary weapon so as to be able to respond to any firearms threat from the occupants of the Audi. We were parked up just outside Quicksilver ready to be able to respond quick!¹³⁵y.

S111 ..."we were given state' amber'. We were now to move forward and arrest the occupants of the Audi A6. I checked via the radio that Bravo and Charlie were happy with their roles which they were, we had a quick chat in our car about our roles, R116 knew where the subject car was, W80 decided not to take the Hatton

¹³⁵ SLA0000006

*gun for deflating tyres as the car was already stationary and there were possibly 4 occupants of the subject car. Both R116 and myself were happy with that decision.*¹³⁶

449. The ‘strike’ involved the simultaneous and rapid deployment of multiple officers to different aspects of the Audi:

- a. Attempts at smashing window glass;
- b. The use of projected green dot lasers;
- c. The use of strobe lighting;
- d. The benefit of surprise by rapidly deploying;
- e. Sensory and verbal stunning.

450. Each of these elements formed part of the context of the dynamic situation during which W80 discharged his firearm. Similarly, each of the elements above were intended to create a ‘freeze’ and ‘compliant’ response from the occupants of the vehicle but can result in sudden movements. These may include a startled response, a defensive, self-protection movement or an aggressive act.

451. The APP-AP has a section which addresses ‘*generic tactical options*’. The list includes¹³⁷:

- a. *Communicating with the subject may necessitate a visual or verbal challenge. On occasions, this may lead to a subject engaging AFOs in some form of dialogue.*
- b. *...Where circumstances permit, AFOs should identify themselves as armed officers and give a clear direction to the subject, allowing sufficient time for the directions to be observed unless to do so would unduly place any person at risk, or would be clearly inappropriate or pointless in the circumstances of the incident.*
- c. *Oral or visual warnings should make the subject aware of the nature of the armed police intervention. These should serve as a clear warning to them and make it clear*

¹³⁶ MPS0000037

¹³⁷ COP0000018

that force and/or firearms may be used. All AFOs should receive training in communicating with subjects. On first verbal contact, officers should normally:

- i. identify themselves as police officers and state that they are armed*
 - ii. clarify who it is they are seeking to communicate with*
 - iii. communicate in a clear and appropriate manner.*
- d. Where weapons are fitted with torches or laser sights, officers should consider the effects of their use during any confrontation.*

452. As part of the ‘weapon system’ there is potential for a strobe light mounted to firearms to have both intended and unintended consequences and possibly direct human effects. The Inquiry may be assisted to know if the strobe light in question was considered by the MPS as a less lethal technology and to what extent the testing, acquisition and operational use of this facility was evaluated by the MPS and by the Home Officer Centre for Applied Science or Technology (CAST).

453. Communication, in this case, included repeated shouts by most (if not all) of the officers who approached the Audi of ‘*Armed Police*’. The majority of statements refer to them having put on their police baseball type hats. The covert microphones also pick up several of the shouts of ‘*Armed Police*’. However, the APP-AP also has the following sub-heading¹³⁸:

Communicate in a clear and appropriate manner

454. This is really about selecting the tone and style of communication appropriate to the situation. In some circumstances a highly assertive tone is required, in others a more coercive tone is required. In a case where a strike is called the communication requires to be authoritative and clear, leaving no room for ambiguity. There are two issues here that bear some relevance:

¹³⁸ COP0000018

- a. The use of strong directive language including the use of profanities;
- b. The of use divergent and contradictory commands.

455. In situations where dynamic intervention is intended to create an initial ‘freeze’ response from all subjects, the physical surprise of the appearance of armed officers, together with strong verbal commands is a well-practiced tactic (among police and military personnel) both in the UK and internationally. As will be noted in this case, both from officers’ statements and from the commands captured by the covert microphones, this included very strong language including the extensive use of profanities. The use of profanities sometimes referred to as ‘*tactical language*’ might be an area of concern.

