

<p>1 Wednesday, 21 July 2021 2 (10.00 am) 3 THE CHAIRMAN: Good morning, everyone. 4 MR MOSS: Good morning, sir, could the witness please be 5 sworn. 6 MR SIMON DOBINSON (sworn) 7 Questions from MR MOSS 8 MR MOSS: Can you please state your name and rank? 9 A. My name is Simon Dobinson and I am a commander in the 10 Metropolitan Police. 11 Q. Commander, is it right that in December 2015 you were 12 a superintendent? 13 A. That's correct. 14 Q. When you were a superintendent, and also when you wrote 15 your statement, I think, in May 2016, you were the 16 superintendent in charge of specialist operations in 17 SCO19? 18 A. That's correct. 19 Q. Is it right now that you also have a role in specialist 20 operations, but they are different specialist 21 operations? 22 A. Yes, I work in a business group called specialist 23 operations, whereas at the time in 2015 I was working in 24 SCO19, which now is in Met operations and I had 25 responsibility for specialist function, specialist</p> <p style="text-align: center;">Page 1</p>	<p>1 operations, specialist armed operations. 2 Q. Is it right now that in your role as a commander you 3 don't have responsibility for SCO19? 4 A. Correct. 5 Q. Your first involvement with Operation Ankaa, with W80, 6 was I think on Sunday, 13 December 2015? 7 A. That's correct. 8 Q. You received a telephone call I think from Chief 9 Superintendent Gallagher? 10 A. Yes. 11 Q. You understood that Chief Superintendent Gallagher was 12 informing you of a decision that had been taken by DAC 13 Fiona Taylor; is that right? 14 A. Yes. 15 Q. Is it right that that was a decision taken in response 16 to a request from the IPCC? 17 A. Yes. 18 Q. What was the request and what was the decision? 19 A. So the request was to attend a location where W80 would 20 be so I could serve suspension papers on him. 21 Q. What did you do, having received that telephone call 22 from Chief Superintendent Gallagher? 23 A. So I left my home and I attended Leman Street, which is 24 a main location, and I expected to receive paperwork 25 that I could then use to then inform the officer and</p> <p style="text-align: center;">Page 2</p>
<p>1 suspend him. 2 Q. Did you get to Leman Street at 8.00 or 8.30 in the 3 evening of Sunday the 13th? 4 A. Yes. 5 Q. Did you receive any paperwork when you arrived? 6 A. No. No, I didn't. 7 Q. What did you think that paperwork would contain? 8 A. So I expected that paperwork to contain the rationale 9 for the suspension, which I would then have to serve on 10 the officer in order to comply with the process. 11 Q. Did you independently know the rationale for the 12 suspension? 13 A. No. 14 Q. Why not? 15 A. So I would have received an email, so I did have 16 an email outlining what the matter was about, but 17 I didn't have the formal wording, I didn't have the 18 correct paperwork, to be able to serve on that officer 19 as a requirement of the suspension process. 20 THE CHAIRMAN: A bit of a waste of time as far as you were 21 concerned, wasn't it? 22 A. I was quite surprised that that was not available to me, 23 yes. 24 THE CHAIRMAN: Yes. 25 MR MOSS: Did you have any previous knowledge of W80?</p> <p style="text-align: center;">Page 3</p>	<p>1 A. Yes, I did know the officer. 2 Q. In what capacity? 3 A. So I had known the officer since 2002, when I had served 4 with him when I was an ARV sergeant and he was an ARV 5 PC. He was on my team. I didn't directly supervise 6 him, I worked at the north base, he operated from the 7 south base, but from time to time during operations we 8 would come across each other and so I knew him. 9 I wouldn't say I was a close associate with him, but 10 I knew him during a two-year period that we worked on 11 the same team, with about 40 to 50 people on the team. 12 Q. At that time did you know him socially as well as in 13 that capacity? 14 A. No. 15 Q. Did you continue to know him after 2002 until 2015? 16 A. Only at a period of time when I was appointed back into 17 SCO19 in 2011, 2012, and again I knew him when I came 18 across him but I didn't work directly with him. 19 Q. So you knew him by name? 20 A. Yes, by name and sight and to be able to say hello to 21 and to just converse with him. 22 Q. But did you talk outside of work? 23 A. No. 24 Q. Prior to the telephone call on 13 December, what did you 25 know about the events on 11 December?</p> <p style="text-align: center;">Page 4</p>

1 (Pages 1 to 4)

1 **A. About the operation?**
 2 Q. Yes.
 3 **A. So I knew nothing about the operation, I was aware from**
 4 **having senior responsibility for the CTSFO teams that**
 5 **they had operations, a brief awareness of how many teams**
 6 **were deployed on certain days, but I had no day-to-day**
 7 **knowledge of the operations or the detail as to what**
 8 **their tasks were or what the investigations were**
 9 **relating to.**
 10 Q. Before you received that telephone call on the 13th, had
 11 you received any prior warning that W80 was likely to be
 12 suspended?
 13 **A. No.**
 14 Q. Did you expect that W80 was likely to be suspended from
 15 what you independently knew?
 16 **A. No.**
 17 Q. So you turn up at Leman Street, 8.00 or 8.30 in the
 18 evening on Sunday the 13th, you are expecting there to
 19 be paperwork and there isn't paperwork. What did you
 20 then decide to do?
 21 **A. So I contacted the on-call director of professional**
 22 **standards, which is DCI Katy Lilburn to seek a view as**
 23 **to what to do next and eventually I got a phone call**
 24 **back from her and I started to have a conversation**
 25 **around what our options were.**

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1 Q. Notwithstanding the absence of paperwork, did you reach
 2 a view as to what you should do in respect of welfare of
 3 W80?
 4 **A. So ahead of the conversation with DCI Lilburn, the**
 5 **important context here is around the time of day, so it**
 6 **was -- I know in my statement I have talked about**
 7 **contacting W80 at 2109 hours. The reality is that if**
 8 **I am going to attend his home address or to a location,**
 9 **agreeable to both of us where I could meet him and**
 10 **provide suspension notices, I had to first of all make**
 11 **sure he was available, because at that point he**
 12 **obviously had no idea as to what was happening and**
 13 **considering it was 9.00 in the evening, I was concerned**
 14 **that I wouldn't be able to actually contact him, so**
 15 **I put a phone call into him. Unfortunately that phone**
 16 **call was before it was confirmed to me by DCI Lilburn**
 17 **that we didn't have the requisite paperwork to be able**
 18 **to actually then carry out the suspension.**
 19 Q. My understanding, and tell me if I am right or wrong, is
 20 that that first phone call at 2109 went to voicemail?
 21 **A. Yes.**
 22 Q. Did you speak to W80, apart from through his voicemail,
 23 before you knew that there were not suspension papers?
 24 **A. I did, because he had -- I believe so, so I had left him**
 25 **a message, I had contacted him asking that I would need**

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1 Q. What were the options?
 2 **A. At one point, DCI Lilburn suggested that we start**
 3 **creating a template using the suspension papers that we**
 4 **would do for anyone normally and start writing out the**
 5 **regulation notice. And then during that conversation**
 6 **she stated clearly to me that it was an IPCC-led**
 7 **investigation, they need to provide that rationale and**
 8 **that neither she nor I could or should write that**
 9 **rationale down and therefore we had to wait for that**
 10 **rationale and the paperwork to come through from the**
 11 **IPCC.**
 12 Q. Whose fault -- if that is not too loaded a word -- did
 13 you understand that to be that there were not suspension
 14 papers ready?
 15 **A. So I felt that was the absolute responsibility of the**
 16 **IPCC.**
 17 THE CHAIRMAN: Which is why you declined to create the
 18 paperwork through the Met?
 19 **A. Yes.**
 20 THE CHAIRMAN: Yes.
 21 MR MOSS: Do you know if Detective Chief Inspector Lilburn
 22 shared the view that it was the fault of the IPCC?
 23 **A. Yes.**
 24 Q. You do know and she did share that view?
 25 **A. Yes, with me on the phone.**

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1 **to see him to carry out the suspension notice, and**
 2 **I believe I did speak to him. Yes, I did, I did speak**
 3 **to him prior to knowing that I would not be able to**
 4 **carry out the suspension notice.**
 5 Q. You spoke to him thinking that you would carry out the
 6 suspension?
 7 **A. Yes.**
 8 Q. I think before you spoke to W80, but after you spoke to
 9 DCI Lilburn, you had a telephone call with somebody
 10 else, do you remember that? A police sergeant?
 11 **A. Are you referring to Mick Burke?**
 12 Q. Yes.
 13 **A. Yes.**
 14 Q. Who is that?
 15 **A. Yes, so Mick Burke was from Federation, so one of the**
 16 **requirements or one of the clear points of guidance**
 17 **around suspension is that you inform the welfare**
 18 **officer, and then you have someone there to provide**
 19 **support and that can be someone in a Federation**
 20 **capacity. So I wanted to make sure that at the point of**
 21 **suspending W80 that they had that relevant support there**
 22 **available to them at the same time.**
 23 Q. Was Police Sergeant Burke of the Federation somebody
 24 with a particular connection to W80 or was he just the
 25 person who picked up the phone on a Sunday night?

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1 **A. So he was the on-call Federation representative,**
 2 **I believe he would have known W80, but whether or not**
 3 **they had a close personal relationship or not I wouldn't**
 4 **have known and I don't know now.**
 5 Q. But you didn't choose him for any particular reason, you
 6 chose him because he was the one that answered the
 7 number you called?
 8 **A. Yes.**
 9 Q. Let's go forwards in the narrative, but back in the
 10 questions.
 11 You do telephone W80 for a second time, he does
 12 answer the telephone?
 13 **A. Yes.**
 14 Q. By this point you think that you are going to be
 15 suspending him that night?
 16 **A. Yes.**
 17 Q. Can you tell us please about that conversation?
 18 **A. Yes, so I spoke with him and I had told him that I would**
 19 **be looking to meet him to give the suspension notice.**
 20 **And I asked him where he wanted to meet, whether he**
 21 **wanted me to attend his home address, or another**
 22 **location, and he was happy for me to attend his home**
 23 **address.**
 24 Q. I think you in fact had two telephone conversations with
 25 him in short succession. The first you called him and

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1 know the answers to during that telephone call or did
 2 you answer them at a later time?
 3 **A. From memory I would have tried to have given as much**
 4 **detail as I could in relation to the questions, but**
 5 **I wanted to be clear that I didn't overstep the brief**
 6 **that I had, which was around suspending him, so I was**
 7 **very limited in what I could actually tell him.**
 8 Q. I am going to later ask you a couple of questions about
 9 potential conflicts of interest, but maybe we can
 10 address that at this point. You say that you were aware
 11 that you were working in the capacity to suspend him,
 12 you didn't want to overstep that. What exactly do you
 13 mean?
 14 **A. So my responsibility in suspending him, this was the**
 15 **first time I had ever been -- and only time -- I had**
 16 **ever been asked to suspend an officer, it's not a --**
 17 THE CHAIRMAN: I was going to ask you, why were you selected
 18 for this task?
 19 **A. So at the time, and it still remains the case, that at**
 20 **any one time there will be an on-call senior officer,**
 21 **and that is normally to do with post incident, for any**
 22 **shooting but in this instance, I happened to be the**
 23 **on-call officer and I took the call and that is why**
 24 **I was asked and selected to go and provide the**
 25 **suspension.**

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1 then shortly after that he telephoned you back?
 2 **A. Yes.**
 3 Q. We will deal with those separately.
 4 How was he during that first conversation?
 5 **A. So he was quite lucid, he was quite calm, I spoke to**
 6 **him. Was not very conversational and that was reason**
 7 **behind the second phone call, was because he had been**
 8 **sat with his wife at that time and he had obviously had**
 9 **a number of questions or concerns that he hadn't really**
 10 **been able to articulate in front of her, so that is why**
 11 **he phoned me back and we had a second conversation.**
 12 Q. So during that second conversation, he had some
 13 questions for you?
 14 **A. So he had said that he had been sitting with his**
 15 **partner, he could speak freely, he had lots of questions**
 16 **in relation to why it was happening, why the suspension**
 17 **was happening, what it meant for him, why he was being**
 18 **suspended, what he was suspected of, why he couldn't**
 19 **attend Leman Street. And I gave a rationale as per the**
 20 **email that I had been given, not the notice of the**
 21 **papers because I didn't have that, because there was**
 22 **an indication that a criminal offence may have been**
 23 **committed by him and that was reflecting the wording**
 24 **that I had read in the email.**
 25 Q. Did you answer all of the questions that he wanted to