456. During the intervention different officers have issued contradictory commands. Given that these commands are being ‘yelled’ at subjects through doors that have been pulled open, they are likely to be heard by all occupants. The APP Armed Policing states¹³⁹:

Communicating with the subject may necessitate a visual or verbal challenge.

457. The relevant section contains the following three bullet points each of which have sub text:

- a. *Identify themselves as police officers and state that they are armed*
- b. *Clarify who it is they are seeking to communicate with*
- c. *Communicate in a clear and appropriate manner*

458. The Inquiry may wish to consider the plan that was made for the use of verbal communication between the police officers and the unknown number of occupants in the Audi. What was said to the officers in the various briefings about what should be said, what orders should be given and the manner in

¹³⁹ COP0000018

which those orders should be delivered? Did communications have the necessary clarity? In the moments before deployment, what was said as between the officers of vehicles Alpha, Bravo and Charlie by way of direction?

459. There are other issues touching upon the decision by W80 to discharge his firearm that the Inquiry will wish to consider. The APP-AP has a section entitled ‘*Dealing with People*’, subsections include¹⁴⁰:

- a. Handling subjects;
- b. Environmental and behavioural influencers;
- c. Communication issues.

460. The subsection on ‘*Handling People*’ states:

The close proximity of subjects to officers with firearms at the final stages of an incident presents risks. These stages are likely to be the most dangerous phase of an incident and constitute the subject’s last chance to escape.

461. Dynamic interventions and interceptions, whether into a structure or vehicle, should only be undertaken in extremis. In situations that have time for detailed planning, the planning should include the situationally specific risk assessments of such an intervention. This should not be based solely on the capability of the officers being deployed nor the probability of an outcome based on a premise that, in the majority of cases, subjects comply with officers’ directions. In the same section of the APP-AP, there is a sub-heading entitled ‘*Environmental and behavioural influencers*’. The section reads¹⁴¹:

Environmental and behavioural influencers can affect a subject’s behaviour and their response to any contact with police officers. These influencers (sometimes referred to as moderators) can include issues such as:

¹⁴⁰ COP0000018

¹⁴¹ COP0000018

Environments where communication is difficult

Sensory impairment or communication difficulties, for example, hearing impairment or where the subject may have difficulty in understanding or communicating in English

The effects of drugs or alcohol

Subjects whose movements are impaired or exaggerated by reason of a medical condition...

462. It would be wholly wrong to suggest that there were none of these conditions presenting themselves in the Audi at the time of the police approach. There was certainly sensory impairment in that the steamed-up windows prevented the officers from seeing into the vehicle. This would necessarily mean that those inside the vehicle could not see out. Furthermore, there was auditory impairment from both sides – the officers were shouting their commands from the other side of closed car doors and windows and some officers were wearing ear defenders, including W80. Communication could be said to have been difficult as there were conflicting commands being shouted simultaneously. And it is clear from the audio probe and should have been noted by those listening in C3000 that the occupants of the vehicle were talking about bringing “weed” with them, looking for a lighter, smoking. In addition, there were sounds of snoring in the time before the interception.

463. The Inquiry may form the view that these environmental and behavioural factors may well have influenced the reaction of those in the Audi. There was an additional feature here which likely caused further sensory stunning - the

use of strobe lighting and lasers. In any situation involving dynamic interception, where verbal and sensory stunning is deliberately invoked the risk of an unexpected reaction from a subject is increased.

464. Furthermore, this context, together with the briefing and intelligence updates (formal and informal) and W80's experience and training all contributed to his decision-making under extreme stress. In combination, an officer's interpretation of any sudden movement by any of the occupants of the Audi, would in these circumstances increase the acute sense of vulnerability of an officer.

465. The Anthony Grainger Inquiry noted that, such matters had the effect of¹⁴²:

predisposing [an officer] to decide to discharge his weapon when he might not otherwise have done so.