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1 MR MOSS: We heard evidence from Superintendent Nelson last
 2 week, who is part or was part at that time at least of
 3 SCO19, and was involved in searching for W80, and
 4 questions were asked of Superintendent Nelson as to
 5 whether it should have been him and his command, SCO19,
 6 doing that or whether it should have been MIT that later
 7 took over and whether they should have been involved
 8 from the start. I am going to ask a similar question to
 9 you.
 10 You were part of the same command as W80. Do you
 11 think that it should have been someone from a different
 12 command who was serving the suspension papers?
 13 **A. No.**
 14 Q. You had some line management responsibilities for W80 at
 15 that time, did you?
 16 **A. So I was in the hierarchy responsible for him, but**
 17 **a number of levels removed.**
 18 **The legal requirement around suspension requires**
 19 **a superintendent or above to suspend. It doesn't make**
 20 **any requirement for there to be someone outside of any**
 21 **form of chain of command or hierarchy. There are**
 22 **a number of forces nationally which have quite a small**
 23 **number of superintending ranks and therefore any one of**
 24 **them may be known and have line management for any**
 25 **number of officers that could be suspended.**

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1 Q. Did you feel conflicted in any way?
 2 **A. I conflicted -- I was conflicted internally, because**
 3 **I had to give very bad news to someone that I knew.**
 4 THE CHAIRMAN: When you say "internally", you mean
 5 "emotionally"?
 6 **A. Emotionally.**
 7 THE CHAIRMAN: Yes.
 8 **A. Yes. But as far as the process was concerned, I knew**
 9 **I had an absolute requirement to carry out the process**
 10 **according to what I had been tasked with. I do feel**
 11 **that there is in a way a benefit of someone who knows**
 12 **the individual to carry out the suspension, because they**
 13 **have the opportunity to understand the context in which**
 14 **that person has been operating.**
 15 THE CHAIRMAN: The problem is that it is harder for the
 16 person in your position, it is better for the person
 17 receiving the bad news to receive it from someone he
 18 knows, but it is actually harder for the person who
 19 knows the individual to be suspended to communicate that
 20 news, is that the position?
 21 **A. So, I think emotionally for an individual, I think that**
 22 **is very much down to the individual, for me emotionally**
 23 **it was hard, yes --**
 24 THE CHAIRMAN: Yes.
 25 **A. -- but I think the benefit, as I say --**

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1 **a familiar and friendly face, but I made absolutely sure**
 2 **that that person had not been involved in or had any**
 3 **understanding or awareness of what the operation was.**
 4 Q. Why was that last bit so important to you?
 5 **A. Because certainly the suspension guidance requires that**
 6 **the superintendent who carries out that process must be**
 7 **independent of any investigation and have no detailed**
 8 **involvement in any planning. And therefore I felt it**
 9 **was necessary that anybody who came with me was of the**
 10 **same statutory stature, same stance.**
 11 Q. Before setting off from Leman Street you became aware
 12 that there would not be any suspension paperwork
 13 available that night, you had already spoken you said to
 14 W80 by that point and you have said that there will be
 15 suspension paperwork.
 16 **A. Yes.**
 17 Q. When you find out there will not be, do you telephone
 18 him again?
 19 **A. Yes.**
 20 Q. What do you say and what does he say?
 21 **A. So I was incredibly humble and apologetic, because I had**
 22 **given him this really difficult news and then I was**
 23 **phoning back to say that I wasn't going to be going**
 24 **through that process and that was awful.**
 25 Q. Why did you still go to see him?

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1 THE CHAIRMAN: The benefit is to him rather than to you?
 2 **A. And I think the benefits to the person carrying out the**
 3 **suspension is that you are aware of the circumstances**
 4 **that that person would operate in day to day, you have**
 5 **got an understanding of the environment that they would**
 6 **work in, but there is no legal requirement for there to**
 7 **be any separation of line management or contact or**
 8 **anything like that.**
 9 THE CHAIRMAN: Thank you.
 10 MR MOSS: Later that night, you then went to W80's home
 11 address -- of course we don't need to know where that
 12 is -- and you took a person with him, who was a CTSFO --
 13 **A. Yes.**
 14 Q. -- we don't need to know who that is.
 15 Is it right though that that CTSFO was a friend of
 16 W80?
 17 **A. Yes.**
 18 Q. Why did you take that person with you?
 19 **A. So I wanted to make sure that (a) I had someone with me**
 20 **to be able to share the driving, because of the time**
 21 **I was driving down there and the time I would be driving**
 22 **back, someone who would probably be familiar as another**
 23 **CTSFO. It just so happened that that person was also**
 24 **a friend of W80's, which as far as I was concerned was**
 25 **fantastic, because it meant that they would see**

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1 **A. So there was part of me that wanted to provide the**
 2 **assurance to him that I wasn't only contacting him and**
 3 **interested around complying with the process, I was his**
 4 **senior manager and whilst day to day had little or no**
 5 **contact with him, I was still his senior manager.**
 6 **I held a position of responsibility in the command for**
 7 **a whole number of CTSFOs, I continued to be a strategic**
 8 **firearms commander and run operations where some of**
 9 **these officers in the future would be deployed upon and**
 10 **I was also an active post-incident manager and could be**
 11 **involved in a post incident shooting procedure with any**
 12 **officer on any given day, and I wanted to make sure that**
 13 **it was seen by others and recognised by W80 that I was**
 14 **interested genuinely in his welfare and wanted to**
 15 **provide support to him, and therefore, having told him**
 16 **that I would no longer be able to suspend him that**
 17 **evening, I wanted to give him that assurance that if**
 18 **there was anything else he wanted to know that I could**
 19 **help with, beyond the detail of the operation, that**
 20 **I was there to try and help him. In his capacity as**
 21 **a senior manager and someone who had known him for**
 22 **a long period of time, so I made the offer just to go**
 23 **and see him if he had any questions.**
 24 Q. When I and the chairman asked you questions about your
 25 impartiality, you emphasised quite properly that you

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1 were quite a few levels of rank away from W80 and
 2 although you were technically his line manager, there
 3 were a lot of line managers between you and him. But in
 4 answer just now to the question of why you still went to
 5 see him, you said well I was his line manager and I had
 6 some welfare responsibilities, and I am paraphrasing.
 7 Do you want to reconsider your first answer, is it
 8 actually the case that you did have welfare
 9 responsibilities for him and maybe that did lead to
 10 a conflict in relation to whether you should have
 11 suspended him?
 12 **A. No. I had senior responsibility for a large number of**
 13 **people. I did not have day-to-day welfare**
 14 **responsibilities, but I have a strategic responsibility**
 15 **for the general wellbeing and support of my staff. And**
 16 **I considered that as a responsibility to make sure that**
 17 **if I had had -- you know, broken bad news to him, which**
 18 **I had done so, that actually I would just demonstrate my**
 19 **own humility and the fact that I cared how he felt and**
 20 **it was simply reaching out to him. And I made the offer**
 21 **to him that if he changed his mind and didn't want to**
 22 **talk to me, that I would just turn around and go back.**
 23 Q. Did he want you to attend?
 24 **A. He did.**
 25 Q. So you did attend and you met with him in his living

1 room?
 2 **A. Yes.**
 3 Q. How was he?
 4 **A. He was calm, he was lucid, he was quite relaxed and we**
 5 **sat there and we had a conversation about a number of**
 6 **issues, none of which involved the operation, his**
 7 **rationale, his thinking, none of that. It was more**
 8 **about process, around how long he may be suspended for.**
 9 **So a lot of it was conjecture from his part, but**
 10 **I really was there just to try and provide support and**
 11 **just demonstrate that I was prepared to listen and take**
 12 **some interest in what was happening in a very difficult**
 13 **time for him.**
 14 Q. Was the CTSFO who was we are not naming in the living
 15 room as well?
 16 **A. He was.**
 17 Q. Was W80's wife in the living room?
 18 **A. She was.**
 19 Q. Was anybody else there?
 20 **A. No.**
 21 Q. You told him that you were not carrying out the
 22 suspension, you had already told him that on the
 23 telephone.
 24 Had you been given any other instructions by Chief
 25 Superintendent Gallagher?

1 **A. So I had been asked if I was able to take his warrant**
 2 **card.**
 3 Q. Was that an ask not a tell?
 4 **A. It was an ask. It was an ask. Because I had made it**
 5 **clear that I was going down to support and provide**
 6 **welfare. I wasn't going down in the capacity to suspend**
 7 **him, that was absolutely clear in my mind and I did**
 8 **communicate that back to Mr Gallagher at the time.**
 9 Q. Did you take his warrant card?
 10 **A. No.**
 11 Q. Why did you not do so?
 12 **A. So two key issues for me.**
 13 **First of all, the guidance that I was working to**
 14 **makes it absolutely clear that at the time of serving**
 15 **the paper, the form 163 with the rationale, at the time**
 16 **of serving that -- sorry, at the time of the suspension,**
 17 **I have to serve that paper, and then I must also then**
 18 **take the warrant card. So I wasn't complying with the**
 19 **guidance, I was not able to comply with the process, and**
 20 **therefore I felt taking the warrant card would be out of**
 21 **process and I didn't see how I could legitimately do**
 22 **that.**
 23 **The second reason I didn't take it was because I was**
 24 **going down there and I had made it quite clear to him**
 25 **that I was going down there to provide support, welfare,**

1 **to take an active interest in him and I didn't want**
 2 **there to be a risk that I would be seen as duplicitous**
 3 **in trying to take his warrant card through various means**
 4 **under some form or guise of a welfare visit.**
 5 Q. Was it maybe then your mistake not to have told him that
 6 you were going to be taking his warrant card before you
 7 set off?
 8 **A. Sorry, I don't understand the question?**
 9 Q. One of the reasons you didn't take his warrant card is
 10 because you had not told him in advance you were going
 11 to take his warrant card. Should you have maybe have
 12 told him in advance you were going to take his warrant
 13 card?
 14 **A. No, because I didn't -- at the time when I contacted him**
 15 **originally, that I would be talking ... that I would be**
 16 **going to suspend him, I just talked about that I was**
 17 **just going to suspend him, I didn't talk through the**
 18 **process of what that would involve. So at no point did**
 19 **I state to him that I would be taking his warrant card.**
 20 THE CHAIRMAN: Can I ask that question from a slightly
 21 different angle.
 22 You were not going to be able to serve the
 23 suspension papers on him, you were there in as much out
 24 of the kindness of your heart to try to assist him and
 25 offer him support. If you were not going to suspend

1 him, because you couldn't, why ask for the warrant card
 2 at all?
 3 **A. And that is why I never asked for it.**
 4 THE CHAIRMAN: I'm sorry, I thought you asked for it and he
 5 declined to give it to you. I misunderstood you.
 6 **A. No, I never asked for the warrant card.**
 7 THE CHAIRMAN: Fine, and that was because you can't suspend
 8 him?
 9 **A. That's right.**
 10 THE CHAIRMAN: Yes.
 11 MR MOSS: I am going to look at the issue from a third
 12 angle. You were aware at this time of the IPCC
 13 investigation, weren't you.
 14 **A. Yes.**
 15 Q. You were aware that was an investigation in relation to
 16 the offence of murder?
 17 **A. Yes.**
 18 Q. You didn't have any independent knowledge prior to the
 19 telephone call on Sunday the 13th of the facts of what
 20 happened on the 11th?
 21 **A. No.**
 22 Q. And you had very limited information, which is why you
 23 couldn't carry out the suspension?
 24 **A. Yes.**
 25 Q. Knowing that there was an officer who was going to be

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1 Q. Did it cross your mind that you might not tell him that?
 2 **A. It was a question that I wrestled with, because that is**
 3 **an incredibly emotive statement to make to someone.**
 4 **I was concerned about how he would react but I also felt**
 5 **that being in receipt of that information, I had to be**
 6 **transparent and open with him because he would be made**
 7 **aware of that at some point and I would hate for him to**
 8 **think that I was in receipt of information that I wasn't**
 9 **prepared to share with him at that time.**
 10 Q. Were you aware that the IPCC wanted to investigate him
 11 and interview him probably on Wednesday of the coming
 12 week?
 13 **A. Yes, I was.**
 14 Q. Did you tell him that fact?
 15 **A. I did not tell him on the Wednesday -- I did not tell**
 16 **him he would be likely to be interviewed on the**
 17 **Wednesday.**
 18 Q. Why did you keep that ...
 19 **A. So, to be quite honest, my confidence in that date was**
 20 **not high. I hadn't been given the paperwork that**
 21 **I should have been given the paperwork and I felt that**
 22 **in itself was a fairly strong indicator that by me**
 23 **telling him that it would be Wednesday morning, may be**
 24 **unreliable, and actually it may be the Thursday, it**
 25 **might be Thursday afternoon, and therefore I didn't want**

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1 investigated for murder, and without knowing all of the
 2 reasons as to why that was the case, did it sit well
 3 with you that you were allowing him to keep his warrant
 4 card?
 5 **A. So for me, I knew nothing about the incident, I knew**
 6 **nothing about the circumstances, but there is a very**
 7 **clearly defined process by which we work to around the**
 8 **investigation and the provision of evidence. That**
 9 **officer would have been involved in that process, stage**
 10 **one, stage 2, through PIP. The subsequent provision for**
 11 **the details would have been provided, but I was asked to**
 12 **intervene before that could happen. Knowing that that**
 13 **investigation would be taking place, but my having my**
 14 **own experience and understanding around post-incident**
 15 **procedure, I trust the process that works. I wasn't**
 16 **going to assert that by making my own determination or**
 17 **acting independently outside of that process, or what**
 18 **I was being asked to do by the IPCC.**
 19 Q. Do you think you let the fact that he was one of your
 20 trusted colleagues influence your decision to let him
 21 keep the warrant card?
 22 **A. No.**
 23 Q. Did you tell W80 that the IPCC was going to investigate
 24 him for murder?
 25 **A. Yes.**

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1 **to give him false assumptions around what he may need to**
 2 **do.**
 3 Q. In the second paragraph on page 6 of your witness
 4 statement you say that you explained to W80 the reasons
 5 for which he was going to be suspended. One of which
 6 was to prevent contact with any MPS firearms officer.
 7 **A. Yes.**
 8 Q. How do you think that sat with the fact that you were
 9 there and you had a CTSFO with you?
 10 **A. So, it was to ensure he didn't have contact with**
 11 **witnesses and in particular any SCO19 officer, but**
 12 **I considered that to be, again, very ambiguous, because**
 13 **SCO19 consists of hundreds of officers. I am aware that**
 14 **there are number of officers who have good close**
 15 **personal relationships with other officers and I felt**
 16 **that it would be folly to suggest to him that he cannot**
 17 **have contact with anyone within that organisation,**
 18 **SCO19, and that was too ambiguous.**
 19 Q. Did you make that decision with your welfare hat on?
 20 **A. Yes.**
 21 Q. After this I think you then returned to London, and you
 22 got back in the early hours of Monday?
 23 **A. Yes.**
 24 Q. Did you receive an update from the DPS on Monday
 25 afternoon?