466. In terms of police firearms encounters this has been recognised for well over 40 years. Writing in 1982, Sharf and Binder insightfully stated that¹⁴³:

[B]y the firing of a shot a life may be saved or lost and by withholding fire a life may also be saved or lost. The balance of life being held in an 'incident of circumstance'.

A related psychological factor is the factual ambiguity implicit in armed confrontations and the officer's ability to define objective reality in a heated and rapidly occurring confrontation. In rapidly evolving shooting incidents what is believed true may not later in fact be true.

¹⁴² INQ0000002

¹⁴³ *The Badge and Bullet*, Sharf and Binder, Praeger Publishers (1983).

467. Officers are well aware from their training of the principle that action is generally faster than reaction and this is referenced in this case. P2's statement made reference to having seen the Uzi in the rear of the car (albeit after the shooting) and then states¹⁴⁴:

At this point my risk assessment was about as high as it can get. I know that action beats reaction and given the proximity of the suspect to the weapon I knew that if he even leant towards it I would have had to have shot him to defend myself and my colleagues.

468. W80, in a further written statement dated 19 February 2016, stated¹⁴⁵:

I cannot add any detail to what I have said about the position of his hands. I have said that they moved quickly up to his chest. I could see both of his hands. Both moved at the same time. Both moved upwards towards his chest. His hands moved from a low position. I cannot be precise as to the exact moment I perceived that he was going for the bag and the precise moment that I made the decision to shoot. It would have been at some stage after he started to move his hands and before he reached the top of the bag. I was very aware that action beats re-action and that I could not wait until he removed a gun from his bag. It is likely that having made the decision to fire the male's hands would have moved further up before the round struck him and that is why the shot has struck his left wrist.

469. Action versus reaction is a concept that is embedded in officers' training, to the extent that it has become a maxim which informs their tactics in life-threatening situations.

Provision of Medical Emergency Treatment

¹⁴⁴ MPS0000033

¹⁴⁵ IPC0001075

470. The radio transmission regarding the discharge of a shot was accompanied by a request for the attendance of the London Ambulance Service (LAS). Team B contained highly trained medics. R116 appears to have taken the lead role in relation to first aid until the LAS arrived. In respect of his relevant training. He stated¹⁴⁶:

I have worked at SCO19 in these various roles for over 8 years. I first undertook ballistic first aid training on my initial Armed response vehicle course, this was later enhanced with an ARV medic course. Some time after my posting to an SFO team I again underwent further enhanced training and became an SFO medic. Since becoming an SFO I have undertaken regular refresher training, my last cycle of training was Monday 16th NOVEMBER to Thursday 19th NOVEMBER 2015. At 09.12 the London Ambulance arrived and commenced first aid with the firearms officers.

I continued with this, being joined by LONDON AMBULANCE SERVICE and later HEMS. Upon the arrival of the HEMS crew I remained near by to assist, before the doctor eventually pronounced life extinct.

471. The London Ambulance Service arrived on the scene at 0912. Mr Baker had no pulse. Ms Dunwell paramedic, performed endotracheal intubation. The air ambulance arrived at 0924 with Dr Danny Sharp. They performed a resuscitative thoracotomy and gave Mr Baker blood. Dr Sharp pronounced life extinct at 0930.

472. Professor R M Lyon, consultant in emergency medicine, reviewed the care Mr Baker received from the MPS, the LAS and the air ambulance and concluded that every attempt was made to successfully resuscitate Jermaine Baker but that

¹⁴⁶ MPS0000120

his injuries were catastrophic and there was nothing that could have been done to avoid his death.