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1 **A. Yes, I did.**
 2 Q. Was that an email?
 3 **A. Yes, it was.**
 4 Q. Did it come with forms 161 and 163?
 5 **A. Yes, it did.**
 6 Q. Can you assist us with what those forms are?
 7 **A. So those forms are the suspension papers, one is the**
 8 **actual suspension paper with the rationale and the other**
 9 **one is effectively a document that provides guidance to**
 10 **the officer that is being suspended.**
 11 Q. When did you intend to serve those forms on W80?
 12 **A. So I attended in the afternoon of the Monday, some time**
 13 **mid-afternoon.**
 14 Q. Attended where, sorry?
 15 **A. Sorry, his home address.**
 16 Q. Did he know you were coming?
 17 **A. No.**
 18 Q. Why not?
 19 **A. So I had told him the previous night that I would be**
 20 **back when I had the paperwork but I didn't know when**
 21 **I would get the paperwork through and therefore I didn't**
 22 **know what time I would be arriving.**
 23 Q. I think it is right that you did try to telephone him
 24 but he didn't answer; is that correct?
 25 **A. Yes.**

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1 **not visibly upset but was obviously very, very concerned**
 2 **and I felt taking an officer with me who had**
 3 **a background in a family liaison officer, which was**
 4 **beneficial, would be good, for being able to manage that**
 5 **relationship but also I needed a witness with me to be**
 6 **able to carry out that suspension.**
 7 Q. Obviously you had the unnamed CTSFO as your witness the
 8 day before?
 9 **A. Yes.**
 10 Q. But that unnamed CTSFO was not a member of the senior
 11 leadership team --
 12 **A. No.**
 13 Q. -- and we don't know that that officer had any
 14 experience as a FLO, as a family liaison officer.
 15 **A. No.**
 16 Q. Should you have taken someone with you the night before
 17 who did have such experience?
 18 **A. It was simply who was available, there is no requirement**
 19 **for a FLO to be there at all, there is no requirement**
 20 **for that witness to be of any particular rank, it was**
 21 **just using my own judgment around who was best placed to**
 22 **help make that process as simple and palatable as**
 23 **possible.**
 24 Q. In hindsight, looking back at how your conversations
 25 went with W80 and his wife on the night of the

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1 Q. So you went nonetheless?
 2 **A. Yes.**
 3 Q. Why didn't you wait until he did answer and give them at
 4 a pre-arranged time?
 5 **A. Because I knew that there was a sense of urgency about**
 6 **this being done, the process had to be completed and**
 7 **I had no reason why he didn't answer the phone, so**
 8 **I needed to go to the location that I knew at least**
 9 **I would be able to carry out the process when I was able**
 10 **to make contact with him.**
 11 Q. Can you explain why there was a sense of urgency?
 12 **A. Because of the fact that the papers had been expected to**
 13 **be delivered to him on the day before, and I knew this**
 14 **was a process that had to be complied with.**
 15 Q. Is this urgency from an HR perspective, is it urgency in
 16 fairness to W80, is it urgency to protect the public and
 17 suspend an officer in respect of whom there is some
 18 suspicion, what sort of urgency?
 19 **A. Just the fact that the process needed to be complied**
 20 **with, and it should have been done the day before.**
 21 Q. Did you take Detective Superintendent Jane Gyford with
 22 you?
 23 **A. I did.**
 24 Q. Why did you take her with you?
 25 **A. So I had spoken with W80 the night before, his wife was**

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1 Sunday/going into the Monday, would it have helped to
 2 have had Jane Gyford with you then, could you see any
 3 benefit in hindsight?
 4 **A. No.**
 5 Q. You went to W80's home, was anybody there when you
 6 arrived?
 7 **A. No.**
 8 Q. What sort of time was it that you arrived there?
 9 **A. So arrived there mid-afternoon, but I know that his wife**
 10 **arrived home around 4.30 to 5.00.**
 11 Q. Did she seem surprised to see you there?
 12 **A. No, not surprised. You know, I had made it quite clear**
 13 **that I would be returning to carry out the suspension.**
 14 Q. Was W80 with her?
 15 **A. No.**
 16 Q. Where did she think W80 was?
 17 **A. So she told me that he was in London, visiting his**
 18 **solicitor and then going to Leman Street.**
 19 Q. Did you know immediately that that was not true?
 20 **A. I had a strong suspicion that that was not correct.**
 21 **A quick conversation with Mick Burke confirmed --**
 22 **because he knew what the legal movements would be --**
 23 **that that was definitely not correct.**
 24 Q. Presumably you knew also that when you spoke to W80 on
 25 the Sunday night going into the Monday, you had

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1 explained to him he shouldn't be having contact with
 2 colleagues, so he wouldn't be at Leman Street?
 3 **A. I knew definitely he wouldn't be at Leman Street. As**
 4 **far as visiting his solicitor was concerned, I was not**
 5 **completely aware of that until Mick had confirmed that**
 6 **to me.**
 7 THE CHAIRMAN: Can I ask this, you couldn't suspend him, you
 8 didn't ask for his warrant card, but presumably you said
 9 something about not going to work?
 10 **A. Yes, well I would have talked about certainly not**
 11 **attending Leman Street for the post-incident process and**
 12 **not contacting anyone involved in the incident**
 13 **operation.**
 14 THE CHAIRMAN: Was that sufficient or should you have said,
 15 "Stay away from work until you hear from us"?
 16 **A. I can't recollect exactly what the conversation was, but**
 17 **I would have made it absolutely clear not to contact**
 18 **anyone who was involved in the operation or incident and**
 19 **certainly not to attend the post-incident procedure,**
 20 **which would have taken place at Leman Street.**
 21 THE CHAIRMAN: That, with respect, is not the same as
 22 telling him not to go to work, is it? Or is it?
 23 **A. No, I wouldn't have told him not to go to work, it was**
 24 **implicit in the conversation.**
 25 THE CHAIRMAN: You think he would have understood it from

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1 **also be confident in the fact that if the process is not**
 2 **applied properly, then actually that can create problems**
 3 **further along the line.**
 4 **So I think that as long as the public are aware that**
 5 **there is a clearly defined process that is being**
 6 **followed, then they would have confidence then in the**
 7 **outcome.**
 8 THE CHAIRMAN: I have asked the question twice. I cannot
 9 ask it again. I would have thought it was a yes or a no
 10 personally, but you have answered it as you have and we
 11 will leave it there.
 12 **A. Okay.**
 13 THE CHAIRMAN: Thank you.
 14 MR MOSS: After you became aware that W80 was not where he
 15 said he was, did you carry out some searches?
 16 **A. Yes.**
 17 Q. For how long did you carry out those searches?
 18 **A. Until about 2.00 am in the morning.**
 19 Q. Did you ever serve suspension papers on W80, did you
 20 personally?
 21 **A. No.**
 22 MR MOSS: Sir, those are all the questions I am intended to
 23 ask, I know I am going to be asked to ask a few more.
 24 In the meantime, do you have any while I look at those?
 25 THE CHAIRMAN: No, thank you.

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1 what you said?
 2 **A. Absolutely, yes.**
 3 THE CHAIRMAN: Yes.
 4 MR MOSS: Do you think the public would be surprised to know
 5 that an officer in these circumstances was allowed to
 6 keep their warrant card?
 7 **A. I think the public -- if the public were aware of what**
 8 **the post-incident process was and what the requirement**
 9 **is around making sure the integrity of the suspension**
 10 **process as well as the provision of evidence and the**
 11 **investigation is concerned, that they would have**
 12 **confidence in the fact that the process was being**
 13 **applied.**
 14 THE CHAIRMAN: I think that is not an answer to the
 15 question.
 16 MR MOSS: Is there anything else you would like to say in
 17 answer to the question?
 18 THE CHAIRMAN: You were asked specifically about whether you
 19 think the public would have confidence in the fact that
 20 against this background this officer was being allowed
 21 to retain his warrant card?
 22 **A. So I think the public would expect there to be a very**
 23 **clear process applied around how that officer would be**
 24 **held to account and how evidence would be gathered from**
 25 **them. In these circumstances I think the public would**

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1 MR MOSS: Commander, on behalf of the family of
 2 Jermaine Baker I am asked to ask you a few questions.
 3 Whose responsibility was it to prepare the
 4 suspension paperwork, you have said that the fault for
 5 it not being ready lay with the IOPC, but was it theirs
 6 to prepare or was it the Met's to prepare?
 7 **A. It was the IPCC's responsibility to prepare, because it**
 8 **was their rationale for which he was being suspended.**
 9 Q. So just so we understand the process, would a copy of it
 10 be written on a form 161, 163, by the IOPC and would the
 11 DPS be a postbox and no more than that passing it on
 12 from them to you?
 13 **A. In the circumstances as explained earlier, the DPS were**
 14 **unable to provide me with that paperwork. They didn't**
 15 **have it, they couldn't complete the form on behalf of**
 16 **the IOPC, and therefore I was wholly dependent upon that**
 17 **document coming from the IOPC, via the DPS.**
 18 Q. So the rationale for suspension is entirely the decision
 19 of the IOPC?
 20 **A. So whether or not the rationale for suspension sits with**
 21 **the IOPC, or whether that sits with senior officers in**
 22 **the Met, I am a little bit unsure around that, but the**
 23 **rationale that sits behind the reason for the**
 24 **investigation and what the officer is being suspected**
 25 **of, is clearly within the domain of the IOPC.**

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1 Q. Do you know where as a matter of law responsibility sits
 2 for deciding whether an officer is suspended?
 3 **A. I would -- I believe it would sit with the police, as**
 4 **opposed to the IOPC.**
 5 Q. With the Met as opposed to the IOPC?
 6 **A. I believe that decision would sit with them, yes.**
 7 Q. Do you know whether as a matter of law it is also for
 8 the police, for the Met, to decide on the rationale for
 9 suspension and the explanation of that for the officer?
 10 **A. So I don't know on a matter of law, no.**
 11 Q. Taking blame away from it for a second, do you just know
 12 why as a matter of fact the papers were not ready?
 13 **A. I don't know.**
 14 Q. Is that something you have enquired into since then?
 15 **A. No.**
 16 Q. Did DCI Lilburn know on that night?
 17 **A. No.**
 18 Q. Was she as surprised as you were?
 19 **A. She was surprised.**
 20 Q. Did either of you discuss whether you should make
 21 enquiries as to why this was not ready?
 22 **A. We didn't discuss whether we should make enquiries there**
 23 **and then, I was wholly dependent upon the DPS providing**
 24 **that rationale and the correct paperwork to me.**
 25 **As I said earlier at one point DCI Lilburn and**

1 **I started discussing what that rationale might look**
 2 **like, how do we put that into paperwork, but it was very**
 3 **clear that we just weren't in receipt of the**
 4 **information.**
 5 THE CHAIRMAN: It wasn't your job, that is the point.
 6 **A. No.**
 7 THE CHAIRMAN: But, equally, you were there that night for
 8 a specific purpose, and it wasn't going to be easy, but
 9 that is why you were there, and it is never easy to tell
 10 someone they are to be suspended, particularly if you
 11 know them.
 12 But it is also, isn't it, the sort of situation that
 13 you don't want to happen again? It is something from
 14 which lessons should be learnt. If the IOPC are taking
 15 these decisions upon themselves and deciding the
 16 rationale, the paperwork has to be ready.
 17 I think what Mr Moss is enquiring is not simply did
 18 you pursue the matter with the IOPC, or the IPCC as it
 19 then was, and if not, why not? Because what was being
 20 done, if you didn't pursue it, to make sure this problem
 21 didn't recur?
 22 **A. So certainly after the next day I fed back and explained**
 23 **everything that had happened and communicated this back**
 24 **all the way through to the Assistant Commissioner.**
 25 THE CHAIRMAN: Right, what did the Assistant Commissioner do

1 to make sure this didn't happen again?
 2 **A. My understanding is that there has been clarity provided**
 3 **in the future, or for future since then, around the**
 4 **process by which a suspension can take place, if the**
 5 **paperwork is not available.**
 6 **But the guidance that I had at the time, which**
 7 **I have exhibited, makes it absolutely clear --**
 8 THE CHAIRMAN: You are not being criticised for following
 9 the guidance. There is a suggestion I think, more than
 10 a suggestion, that the guidance itself needed
 11 consideration. You say it has now been changed?
 12 **A. My understanding is it has been updated since then.**
 13 THE CHAIRMAN: As a result of this?
 14 **A. Whether it is as a result of this or not I don't know,**
 15 **but certainly I made the point that the process was**
 16 **flawed in these circumstances, and my understanding is**
 17 **that that guidance has been updated.**
 18 THE CHAIRMAN: We can find out.
 19 MR MOSS: Sir, we can and we will make some enquiries.
 20 THE CHAIRMAN: In the lessons learned section of the inquiry
 21 no doubt.
 22 MR MOSS: Sir, yes.
 23 I have in front of me, Commander, a document which
 24 you may or may not have seen before, it is a 2012
 25 document that I have and it is called "The misconduct

1 investigation guide" to be used for cases recorded on or
 2 after 22 November 2012.
 3 Is that a guide that you think you have seen before?
 4 **A. The only guide that I saw was a two-page document, which**
 5 **I have exhibited, which states what is required in order**
 6 **to be able to carry out the process.**
 7 Q. I have a 132-page document, so quite a lot more than the
 8 two pages that you have. I am just going to read one
 9 part of one paragraph from it, I appreciate you don't
 10 have it in front of you and we don't have the facility
 11 to put it on screen, but it is on page 52 and it is
 12 paragraph 3.18.07 and it says:
 13 "In cases where the IPCC are supervising, managing
 14 or independently investigating a matter, they will be
 15 consulted before making a decision whether to suspend or
 16 not."
 17 Then later on in the paragraph it says:
 18 "This consultation will not be required where the
 19 suspension ends [this is talking about an officer being
 20 reinstated] because there will be no misconduct or
 21 special case proceedings."
 22 Do you understand from that that it is for the Met
 23 to make a decision as to suspension but there is
 24 an obligation to consult with the IOPC, or IPCC?
 25 **A. Yes.**

1 THE CHAIRMAN: How does that sit with what happened in this
 2 case, Mr Moss?
 3 MR MOSS: I think that might be a matter of law that we need
 4 to investigate, with which the officer is unable to help
 5 us, sir.
 6 THE CHAIRMAN: Because if that is right, it was the Met's
 7 task to suspend?
 8 MS KAUFMANN: And to complete the forms.
 9 THE CHAIRMAN: Sorry.
 10 MS KAUFMANN: And to complete the forms, which is an issue
 11 we are trying to get to the bottom of.
 12 THE CHAIRMAN: Right.
 13 MR MOSS: The officer has given the evidence that it is his
 14 understanding of the law is that it was for the IOPC to
 15 complete the forms, whether that is right is something
 16 into which we can make further enquiries.
 17 THE CHAIRMAN: I think we will need to make further
 18 enquiries, because if it be the case that
 19 a superintendent who was there to do a specific job, did
 20 not know the correct procedure to follow and how, it
 21 creates an area of additional concern.
 22 MR MOSS: Commander, I asked you a couple of questions about
 23 it, but given the importance of the issue I will confirm
 24 your evidence on it.
 25 Do you know, as a matter of law, in 2015 whether it

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1 **DPS and also within the hierarchy and within my chain of**
 2 **command.**
 3 THE CHAIRMAN: The Assistant Commissioner?
 4 **A. This would have been up to the Assistant Commissioner**
 5 **level that I had been unable to follow the process.**
 6 THE CHAIRMAN: We will find out from the Assistant
 7 Commissioner in one form or another how it was handled.
 8 MR MOSS: Was one of reasons that you saw there to be
 9 urgency because you had concerns for W80's state of
 10 mind?
 11 **A. No.**
 12 Q. Did you have concerns for his personal safety in any
 13 way?
 14 **A. No.**
 15 Q. Did you have concerns for the safety of the public?
 16 **A. No.**
 17 Q. One final question, Commander, you didn't serve
 18 suspension papers but you did have a copy of the
 19 suspension papers. Do you know who actually prepared
 20 those copies?
 21 **A. My understanding is that they are from the IPCC.**
 22 MR MOSS: Sir, I have no further questions for the officer.
 23 I don't think anybody else does.
 24 Thank you very much.
 25 THE CHAIRMAN: It is a matter that may have to be revisited

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1 was for the IOPC or the police to prepare suspension
 2 forms?
 3 **A. So I do know as a matter of law, no, I was simply**
 4 **working to a two-page piece of guidance that specified**
 5 **the steps that I need to follow in order to comply with**
 6 **the suspension process.**
 7 Q. Your understanding, I think, is that it was for the IOPC
 8 to prepare the paperwork and that the DPS would be
 9 a postbox, the word I used not you, to pass the document
 10 to you?
 11 **A. And that understanding only came from the conversation**
 12 **with the DPS, who told me that they were unable to**
 13 **complete the paperwork because they -- it was the**
 14 **responsibility of the IPCC to do that.**
 15 Q. When you received the paperwork on the Tuesday and you
 16 said you saw there was some urgency to serve it on W80.
 17 In light of the urgency which you saw there to be, did
 18 you not think you should make enquiries at the time or
 19 after the fact as to why the papers were not ready on
 20 that Sunday night?
 21 **A. So I had raised my concerns through my chain of command**
 22 **as to my dissatisfaction with the fact that the**
 23 **paperwork was not available, were not ready. My then**
 24 **priority and my focus was to then carry out that**
 25 **suspension and I had raised my concerns, both with the**

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1 in due course.
 2 **A. Just to clarify, the suspension papers, as in --**
 3 MR MOSS: The form 161 and 163.
 4 **A. So my understanding is that the rationale, the notice,**
 5 **that served notice was from the IPCC. The determination**
 6 **around you are being suspended is from the Met.**
 7 Q. So is it, I don't want to sound like I am
 8 oversimplifying it, is it a copy and paste, does the
 9 rationale get written by the IOPC, is that your
 10 understanding, and it is pasted into the forms 161 and
 11 163 and the surrounding bit is completed by the Met?
 12 **A. I think we just need to be clear, the rationale for**
 13 **suspension is different to the reasons for being**
 14 **investigated. The reasons for being investigated are**
 15 **from the IPCC and I had to be able to explain that to**
 16 **him during the suspension process.**
 17 **The rationale for suspension being with the Met,**
 18 **quite clear on what that would mean but unclear around**
 19 **the nature of what the investigation is that had to be**
 20 **explained to him for the process. So that is the**
 21 **separation.**
 22 Q. That definitely was not my understanding of the answers
 23 you gave before --
 24 THE CHAIRMAN: Nor mine.
 25 MR MOSS: -- but is it your evidence now that the rationale

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<p>1 for suspension belongs to the Met?</p> <p>2 A. I believe so, yes, I would have to look at the documents</p> <p>3 in front of me to confirm that, but I mean you should</p> <p>4 have access to that, which would be quite clear --</p> <p>5 THE CHAIRMAN: The impression your evidence conveyed before</p> <p>6 was that both decisions were made by the IOPC.</p> <p>7 A. Okay, but, so --</p> <p>8 THE CHAIRMAN: That is how I interpreted it, if I am wrong</p> <p>9 tell me.</p> <p>10 A. I was being quite clear ... we were talking about</p> <p>11 rationale, talking about rationale around the reasons</p> <p>12 for the investigation as opposed to the reasons for the</p> <p>13 suspension, but I would have to look at the 161 or the</p> <p>14 163 ... or the 161 to refresh my memory on that.</p> <p>15 Q. Do you know if the reasons for suspension appears on the</p> <p>16 face of the 161 or 163?</p> <p>17 A. I can't remember, I would need to look at the document.</p> <p>18 MR MOSS: Sir, it may be that -- well, this is consistent</p> <p>19 with the note I have just been passed. I wondered</p> <p>20 whether we might have five minutes on our team to see</p> <p>21 whether we have a copy of these documents that might</p> <p>22 assist. I feel we are asking questions in a vacuum</p> <p>23 a little at the moment.</p> <p>24 THE CHAIRMAN: I think that is right. I would just like to</p> <p>25 ask one question, which may take us a little further.</p> <p style="text-align: center;">Page 41</p>	<p>1 Questions from THE CHAIRMAN</p> <p>2 THE CHAIRMAN: The rationale for the suspension comes from</p> <p>3 the Met. The reasons for the investigation come from</p> <p>4 the IOPC.</p> <p>5 A. That is my understanding.</p> <p>6 THE CHAIRMAN: You did not have, on the Sunday, the reasons</p> <p>7 for the investigation from the IOPC?</p> <p>8 A. I did not have that in the requisite format in form 161</p> <p>9 or 163 to be able to serve on the officer.</p> <p>10 THE CHAIRMAN: Was it because of that that you could not</p> <p>11 create in documentary form for service the rationale for</p> <p>12 suspension, which it was the Met's responsibility to</p> <p>13 create?</p> <p>14 A. Correct.</p> <p>15 THE CHAIRMAN: Thank you.</p> <p>16 Do you want me to rise for a few minutes?</p> <p>17 MR MOSS: Sir, the family would like five minutes, I think</p> <p>18 we would benefit from a few minutes as well.</p> <p>19 THE CHAIRMAN: Shall we have our mid-morning break now, with</p> <p>20 a view to starting the next witness afterwards.</p> <p>21 MR MOSS: That would be convenient.</p> <p>22 Sir, it may well be possible that we can decide</p> <p>23 amongst ourselves throughout the morning break that we</p> <p>24 don't need the witness to come back.</p> <p>25 THE CHAIRMAN: It may well be.</p> <p style="text-align: center;">Page 42</p>
<p>1 MR MOSS: So he may be released.</p> <p>2 THE CHAIRMAN: I don't want to detain him any longer than</p> <p>3 necessary, but at some stage we will get to the bottom</p> <p>4 of this.</p> <p>5 Shall we say 11.05?</p> <p>6 MR MOSS: Thank you, sir.</p> <p>7 THE CHAIRMAN: Very good, thank you.</p> <p>8 (10.51 am)</p> <p>9 (A short adjournment)</p> <p>10 (11.05 am)</p> <p>11 THE CHAIRMAN: Yes.</p> <p>12 MS BLACKWELL: Good morning, sir.</p> <p>13 The gentlemen in the witness box are Ian Arundale</p> <p>14 and Colin Burrows, our policing experts. May they be</p> <p>15 sworn, please?</p> <p>16 THE CHAIRMAN: Yes, they may.</p> <p>17 MR COLIN BURROWS (sworn)</p> <p>18 MR IAN ARUNDALE (sworn)</p> <p>19 Questions from MS BLACKWELL</p> <p>20 MS BLACKWELL: Thank you.</p> <p>21 Gentlemen, you have provided to the inquiry</p> <p>22 an extensive report dated 19 February of this year,</p> <p>23 together with two shorter addendums dated 23 February</p> <p>24 and 16 April of this year.</p> <p>25 You have both been present during the course of the</p> <p style="text-align: center;">Page 43</p>	<p>1 evidence, or at least one of you from time to time, and</p> <p>2 you have been able to consider that evidence and</p> <p>3 consider whether or not, in any respect, it alters the</p> <p>4 views that you expressed in your main report.</p> <p>5 That is really what I am going to take you through</p> <p>6 over the course of today.</p> <p>7 I am going to start by summarising your experience,</p> <p>8 then I am going to invite you to assist us with the</p> <p>9 various pieces of legislative and policy framework for</p> <p>10 armed policing in England and Wales, including the</p> <p>11 Metropolitan Police Service. Then take you</p> <p>12 chronologically through Operation Ankaa to provide the</p> <p>13 chair with your opinion on the manner in which it was</p> <p>14 run and whether or not it complied with the relevant</p> <p>15 legislative guidance.</p> <p>16 Let me begin with you, please, Mr Arundale. You</p> <p>17 had: 34 years in the UK as a police officer of all ranks</p> <p>18 up to chief constable; you have service in four Home</p> <p>19 Office police forces; you are experienced in</p> <p>20 international policing and consultancy, in India, the</p> <p>21 USA, New Zealand and Europe; and you have nine years'</p> <p>22 experience as a policing consultant and expert witness,</p> <p>23 primarily in armed policing and critical incident</p> <p>24 management.</p> <p>25 You hold the following qualifications, BA (Hons) in</p> <p style="text-align: center;">Page 44</p>