Pathology and Forensic Evidence

473. On 12 December 2015 Dr Charlotte Randall (Home Office Pathologist) conducted a Post Mortem examination of Mr Baker at Haringey Public Mortuary. Dr Randall concluded that Mr Baker died due to a gunshot wound to the neck. The bullet was retrieved from directly below the skin on the back of the right shoulder. A second gunshot wound was noted by Dr Randall on the front of Mr Baker's left wrist. Dr Randall stated¹⁴⁷:

its appearance suggested that a bullet had glanced across the front of the lower arm causing superficial damage to the muscles and tendons in this region...it is highly likely that these two wounds represent the path of one bullet...Both bullet wounds taken in context would indicate that the deceased's left arm was raised at the time he was fatally injured.'

474. Dr Randall noted a patterned bruise on the skin of the left wrist next to this gunshot wound which was in keeping with Mr Baker wearing a wrist watch at the time of his death. The bruising suggested the bullet struck the wrist watch before entering Mr Baker's body. Toxicology analysis of Mr Baker's blood revealed the presence of alcohol, and the presence of a number of drugs, including cannabis and cocaine.

475. Expert evidence has been provided to the Inquiry by Khaldoun Kabbani in relation to ballistics, Mark Bowden in relation to gun shot residue (GSR) and Stephen Harrington in relation to biology and blood pattern analysis (BPA).

¹⁴⁷ MPS0000190

Mr Kabbani said the watch was subject to a force that snapped the strap from the lugholes¹⁴⁸:

The breakage of the watch parts is consistent with the expansion of the wrist as a consequence of the temporary cavity created by the passing of a high velocity round, such as the bullet recovered from the deceased, through the wrist. Furthermore, the missing strap link/s in addition to the deformation of once piece of strap adjacent to the exit wound, and the damage on the side of the bullet's jacket could be a result of the bullet striking the watch's inner strap when it exited the wrist.

476. Multiple parts of a Casio watch were located at the scene near the passenger seat of the Audi; it is believed this watch was being worn on Mr Baker's left wrist at the time he was shot. Mr Kabbani examined the watch which was in six parts. He was of the opinion that the shot to Mr Baker's *'left cuff was fired at close range of less than 50cm from the outer aspect of the wrist.'* He stated his findings were consistent with one shot being fired toward Mr Baker with his left wrist raised approximately to the level of his neck.

477. Mr Harrington examined a Nike bag in possession of Mr Baker at the time he was shot. A small hole was present in the strap of the Nike bag with heavy blood staining present around the area of damage. Mr Kabbani stated that the strap of the bag was found to have sustained bullet damage which was *'in-keeping with the position of the entry damage to the upper front zip and surrounding fabric of the sweatshirt AJW/17, and with the neck entry wound.'* The manbag was found to contain various personal items belonging to Mr Baker including a bicycle pump.

478. Mr Harrington examined the Audi to interpret the nature and distribution of blood staining in the vehicle. His conclusions were that Mr Baker was sat in the

¹⁴⁸ INQ0000027

front passenger seat when shot. The door was open when Mr Baker was shot. Mr Baker then moved, or was moved from the vehicle via the front passenger door towards the front of the vehicle.

479. Mr Bowden examined the Audi for gun-shot residue. Mr Bowden was not able to determine the exact distance between the muzzle of the firearm and the surface onto which the GSR was deposited in and on the vehicle. He was, however, able to draw conclusions that:¹⁴⁹

the overall level and distribution of the GSR identified on the analysed sample to be much more likely if the muzzle of the firearm was close to the opening between the Audi's bodywork and the front passenger door.

Post Incident Procedures

480. Officers were subsequently removed from the scene and post incident procedures commenced which included a non-conferring warning which was given during the pre-deployment briefings, and reiterated by DI Smith after the shooting of Mr Baker.

481. A post incident procedure (PIP) is a process undertaken when police discharge a firearm. This is a national process and guidance for the process is provided by the College of Policing within Authorised Professional Practice (APP) . The PIP for Operation Ankaa was conducted at the MPS post incident suite at Leman Street, London.

482. The officers were not separated when writing their accounts during the PIP, however the IPCC did supervise the writing of officers' initial and detailed accounts on 11 and 14 December 2015.