11 (Pages 41 to 44)

<p>1 police studies, an MSC in criminology and criminal 2 justice, you have been awarded a Fulbright fellowship to 3 work and study policing in the USA, you have a diploma 4 in applied criminology, you are a graduate of the 5 Prime Minister's top management programme and you 6 received the Queen's Police Medal in the 2011 New Year's 7 Honours.</p> <p>8 In relation to armed policing experience, you worked 9 as an operational firearms commander for five years, 10 a tactical firearms commander for five years, 11 a strategic firearms commander for 10 years, you carried 12 firearms operationally in the USA and are FBI trained 13 and you have commanded many hundreds of armed policing 14 deployments, including counter terrorist operations, 15 kidnaps, sieges and contract killings.</p> <p>16 In relation to armed policing policy, you were 17 responsible for a police national firearms training 18 school between 2000 and 2008 in West Mercia, you were 19 appointed as the UK national lead for all armed policing 20 matters on behalf of the Association of Chief Police 21 Officers, or ACPO, between 2001 and 2008. You oversaw 22 the production of all armed policing training and 23 guidance to 58 UK and Commonwealth law enforcement 24 organisations. You were adviser to Government and Home 25 Office on armed policing matters. You were a member of</p> <p style="text-align: center;">Page 45</p>	<p>1 the special forces working group, involved in producing 2 the first armed policing Code of Practice in 2003, 3 involved in producing the first public domain manual of 4 guidance, that subsequently became what we know as the 5 authorised professional practice, or APP.</p> <p>6 Involved in the provision of evidence to criminal, 7 civil and coroner's courts regarding armed operations, 8 guidance and training, and oversaw the introduction of 9 both Taser and the attenuating energy projectile, AEP, 10 into UK law enforcement use.</p> <p>11 You were appointed as the UK national lead chief 12 constable on behalf of ACPO for all conflict management 13 issues, which included formal oversight of the armed 14 policing portfolio and all use of force matters between 15 2008 and 2012.</p> <p>16 Finally, in relation to armed policing reviews and 17 expert evidence that you have given, as national lead 18 you personally reviewed lessons learned from all police 19 fatal shootings or incidents of note or where there had 20 been failings in command between 2001 and 2008. You 21 have given the provision of evidence on numerous 22 occasions on behalf of ACPO in relation to judicial 23 reviews and a range of court proceedings between 2001 24 and 2012. You were an adviser to the Northern Ireland 25 Ombudsman's Office and the Independent Police Complaints</p> <p style="text-align: center;">Page 46</p>
<p>1 Commission and successor organisations on armed policing 2 matters.</p> <p>3 You were a member of the oversight group reviewing 4 the police response to the 13 firearms-related murders 5 committed by Derrick Bird. You were an adviser to the 6 New Zealand police on less-lethal tactics and 7 technologies. You were an expert witness in relation to 8 the civil claims associated with the shooting of PC 9 David Rathband by Raoul Moat, you were the sole expert 10 witness in the Anthony Grainger public inquiry and you 11 were a joint expert witness relating to the fatal 12 shooting of William Smith.</p> <p>13 MR ARUNDALE: Yes, sir. 14 MS BLACKWELL: Thank you.</p> <p>15 Mr Burrows, I now turn to you.</p> <p>16 You joined the Royal Ulster Constabulary in 1971, 17 retiring from the Police Service of Northern Ireland as 18 the acting assistant chief constable operations in 19 April 2002. For much of your police service you were 20 actively involved in an advisory capacity with the 21 Association of Chief Police Officers, the predecessor of 22 the NPCC. That work related to the development of 23 national UK policy, guidance and operational procedures 24 relating to the police use of force and firearms.</p> <p>25 In June 1991, you were awarded the Queen's Police</p> <p style="text-align: center;">Page 47</p>	<p>1 Medal as an acknowledgment of your national and 2 international contribution to work in this specialist 3 field. You have completed a broad range of training 4 relevant to firearms, tactics and specialist skills, 5 both in the UK and with the FBI in the USA. You have 6 also completed firearms-related courses with the 7 military and worked with them operationally.</p> <p>8 In terms of your policing experience, it includes 9 operational policing, firearms instruction, you were 10 responsible for specialist rifle officer teams, you were 11 a chief firearms instructor, a trained hostage 12 negotiator, an ACPO subcommittee of national firearms 13 instructors, responsibility for developing the ACPO 14 manual of guidance on police use of firearms. You held 15 a four-year Home Office secondment as the senior police 16 adviser to the then police scientific development 17 branch. In that role you also had responsibility for 18 projects which fell within the protecting and equipping 19 the police in violent situations.</p> <p>20 You were a Home Office adviser to ACPO, you were on 21 the ACPO committee on self defence, arrest and restraint 22 and the public order subcommittee of ACPO. You were the 23 senior investigating officer in the RUC's complaints and 24 discipline department and you also held silver and gold 25 command in major incidents.</p> <p style="text-align: center;">Page 48</p>

1 You hold a BA degree in public administration, and
 2 in 1992 you were awarded the degree of master of
 3 philosophy, your thesis having been entitled "The use of
 4 lethal force by police". In the same year you completed
 5 a review on behalf of the Police Complaints Authority,
 6 which we know is a forerunner of the IOPC, into 23
 7 incidents where police discharged firearms in England
 8 and Wales between 1991 and 1993. That included
 9 a retrospective examination of all statements made by
 10 principal officers involved in armed situations and
 11 a comparison with the facts determined by the senior
 12 investigating officers.

13 The report was referred to throughout the service as
 14 the Burrows report and it formed a significant component
 15 of the rewrite of the ACPO manual of guidance on the
 16 police use of firearms, published after complete
 17 revision in January 2001.

18 In 1996, you were awarded a Home Office police
 19 research award to study post-shooting trauma and help
 20 develop a preventative strategy, and you have travelled
 21 extensively throughout the United States, Europe and
 22 other parts of the world, participating in training
 23 events, operational exercises and chairing international
 24 forums. You have also undertaken literature reviews and
 25 interviews with numerous officers who have been involved

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1 guidance on less-lethal weapons in law enforcement.
 2 MR BURROWS: That's correct, sir.
 3 Q. Thank you.
 4 Does it follow from the information which I have
 5 just read out that in some way you have both been
 6 involved in the infancy of what became the APP?
 7 MR BURROWS: That's correct, sir.
 8 The original manual of guidance was first published
 9 in 1984. I became involved in the subcommittee of five
 10 people who were responsible for developing it from 1987
 11 onwards, until the end of my service. That went through
 12 numerous redrafts and iterations and then had a major
 13 one in 2001, which was referenced, partly due to my
 14 report but also because it coincided with the
 15 introduction of the Human Rights Act and was required to
 16 be made compliant.
 17 And then thereafter, and along with Mr Arundale, in
 18 the complete rewrite, which was a completely different
 19 manual of a different sort that replaced the previous
 20 one and that was mainly based on lessons learnt from
 21 operational situations and indeed court cases and
 22 reviews that I have been involved in.
 23 Q. Thank you.
 24 MR ARUNDALE: Sir, we do recognise many of the words and
 25 concepts that are still contained in the APP, because we

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1 in critical encounters involving the use of firearms.
 2 Following retirement from the police service, you
 3 formed the Critical Intervention Consultancy Services
 4 and your key appointments have included chair of the
 5 multidisciplinary advisory board of the International
 6 Law Enforcement Forum, Foreign and Commonwealth Office
 7 consultancy projects on police force and firearms, ACPO
 8 special adviser on the UK wide steering group on
 9 alternative approaches to the management of conflict and
 10 the development of less-lethal weapons.
 11 Appointment by the National Police Improvement
 12 Agency as their lead consultant on the drafting of the
 13 Home Office codes of practice on the use of firearms and
 14 less-lethal weapons, consultant editor for the ACPO
 15 manual of guidance on the management, command and
 16 deployment of armed officers, the contents of which
 17 constitute the major part of the APP on armed policing,
 18 which the inquiry has heard made reference to on many
 19 occasions.
 20 The provision of expert witness reports and evidence
 21 at criminal courts, inquests and tribunals, relating to
 22 police use of force and firearms from 1994 to the
 23 present day. Consultancy support to the ACPO armed
 24 policing and less-lethal secretariat and contributor to
 25 the development of the 2020 United Nations human rights

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1 were involved in the fundamental input to the early
 2 stages of those documents.
 3 Q. Thank you.
 4 Let's turn to look, please, at the legislative and
 5 policy framework for armed policing in England and
 6 Wales. You cover this extensively within your main
 7 report. Since December 2003 within the UK the framework
 8 in which police operations, especially those which have
 9 an armed policing component are managed, has been set
 10 within a regulatory and professional framework of good
 11 practice, is that right?
 12 MR ARUNDALE: That's correct, sir.
 13 The 2003 Code of Practice was the fundamental driver
 14 for pulling together the legislation and ensuring that
 15 there was guidance and requirements and directions to
 16 chief officers of police to make sure that many of the
 17 lessons that we learnt prior to 2003 were codified and
 18 that there was significant control over, for example,
 19 the selection and use of the weapons, the training of
 20 officers and indeed the parameters to be imposed on
 21 operational armed policing deployments.
 22 Q. Thank you.
 23 I'd like to take you both through the nature and
 24 status of the pertinent documents and publications that
 25 relate to the events that are being considered in this

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1 inquiry. I will concentrate on those sections which
 2 relate to what we can see as being the relevant issues
 3 and have seen so far.
 4 The documents then to which I will take you are
 5 these.
 6 Firstly, the Home Office Code of Practice on police
 7 use of firearms and less-lethal weapons.
 8 Then the College of Policing authorised professional
 9 practice on armed policing.
 10 We will look at the national police training
 11 firearms curriculum.
 12 The national decision model.
 13 And the College of Policing code of ethics.
 14 First of all then, the Home Office Code of Practice
 15 on police use of firearms and less-lethal weapons,
 16 following the implementation of the Police Reform Act of
 17 2002, did the Secretary of State issue the Home Office
 18 Code of Practice on police use of firearms and
 19 less-lethal weapons?
 20 MR ARUNDALE: Yes, sir, that is correct and this was the
 21 very first Code of Practice for any aspect of policing
 22 to be introduced following that legislation.
 23 Q. Was the code given statutory effect by section 39 of the
 24 Police Act 1996, which permits the Secretary of State to
 25 issue codes of practice relating to the discharge by

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1 THE CHAIRMAN: Yes.
 2 MS BLACKWELL: Thank you.
 3 3.1 deals with nominated senior firearms officers in
 4 each force:
 5 "For the purpose of maintaining standards within
 6 each force, chief officers should ensure that an officer
 7 of at least the rank of assistant chief constable, or
 8 equivalent, is nominated to take the lead within the
 9 force in relation to operational policy and practice in
 10 respect of weapons requiring special authorisation."
 11 In the Metropolitan Police Service, for reasons set
 12 out in their policy documents, the function of the lead
 13 officer for the issues associated with armed policing is
 14 exercised by an assistant commissioner. Is that right?
 15 MR ARUNDALE: That's correct, and that is fully compliant
 16 with the direction given in the code.
 17 Q. The Home Office code also places specific responsibility
 18 on officers who undertake the planning and command of
 19 operations where force and in particular lethal force
 20 may be used. If we look at paragraph 3.4.4, it should
 21 be on the next page, and the next page, please, thank
 22 you:
 23 "Police officers responsible for planning and
 24 undertaking operations where the use of force is
 25 a possibility should plan and undertake them so as to

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1 what were then police authorities or any of their
 2 functions?
 3 MR ARUNDALE: Yes, sir.
 4 MR BURROWS: That's correct.
 5 Q. Thank you.
 6 We know that the code was replaced in January 2020
 7 by a new Code of Practice on armed policing and
 8 less-lethal weapons, which was issued then by the
 9 College of Policing, but was it this 2003 code that was
 10 in operation in 2015?
 11 MR ARUNDALE: It was, sir.
 12 MR BURROWS: Yes.
 13 Q. I am going to ask that we display this, please, it is
 14 COP8.
 15 Could you just take that down, please.
 16 It is COP54, please. Sorry. My glasses don't seem
 17 to be strong enough this morning, thank you.
 18 Could we go to the next page, please.
 19 All right, so we can see that the contents are set
 20 out in a series of different chapters, introductions,
 21 scope and status of the code, basic requirements of the
 22 code, weapons-related equipment and tactics, development
 23 and approval, training standards and accreditation.
 24 I am going to ask that we look at the third chapter,
 25 please, and section 3.1.1 of the code.

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1 minimise to the greatest possible extent recourse to
 2 force and in particular lethal force."
 3 Operation Ankaa involved armed deployments on two
 4 occasions, didn't it?
 5 The first on 8 December, when you have heard that
 6 there was a deployment to covertly input a probe into
 7 the Audi vehicle, and that was supported by an armed
 8 team.
 9 Secondly, on 11 December, when there were several
 10 armed deployments as part of the operation. There were
 11 covert surveillance officers armed for their own
 12 protection, there were firearms officers who were
 13 carrying out MASTS support, which we will come to soon,
 14 there was an armed response vehicle or vehicles with
 15 officers deployed as a contingency and there were armed
 16 officers who would be deployed at the court complex?
 17 MR ARUNDALE: Yes, sir.
 18 Q. All right.
 19 In addition to the planning associated with the
 20 strategic objectives set for each deployment, was
 21 planning also required to address contingencies for any
 22 reasonably foreseeable event that might occur?
 23 MR ARUNDALE: Yes, planning for contingencies is
 24 an absolutely fundamental part of any armed policing
 25 deployment and all officers involved in the management

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1 of those operations would be fully trained in relation
 2 to those issues.
 3 Q. Thank you.
 4 The 2003 code required chief officers to take
 5 account of detailed guidance adopted collectively by
 6 chief officers of police. I am just going to read
 7 another section out, we don't need to go to this:
 8 "Chief officers of police will make arrangements
 9 under this code for the authorisation, deployment and
 10 use of weapons requiring special authorisation, taking
 11 into account a detailed operational guidance updated and
 12 adopted collectively by chief officers of police.
 13 Guidance in respect of weapons requiring special
 14 authorisation is set out in the manual of guidance on
 15 police use of firearms."
 16 Was the consequence of this that the police forces
 17 and chief officers are under an obligation to ensure
 18 that policies and procedures within their force take
 19 account of guidance issued nationally?
 20 MR ARUNDALE: Absolutely. Of course this is made under the
 21 auspices of the Police Act and although it refers to the
 22 manual of guidance, which became the APP, there is
 23 an absolute requirement on chief officers to take
 24 account and have regard for that guidance. Some of the
 25 guidance contains must requirements for individuals and

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1 Q. By 2015, the police guidance on the deployment of armed
 2 officers that the MPS should have been following and
 3 referencing was the APP on armed policing and not any of
 4 the earlier manuals of guidance?
 5 MR ARUNDALE: No, and of course the 2003 Code of Practice.
 6 Q. And the 2003 code, yes.
 7 The legal framework that underpins armed policing is
 8 outlined within the APP on armed policing, isn't it?
 9 MR BURROWS: It is.
 10 Q. It provides national guidance for various areas of armed
 11 policing and it is adopted by police forces across
 12 England and Wales, including the Metropolitan Police
 13 Service?
 14 MR BURROWS: That's correct.
 15 MR ARUNDALE: It is.
 16 Q. Is that itself incorporated into Metropolitan Police
 17 Service local policy, guidance and standing operating
 18 procedures?
 19 MR ARUNDALE: It is.
 20 Q. Yes, and the main standard operating procedure applied
 21 to armed policing within the MPS is the MPS police use
 22 of firearms and less-lethal weapons standard operating
 23 procedure version 11, to which we will come to shortly.
 24 All right.
 25 Before we do that, let's look, please, at the

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1 where there is a must, all chief constables agreed that
 2 they will be complied with unless there is an overt and
 3 deliberate act to derogate from them, which would be
 4 documented and reported nationally to, as it was then,
 5 the Association of Chief Police Officers.
 6 Q. Thank you.
 7 You have mentioned the manual of guidance there, and
 8 it is right, isn't it, that the College of Policing had
 9 been moving all of what were previously known as ACPO
 10 manuals of guidance on a whole range of policing
 11 disciplines into what we now know to be the authorised
 12 professional practice or APP?
 13 MR ARUNDALE: That's correct, and I think the transfer took
 14 place towards the end of 2013.
 15 Q. Yes. I think in fact it was in October 2013 that the
 16 College of Policing APP on armed policing was
 17 consolidated and updated what was essentially before
 18 that the manuals of guidance.
 19 Is it right that since that time the manuals of
 20 guidance were really decommissioned and they were
 21 obsolete documents?
 22 MR BURROWS: That is correct, sir, and the information
 23 supplied by the College of Policing sets out all the
 24 obsolete documents and the previous manuals are referred
 25 to in that section.

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1 College of Policing authorised professional practice on
 2 armed policing, because is it right that for the most
 3 part, the text of the earlier guidance contained in the
 4 ACPO manual of guidance was incorporated into the APP on
 5 armed policing?
 6 MR ARUNDALE: That's correct.
 7 MR BURROWS: That's correct.
 8 There is only one section, sir, that changed
 9 significantly and that was the post-incident procedure
 10 and issues such as conferring, et cetera, which were the
 11 subject of legal discussion, changed significantly after
 12 that.
 13 Q. Is it expected that all officers involved in the
 14 command, management and deployment of armed officers are
 15 thoroughly familiar with the APP?
 16 MR BURROWS: Absolutely.
 17 Q. Does the accreditation process for firearms commanders,
 18 tactical advisers and AFOs involve testing their
 19 knowledge and application of the APP's contents and
 20 principles?
 21 MR ARUNDALE: It does.
 22 Q. In your opinion, is it apparent from the notes and
 23 witness statements and the evidence that you have heard
 24 throughout the course of the inquiry that both the
 25 firearms commanders and armed officers were aware of and

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1 generally utilised the concepts, considerations
 2 processes and tactical options included in the APP on
 3 armed policing?
 4 MR BURROWS: They certainly make constant reference to it
 5 and appear to show a good knowledge of it.
 6 Q. Thank you.
 7 In the introductory section of the APP, there is
 8 a statement indicating that the publication provides:
 9 "... guidance on the appropriate use, issue and use
 10 of firearms and related less-lethal options within the
 11 police service, a basis for the training of all relevant
 12 police staff in matters relating to the operational use
 13 of firearms, this includes command issues at strategic
 14 tactical and operational levels, and guidance on command
 15 structures, tactical options and operational issues
 16 associated with the deployment of authorised firearms
 17 officers."
 18 Let's have a look, please, at COP24. Can we go to
 19 the next page, please. And the next page.
 20 An authorised firearms officer is defined in the APP
 21 as a police officer who has been selected, trained,
 22 accredited and authorised by a chief officer to carry
 23 a firearm operationally.
 24 Is that right?
 25 MR BURROWS: That's correct.

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1 I am going to ask you some questions, please, about the
 2 armed policing command structure in the UK.
 3 We can see here that the document sets out that the
 4 generic command structure used in the UK police service
 5 operates at three levels: strategic, gold; tactical,
 6 silver; and operational, bronze:
 7 "Firearms operations often form one part of a more
 8 complex multi-faceted operation that will already be
 9 using gold, silver, bronze command descriptors, it is
 10 therefore important to define the command of the
 11 firearms element through the use of functional
 12 descriptors, and the descriptors used throughout this
 13 model are ..."
 14 Then I would like one or both of you please to take
 15 us through the command structure and to explain what
 16 each of those titles means.
 17 MR ARUNDALE: So if I start off with the strategic firearms
 18 commander, effectively the core of this is to determine
 19 the strategic direction of an operation. But not only
 20 to take into account the issues directly involved with
 21 the operational resolution of the incident, to consider
 22 much more wider legal, organisational and contextual
 23 issues, because of course any policing operation can
 24 have a wide impact upon the community and the officers
 25 themselves.

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1 MR ARUNDALE: That's correct.
 2 Q. Do many AFOs have additional training to equip them to
 3 undertake specific armed policing roles?
 4 MR BURROWS: They do, sir. The AFO, authorised firearms
 5 officer, is the basic qualification and then it moves up
 6 through a series of them, including armed response
 7 vehicle officers, rifle officers, a number of
 8 specialisms and at the very top the CTSFOs that we have
 9 referred to today.
 10 Q. Thank you.
 11 The inquiry has heard that there is a difference
 12 between being occupationally and operationally
 13 competent. Could you explain to the inquiry what those
 14 terms mean to you, please?
 15 MR ARUNDALE: Yes, I think in very simple terms,
 16 occupationally competent effectively means that they
 17 have passed a course of instruction.
 18 Being operationally competent means that they have
 19 deployed into the workplace and had their skills
 20 assessed in the workplace. So not only do they know the
 21 basic tenets of what they should do, they have
 22 demonstrated they can carry that function out in the
 23 workplace to an acceptable standard.
 24 Q. Thank you.
 25 Let's look at the document that is on our screen and

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1 That person retains a strategic oversight and is in
 2 overall command and we would expect not only would they
 3 approve the tactical plan made by a tactical firearms
 4 commander, but they would ensure the integrity of that
 5 operation, its compliance with the authorised
 6 professional practice and the Code of Practice and the
 7 wider legislative requirements, but particularly issues
 8 relating to Article 2, legal principles arising out of
 9 cases such as the McCann case and to make sure there is
 10 integrity of process that everything would be properly
 11 documented, recorded and that there could be proper
 12 post-incident review in the event of an adverse outcome.
 13 Q. Thank you.
 14 Is it normal practice that a tactical adviser or
 15 a firearms tactical adviser supports the strategic and
 16 tactical firearms commanders?
 17 MR ARUNDALE: It is, yes.
 18 Q. As we have heard happened in this case with S48.
 19 Does the APP clarify that the role of a tactical
 20 adviser is to advise and not to make command decisions?
 21 MR ARUNDALE: Absolutely. It is a very clear demarcation,
 22 that commanders command, advisers advise and there
 23 should not be any blurring of those lines of
 24 responsibility.
 25 Q. Would I accurately summarise it in this way. The

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1 responsibility for the validity and reliability of the
 2 advice lies with the adviser, but the responsibility for
 3 the use of that advice rests with the commander?
 4 MR BURROWS: That's correct, sir.
 5 MR ARUNDALE: Absolutely.
 6 Q. You talked a moment ago, Mr Arundale, about the blurring
 7 of lines. I would just like to ask you a few questions
 8 about the relationship between firearms commanders and
 9 the senior investigating officer of an investigation.
 10 MR ARUNDALE: For decades there have been concerns arising
 11 out of incidents in relation to the natural and positive
 12 drive of a senior investigating officer to catch
 13 criminals and incarcerate criminals. Of course the
 14 objectives of armed policing deployments can be slightly
 15 different, because there is a strict requirement to
 16 comply with Article 2 issues and to ensure the health,
 17 safety and welfare of all the people involved in
 18 an operation.
 19 It has become very clear over the decades of
 20 experience that there has to be a very clear separation
 21 of roles.
 22 In these incidents, and I am sure we will get into
 23 this in more detail, for example, it should be extremely
 24 clear what the criminal justice strategy for
 25 an operation is, it should be extremely clear what the

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1 relates to the individual. I think it is the function
 2 of the individual, the senior investigating officer,
 3 that the commanders should not undertake investigative
 4 functions, they should be focused upon the armed
 5 policing deployment.
 6 On reflection, there might be a possibility to firm
 7 up on some of this guidance to make it very, very clear.
 8 The investigator should investigate, the armed policing
 9 commander should command the armed policing deployment
 10 and there should not be a blurring of lines of
 11 responsibility.
 12 Q. Thank you.
 13 We can see in the fourth paragraph down:
 14 "It is the responsibility of the strategic firearms
 15 commander to satisfy themselves that the tactical plan
 16 is capable of meeting the strategic aims of the
 17 operation and that the provisions of ECHR Article 2 take
 18 precedence."
 19 I am just going to pause for a moment to remind
 20 ourselves of what you had in mind whilst you were
 21 preparing your main report. I am going to read from
 22 paragraph 10 of your introductory section, because you
 23 were asked to consider the terms of reference, together
 24 with a series of questions. Having done so, you set out
 25 the manner in which you went about your task and you

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1 SIO is seeking to achieve, ideally in a hierarchical set
 2 of desired objectives. It is for the strategic firearms
 3 commander and tactical firearms commander to manage that
 4 constructive tension between what the SIO wants and
 5 actually what is deliverable, safely and in accordance
 6 with the law.
 7 This is why we have come up with this structure,
 8 which should ensure on every occasion there is a proper
 9 balance of responsibilities and that Article 2 issues
 10 are managed with good positive criminal justice
 11 outcomes.
 12 MR BURROWS: I should add that it is a role of the strategic
 13 firearms commander to ensure there is no blurring of
 14 roles.
 15 Q. Yes.
 16 Let's just look back at the document, and I am going
 17 to read from the second paragraph down:
 18 "The function of the strategic firearms commander or
 19 tactical firearms commander must not be undertaken by
 20 the senior investigating officer responsible for the
 21 investigation of the offence for which the firearms
 22 operation is being conducted."
 23 That reflects what you have just said.
 24 MR ARUNDALE: I think, sir, it might be worth expanding just
 25 a little bit. The way that this is worded indicates it

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1 said:
 2 "In order to properly address the above terms of
 3 reference, we have sought to ascertain the extent to
 4 which the MPS ensured that the operation was planned and
 5 controlled by the authorities so as to minimise to the
 6 greatest extent possible, recourse to lethal force,
 7 McCann and others. We have highlighted the word
 8 'operation' because the crux of the McCann judgment was
 9 whether the operation as a whole, not just the potential
 10 armed encounter, was controlled and organised in
 11 a manner which respected the requirements of Article 2."
 12 Is that what you had in mind throughout the course
 13 of your consideration?
 14 MR BURROWS: It was, sir, and we were responsible for the
 15 drafting of the words that are in the manual as well and
 16 that was the heart of what was written in the manual and
 17 became in the APP. And the emphasis being on how the
 18 operation was planned and controlled, so that you
 19 mitigated to the greatest extent possible what might
 20 happen at the point of armed intervention.
 21 MR ARUNDALE: If I could add, sir, I think the important
 22 thing for us as well is in any review we found it
 23 absolutely vital not just to focus on the actions of
 24 individual AFOs, or CTSFOs in this example, but to
 25 carefully focus upon the role of all the key

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1 individuals, particularly the commanders, because of
 2 course they determine the environment and the nature of
 3 the confrontation between officers and subjects.
 4 Q. Thank you.
 5 Can we take that down, please.
 6 I would like to turn now to the National Police
 7 Firearms Training Curriculum. This was first issued by
 8 ACPO in February 2004, is it still a relevant document?
 9 MR ARUNDALE: It is still a document that exists. My
 10 understanding that it is currently standing at around
 11 4,600 pages. There is an acceptance that that document,
 12 because of its size and complexity, requires some
 13 revision.
 14 Q. Yes.
 15 MR ARUNDALE: Most recent guidance indicates that the APP
 16 should be the definitive source of guidance, but, having
 17 said that, the curriculum does contain really important
 18 information and guidance for the training of officers.
 19 But it is a large unwieldy document.
 20 Q. I think it is currently undergoing a stage of review?
 21 MR ARUNDALE: That is my understanding.
 22 Q. Thank you.
 23 MR BURROWS: We should also make the point, sir, that the
 24 APP is an open public document. The curriculum is
 25 a restricted document.