¹⁴⁹ MPS0000030

483. It was established at the PIP that none of the key policing witnesses were wearing body worn cameras at the time of the incident.

484. In December 2015, W80 had been an MPS police officer for 26 years, and an authorised firearms officer (AFO) since 1998. In 2010 until November 2013, W80 was an SFO (Specialist Firearms Officer). In November 2013, W80 became an MPS firearms instructor until 23 November 2015 at which point W80 re-joined as an operational SFO. He had undergone all the required training expected of an SFO when carrying out the role on 11 December 2015. The MPS's Chief Firearms Instructor Paul Thornhill stated that W80 exceeded the required refresher training contact hours to undertake the role as an SFO. W80 had his annual authority to deploy with firearms renewed on 26 March 2015.

485. On 11 December 2015, W80 was part of the PIP. At that time, W80 was being treated as a witness. During the PIP W80 wrote a stage three – personal initial account. Findings from the post-mortem conducted on 12 December 2015 indicated that W80's use of force may not have been justified, and that the actions of W80 may amount to the offence of murder. The MPS were notified of the IPCC's decision to declare the investigation criminal. The MPS informed W80 of this on the evening of Sunday 13 December 2015. The IPCC asked that W80 attend the IPCC Croydon office on 16 December 2015 for an interview under caution. At around 23.00 Assistant Commissioner Pat Gallan notified the IPCC that W80 had been informed of the criminal investigation, had his police warrant card removed and been given a warning not to confer with other officers.

486. At 13.47 on 14 December, 2015 the appropriate suspension papers were prepared and sent by email to Supt Dobinson. Supt Dobinson made attempts

to contact W80 to arrange to meet but got no reply. Supt Dobinson decided to make his way to W80's home address. PS Mick Burke (a Police Federation representative) had arranged to meet W80 at home at 16.00 that day. They all tried to contact W80 but were not successful. W80's partner returned home a short time after. She informed the officers she was of the belief W80 had gone to London/Leman Street. This was not the case. At around 17.00 officers commenced local searches for W80. At around 17.30pm W80 was declared a high-risk missing person (MISPER). The MPS commenced a MISPER investigation. The Homicide Task Force (HTF) were asked to take the lead on tracing and locating W80. The MPS Department of Professional Standards (DPS) also assisted. Various investigative enquiries and tasks were undertaken over the next two days.

487. At around 14.40 on 16 December 2015 W80 made a call home and gave details of his location. Family liaison officers who were present at W80's home address spoke with W80 to confirm his location. Two officers travelled to W80's location to search the area. W80 appeared to have attempted suicide during the period he was missing. MPS staff took him to hospital to receive medical treatment. On the evening of 16 December 2015 the IPCC deployed a team of operations staff to the area W80 had been located, with a view to arresting W80 following his disappearance. W80 was arrested by the IPCC for murder on 17 December 2015. W80's MPS computer profile was examined by the MPS High Tech Crime Unit (HTCU). There was no evidence any written information about Operation Ankaa was received via email.

488. On 17 December 2015 W80 was interviewed on 3 occasions but did not provide any information in response to questions during the interview. After each of the three interviews W80's legal representatives provided the IPCC with written accounts from W80 which the Inquiry will be able to consider

together with W80s evidence during the course of the hearings. Given the issues raised for the Inquiry’s consideration and W80’s mental health in the aftermath of the shooting, the Inquiry may wish to consider the wisdom or propriety of the MPS in having restored his role as a firearms officer, in particular as one with training responsibilities.

489. In judging those whose actions were relevant to the death of Jermaine Baker, both those in command of Operation Ankaa and the AFOs we know that you will be conscious of the passage of time and will ensure that their actions are seen in the context of how matters stood in 2015. It is hoped that the Inquiry will discover that, in many ways, there has been improvement over the course of time. If there has not, the Inquiry will wish to make whatever recommendations are likely to improve and further improve the course of policing across the country.

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