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1 We can display a copy of it at COP23, page 23,
 2 please.
 3 The inquiry has heard much about the NDM. Are you
 4 able to confirm that it is now widely used across UK
 5 police services and indeed in a slightly modified form
 6 by other emergency services and partner agencies?
 7 MR ARUNDALE: It is. It has its origins in the conflict
 8 management model, which was developed within this
 9 discipline, within the armed policing discipline, and it
 10 was felt that it had such potential utility for the
 11 service that it was reviewed. In particular the vision,
 12 values and ethics of the organisation, the policing
 13 organisation, was put at the heart of it. Not only
 14 within the UK, an extremely similar model is now used in
 15 jurisdictions such as North America and is recommended
 16 as good practice in many particular locations.
 17 It is actually the decision making model for
 18 policing, not just for use of force issues, for all
 19 matters relating to policing.
 20 Q. All matters relating to policing.
 21 Can you take us through it, please? The inquiry has
 22 some experience of this, but it would be useful I am
 23 sure to hear your take on it, please.
 24 MR BURROWS: Well, it is a cyclical model, however you may
 25 not necessarily start at one particular point. You may

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1 Q. Right, so it is not openly available?
 2 MR BURROWS: Most certainly not.
 3 Q. It is not an open-source document.
 4 The APP however does reference and set out the
 5 purpose of the NPFTC, doesn't it, as providing
 6 a framework for continuous professional development,
 7 amongst other things?
 8 MR ARUNDALE: It does and perhaps to put that in context in
 9 simple terms, whilst the manual would give overarching
 10 terms, the curriculum itself would contain diagrams and
 11 written descriptions of where officers should place
 12 themselves and what they should do.
 13 So for obvious reasons that has not been put into
 14 the public domain, because it could affect policing
 15 operations by tipping off effectively criminal groups
 16 and others as to police tactics.
 17 Q. The national accreditation of officers is intended to
 18 ensure an in-depth knowledge and appreciation of both
 19 the APP and the NPFTC, is it not?
 20 MR ARUNDALE: It is.
 21 Q. A key component of the training and accreditation is
 22 a working understanding of what is now referred to as
 23 the national decision making model?
 24 MR ARUNDALE: It is.
 25 Q. Let's turn to look at that, please.

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1 have to pick it up wherever it starts.
 2 So the idea is that you constantly, both
 3 deliberately and mentally, work your way around the
 4 issues in the circle.
 5 So in terms of the six components, and I am just
 6 having difficulty reading it off the screen, sir, but
 7 the first one obviously starts with information or
 8 intelligence. Those two things are different, and there
 9 is a very well-articulated distinction between
 10 information and intelligence.
 11 I am having difficulty reading it off -- thank you.
 12 The next one is assessing the threat and risk to
 13 develop a working strategy. Again, threat and risk are
 14 separately defined.
 15 The next point is to consider all the powers and
 16 policies and the powers and policies are generally the
 17 legal ones, as well as the police service ones, to
 18 identify options and contingencies, and to take action
 19 and review.
 20 But the newer part of it is the code of ethics being
 21 right at the centre of it, sir, in that all the
 22 principles of policing require to be applied to the
 23 operation and the fact that it is a firearms operation
 24 does not change that. It is a policing operation that
 25 we are using the whole model to explain.

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1 MR ARUNDALE: I have used the analogy that this is the
 2 mirror, signal manoeuvre of policing as mirror, signal
 3 and manoeuvre is to driving and it is so ingrained now
 4 with new officers coming into the policing organisation,
 5 it is second nature to constantly use this issue.
 6 I think the main point to stress is this is not
 7 something that should be brought out every hour or every
 8 two hours, it should be a principle which is on the mind
 9 constantly of people making these decisions, so that
 10 every change in circumstance or intelligence effectively
 11 prompts that check and balance. Do I need to change my
 12 decisions, parameters, constraints on this particular
 13 operation?
 14 Q. Thank you.
 15 The code of ethics sits in the centre and at the
 16 heart of the national decision model. Indeed if we go
 17 back to the first page of this document, please,
 18 Mr Coates, we see that the diagram which has been chosen
 19 to be produced comes from within the code of ethics.
 20 The code of ethics was launched by the College of
 21 Policing in July 2014, which was the same month that the
 22 MPS's updated standard operating procedures on police
 23 use of firearms and less-lethal weapons was issued.
 24 MR ARUNDALE: Yes, sir, the code of ethics actually was in
 25 being in draft form for some time before that. Quite

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1 in some fashion in relation to that.
 2 Q. Thank you.
 3 Let's just look at one section of this document.
 4 Can we go to page 10, please, Mr Coates.
 5 Let's look at paragraphs 1.5 through to 1.7:
 6 "To achieve legitimate policing aims, it is
 7 sometimes necessary to use covert tactics. This is
 8 recognised in law. Covert tactics must be appropriately
 9 authorised and any deployments must be shown to be
 10 proportionate, lawful, accountable, necessary and
 11 ethical. Officers who authorise or perform covert
 12 policing roles must keep in mind at all times the
 13 principles and standards set out in the code of ethics."
 14 If we can go, please, to section 4. Thank you.
 15 This sets out the code in relation to use of force:
 16 "I will only use force as part of my role and
 17 responsibilities and only to the extent that it is
 18 necessary, proportionate and reasonable in all the
 19 circumstances.
 20 "This standard is primarily intended for police
 21 officers who on occasion may need to use force in
 22 carrying out their duties.
 23 "Police staff, volunteers and contractors in
 24 particular operational roles, for example custody
 25 related, may also be required to use force in the course

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1 often when such significant changes are introduced, they
 2 are trialled and floated and forces are made aware of
 3 them so they can start to review their policies and
 4 procedures.
 5 One of the fundamental key aspects of this is the
 6 code of ethics which permeates all values, such as
 7 issues through the leadership, fairness, honesty and
 8 integrity, also directly links to conduct and misconduct
 9 issues and is used as a barometer for making decisions
 10 in relation to those as well.
 11 So what it does as well, it brings into the heart of
 12 policing the standards by which police officers and
 13 police staff will be judged.
 14 Q. The MPS SOP, to which I have referred, does not itself
 15 refer to the code of ethics and the diagram in that
 16 document of the NDM does not have the code of ethics at
 17 its centre.
 18 Do you think given the proximity of timing between
 19 the code of ethics coming into force and the MPS SOP
 20 being drafted that that was simply a matter of timing?
 21 MR ARUNDALE: It might have been a matter of timing in terms
 22 of the amendment of it, but what I would have expected
 23 to see would be a communication to go out at the very
 24 least to make it extremely clear that is now integral to
 25 the NDM and that all officers and staff would be briefed

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1 of their duties. According to this standard you must
 2 use only the minimum amount of force necessary to
 3 achieve the required result and you will have to account
 4 for any use of force, in other words justify it based
 5 upon your honestly held belief at the time that you used
 6 the force."
 7 Does the code also contain a section entitled
 8 "Supplementary notes", which itself sets out the
 9 national decision model?
 10 MR ARUNDALE: It does.
 11 MR BURROWS: Yes.
 12 Sir, I think we should point out that the section 4
 13 use of force, that while the principles that are
 14 referenced there are contained in the APP, and have been
 15 for a long time. The actual form of words that appear
 16 there did not appear in the APP earlier. I simply
 17 missed that because it may be significant to events as
 18 they turned out.
 19 Q. Thank you.
 20 Are there any other pieces of national guidance or
 21 legislative guidance that you would like me to set out
 22 or do you think that the chair has now received the
 23 relevant parts?
 24 MR ARUNDALE: I think for this policing operation in
 25 particular, they are the main issues.

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1 Q. May we turn then to armed policing in the MPS and their
2 standard operating procedures.
3 In your main report, I think, we are at about
4 paragraph 100 or thereabouts, if you wish to follow.
5 You tell us in your report that the Metropolitan
6 Police Service, together with the City of London Police,
7 are responsible for policing the nation's capital, with
8 more than 44,000 officers and staff and that the MPS is
9 the UK's largest police service, in that it has
10 25 per cent of the total police budget for England, and
11 it is therefore not surprising that in terms of
12 organised crime and firearms-related crime, the MPS
13 faces a challenge unparalleled in other parts of the UK.
14 MR ARUNDALE: Yes, that's correct.
15 MR BURROWS: Yes.
16 Q. In 2015, you tell us that there were approximately 2,460
17 armed officers within the MPS who underwent continual
18 training and assessment in addition to their standard
19 operational commitments.
20 Is that right?
21 MR ARUNDALE: Yes, that's correct.
22 MR BURROWS: Yes.
23 Q. For many years the MPS has maintained a document which
24 sets out their standard operating procedures relating to
25 armed policing, the SOP.

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1 unique to the Metropolitan Police.
2 Q. Is that because of the capacity that is required to
3 police an area the size of London?
4 MR ARUNDALE: I don't think it is just the capacity issue,
5 I think it is the Metropolitan Police's assessment of
6 the requirements of skills. Where those skills should
7 lie and how they should be commanded as individuals and
8 a cohort.
9 Q. Thank you.
10 The MPS SOP makes it clear that there are firearms
11 capabilities over the course of different groups. Let's
12 have a look, please, at the document, which is at IPC79.
13 Thank you. Page 24.
14 We are going to look first of all at strategic and
15 tactical planning and what the SOP says about this, and
16 it is paragraph 6.10.
17 "In operations involving the deployments of AFOs, it
18 is essential that objectivity and oversight are clearly
19 demonstrated in the decision-making process. Separation
20 of roles and clarity of responsibility is essential to
21 the provision of effective command and tactical advice.
22 Where tactical advice is required by a commander, this
23 advice should be independent. The tactical adviser
24 should be independent of the command structure and not
25 part of the operational deployment. The function of the

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1 The one that was in force in December 2015 is
2 an extensive document, running as it does to 266 pages.
3 You then set out to highlight certain aspects of it.
4 Could I ask you initially, please, to assist the chair
5 with the Metropolitan Police crime and operations
6 directorate and its subdivisions as they are relevant to
7 this inquiry?
8 I am referring to Organised Crime Command,
9 Specialist Firearms Command and armed surveillance.
10 MR BURROWS: Sir, the information we have provided in our
11 reports has been lifted and we reference all the bits,
12 from HMIC, Her Majesty's Inspectorate of Constabulary,
13 reports as they were at the time. These particular
14 directorates do change over time and some of them might
15 use different names at different periods of time. So in
16 setting it out, we deliberately used the references of
17 the -- I think it was 2015 HMIC report.
18 Q. Yes.
19 MR BURROWS: I think the point of relevance is that within
20 the crime directorates. In accordance with the MPS
21 policy they have business groups, which have their own
22 strategic and technical firearms commanders.
23 Q. Yes.
24 MR BURROWS: That is fairly unique to the
25 Metropolitan Police. Not completely, but it is fairly

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1 strategic or tactical firearms commander must not be
2 undertaken by the senior investigating officer
3 responsible for the investigation of offences for which
4 the firearms operation is being conducted. It is the
5 responsibility of the strategic firearms commander to
6 satisfy themselves that the tactical plan is capable of
7 meeting the strategic aims of the operation and that the
8 provisions of Article 2 ECHR (positive obligation to
9 protect life) takes precedence."
10 Does that, in your opinion, mirror what is contained
11 within the national guidance, the APP on armed policing?
12 MR BURROWS: Yes, it does, sir, and the SOP, which is
13 an extensive document, tends to weave in large extracts
14 from the national APP, updated as the APP is updated as
15 well.
16 So the tenor of that reflects and in fact some of
17 the words actually mirror what is in the APP.
18 Q. Thank you, we can take that down.
19 We may come back, throughout the course of your
20 evidence, to look at various aspects of the MPS SOP, but
21 I would like to move to ask you about the MPS mobile
22 armed support to surveillance training and capability.
23 The MPS has local training, doesn't it, for firearms
24 officers when deployed in MASTS configurations and this
25 was the case in Operation Ankaa?

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1 MR ARUNDALE: Yes, the Met has its own training capability,
 2 yes.
 3 Q. Yes, thank you.
 4 Is the MASTS configuration designed to provide
 5 a flexible and mobile platform to intervene once
 6 a tipping point or threshold for arrest has been
 7 reached?
 8 MR ARUNDALE: I think, sir, one of the most important things
 9 to stress is that that platform should have the
 10 capability to deliver all of the potential tactical
 11 options which are available to AFOs across the board,
 12 ranging from do nothing through to the most overt
 13 interception or intervention.
 14 That should be a fundamental tenet of the operation,
 15 knowledge and understanding of all involved.
 16 MR BURROWS: And generically it is a support to armed
 17 surveillance, it is not a contingency designed to
 18 intervene, although that may be part of the planning.
 19 Q. Right, thank you.
 20 Does it allow intelligence and evidence to be
 21 gleaned from a covert operation with the capability for
 22 specialist firearms officers then to intervene when
 23 command directs, as I said, that a tipping point or
 24 a threshold may have been reached?
 25 MR ARUNDALE: It does.

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1 with a subject prior to the actual commission of
 2 an offence and any threat being realised, and
 3 an intervention, which is dealing with a subject whilst
 4 they are in the act of committing an offence.
 5 Each of which is a subset of the generic descriptor
 6 "decisive action"?
 7 MR ARUNDALE: That's correct.
 8 MR BURROWS: That's correct.
 9 Q. But these tactics should only be used when they are
 10 appropriate to the situation and absolutely necessary?
 11 MR ARUNDALE: That's correct.
 12 Q. Thank you.
 13 Turning now to guidance on discharge of a weapon,
 14 the inquiry has heard that each MPS firearms officer
 15 holds a form 6590, which is commonly referred to as the
 16 firearm officer's blue card. Indeed, sir, we saw
 17 an example of that yesterday, with W80.
 18 THE CHAIRMAN: We did.
 19 MS BLACKWELL: Yes.
 20 We saw that that card contains a reference in
 21 particular to section 3 of the Criminal Law Act of 1967
 22 on the use of force.
 23 Could we also, please, look at the APP on armed
 24 policing on this issue, and it is at COP28, page 2,
 25 please.

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1 Q. Yes, and what it isn't is a firearms tactic?
 2 MR ARUNDALE: It is not and it should not deliver
 3 a pre-determined outcome, it should be one of the range
 4 of outcomes, bespoke, considered and appropriate to the
 5 particular deployment.
 6 Q. Mr Arundale, was the Anthony Grainger Inquiry concerned
 7 with what they described as a fundamental problem with
 8 that operation in 2012, involving a shared misconception
 9 that MASTS was itself a firearms tactic?
 10 MR ARUNDALE: Yes, sir.
 11 The shared misconception was that effectively when
 12 there was a MASTS deployment, effectively, if the
 13 circumstances allowed, that there would be a strike, to
 14 use the terms, of whichever nature it was.
 15 That was a fundamental misunderstanding, which led,
 16 effectively, to pre-determined tactical outcomes rather
 17 than commanders properly assessing the intelligence,
 18 using the national decision making model and making
 19 bespoke operational-specific decisions.
 20 Q. Thank you.
 21 The reason for making this point is that MASTS
 22 commanders and AFOs are trained or at least should be
 23 trained to a higher standard and have a capability to
 24 deliver the specialist tactical options called
 25 interception, which the inquiry has heard is dealing

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1 This relates to the accuracy of shot, at the bottom
 2 of the page:
 3 "Research indicates that the accuracy of shots fired
 4 under training conditions is generally greater than in
 5 operational circumstances. Police officers are normally
 6 trained to discharge conventional firearms at the
 7 largest part of the subject they can see, which in most
 8 cases will be central body mass."
 9 Can we go over the page, please. Thank you:
 10 "Threat to life. When it is considered necessary to
 11 discharge a firearm at a subject, police officers need
 12 to shoot to stop an imminent threat to life. The
 13 imminence of any threat should be judged in respect of
 14 the potential for loss of life, with due regard paid to
 15 legislation and consideration of absolute necessity,
 16 reasonableness and proportionality.
 17 "Where an authorised firearms officer decides to
 18 discharge a firearm, the number and sequencing of rounds
 19 fired will depend on the circumstances that exist at the
 20 time. Officers must constantly assess the threat posed
 21 by the subject and the continuance of that threat.
 22 Officers must be able to demonstrate that the degree of
 23 force used was absolutely necessary and relative to the
 24 threat posed. The use of excessive force is strictly
 25 prohibited."

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1 If we could just go over the pain, please,
 2 Mr Coates:
 3 "The discharge of firearms by police may not
 4 necessarily result in the death of a subject. Every
 5 effort must, therefore, be taken by police to provide
 6 medical assistance."
 7 Finally:
 8 "Accountability for all rounds fired:
 9 "AFOs are accountable for all the rounds that they
 10 discharge and they should be aimed so as to minimise
 11 risk either directly or by ricochet to any person other
 12 than the subject."
 13 Thank you, you can take that down.
 14 Are you familiar with the system that the inquiry
 15 has heard was in operation on 11 December of the C3000
 16 command room?
 17 MR ARUNDALE: I am broadly familiar with the concept of it,
 18 and have clearly read these documentations and I am used
 19 to similar functions in the forces I have worked in.
 20 MR BURROWS: Indeed.
 21 Q. Within that room, there was the facility to use the CLIO
 22 system. Are you familiar with that?
 23 MR ARUNDALE: Yes, I am.
 24 Q. The MPS policy relating to monitoring facilities dates
 25 from July 2008. It is a room, C3000, that has the

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1 formed as a subset of Operation Utara, which was
 2 an operation mounted by the Metropolitan Police Service
 3 for some time in relation to organised crime networks in
 4 north London, particularly of Turkish origin.
 5 The first planning meeting, as it was described, for
 6 Operation Ankaa, appears to have taken place on
 7 10 November. Thereafter, there was one other planning
 8 meeting that took place on 3 December. Evidence which
 9 you will have heard throughout the course of the inquiry
 10 so far.
 11 In terms of what was discussed during the very first
 12 planning meeting and who was present, and the manner in
 13 which that meeting was called, I am going to ask you to
 14 look at the notes of S48, which I think were the only
 15 notes that were taken by any of those present at the
 16 meeting. They are at IPC515, please, Mr Coates.
 17 Thank you.
 18 You will have seen these notes before. I don't
 19 intend to read through them, because they have already
 20 been read into the inquiry's record.
 21 But I would like you, as far as you feel able so to
 22 do, to consider the types of issues that were being
 23 discussed during the course of this meeting, the people
 24 who had been asked to attend, and the issue of record
 25 keeping.

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1 capability to record video, audio and radio
 2 communications. But the current policy, as I think you
 3 are aware, only has mandatory recording activated for
 4 specific counter-terrorism related operations.
 5 The policy indicates that it is the discretion of
 6 the SIO to decide for other operations if monitoring
 7 equipment will be activated. As we know, that was not
 8 done for Operation Ankaa.
 9 The policy also explains, doesn't it, that the CLIO
 10 system is a computerised log of actions, decisions and
 11 strategy in relation to incidents, operations, with
 12 inputs from operational commanders and intelligence
 13 sources.
 14 The inquiry has heard that this system was utilised
 15 to some extent and we will turn in good time for you to
 16 consider whether or not it really was used to the best
 17 of its capability.
 18 I am going to ask you to move away from the
 19 legislation and policy guidance and help us with your
 20 consideration, your analysis and your opinion on the
 21 planning of Operation Ankaa.
 22 We will take this, as far as we can, in
 23 a chronological order, although we may dip in and out to
 24 deal with other discrete aspects as they arise.
 25 The inquiry has heard that Operation Ankaa was

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1 So deal with those matters in whichever order --
 2 THE CHAIRMAN: By "record keeping", do you mean the minutes
 3 themselves or is that a separate issue?
 4 MS BLACKWELL: Well, these, I think, I am correct in saying
 5 this is the best we have.
 6 THE CHAIRMAN: This is the best we have. So they may
 7 wish --
 8 MS BLACKWELL: It may be better described as a lack of
 9 record keeping.
 10 THE CHAIRMAN: They may want to comment on what they would
 11 have expected in terms of record keeping.
 12 MR BURROWS: Sir, we are asked to reference our analytical
 13 approach to this. Bearing McCann in mind, we wanted to
 14 see the extent to which it is planned and controlled.
 15 Therefore we went to the first planning meeting to find
 16 details of what was being discussed and what was being
 17 planned.
 18 I must say there was disappointment, because we
 19 couldn't work out who attended in detail and what were
 20 exact issues that were being discussed. So our
 21 expectation would have been that there would have been
 22 a log and indeed a minute of who attended, what the
 23 purpose of the meeting was, if indeed it was a planning
 24 meeting or it was a meeting of investigators to decide
 25 what they would do with the intelligence that they had

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1 just received.
 2 Because that is actually two slightly different
 3 objectives.
 4 To find that information we start off with the IPCC
 5 report, which simply said there was a lack of
 6 information. We then looked at the statements of each
 7 officer who was there. Each of which gave different
 8 indications of who attended and what the purpose of the
 9 meeting was.
 10 Our analysis thereafter was simply to set that out
 11 and it was difficult to actually determine whether it
 12 was a planning meeting, although that became our
 13 conclusion: it was a planning meeting at which it was
 14 determined that there would be the plan that we have
 15 heard of, which was to let the movement of the prison
 16 van to go forward and that there would be the probe in
 17 the car and that would result in an arrest. But it
 18 didn't say how the arrest would be made.
 19 That was the best that we could actually glean from
 20 the note that had been provided.
 21 MR ARUNDALE: Sir, if I could add to that, it looks and
 22 sounds like a planning meeting for what is going to turn
 23 out to be an armed deployment --
 24 Q. Yes.
 25 MR ARUNDALE: -- potentially a high-risk deployment and it's

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1 the sense that he came from the Flying Squad, which was
 2 another directorate. And who selected the SFC, who
 3 selected the TFC and who selected the people to be there
 4 was of interest to us. We noted that the person who
 5 seemed to drive the meeting and ask for the meeting was
 6 the SIO.
 7 Q. In fact, the presence of those that you have just
 8 mentioned, Mr Burrows, went on to take on the positions
 9 of command in the operation. The identities of the
 10 people playing those roles never changed.
 11 MR BURROWS: No, that is correct. We are aware that from
 12 statements that the SIO said he had a discussion with
 13 the detective chief inspector, who turned out to be FE16
 14 previously. But an alternative way of doing this would
 15 be to take the intelligence to your line management and
 16 say that there is something significant going to take
 17 place in terms of a plan to escape. We know the
 18 information regarding it, we have intelligence regarding
 19 a car and then say within the meeting: what will we do
 20 with that intelligence? And at that point, then, if
 21 a decision was made, we are going to run a certain sort
 22 of operation, which will have a firearms element to then
 23 move into the next logical stage.
 24 But these two things seem to be all occurring at the
 25 start.

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1 dealing with serious criminality. It is quite
 2 surprising that the person in charge of that meeting
 3 didn't ensure that there was a note and that the primary
 4 or the initial reason was for them to make sure their
 5 directions and their requirements would be carried out
 6 by all the other people there, and people that would
 7 subsequently be tasked and have actions delegated to
 8 them.
 9 So it was very unusual. It is not just about
 10 creating an audit trail so that there could be
 11 a post-incident review, it is about good practice and
 12 basic management techniques to make sure that there is
 13 proper communication of what needed to be done, by whom
 14 and by when so that can be revisited at the next meeting
 15 itself.
 16 So we were very surprised and it did give us some
 17 difficulties in term of pulling together an analysis of
 18 exactly what did happen following the McCann principles
 19 of how was this planned.
 20 Q. Yes.
 21 MR BURROWS: Although we did note, sir, that the tactical
 22 adviser from SCO19 was at the first meeting, which gave
 23 an indication that there was going to be a firearms
 24 element to the meeting. And that the strategic firearms
 25 commander, who wasn't necessarily the natural one, in

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1 THE CHAIRMAN: In other words: rather than have the planning
 2 meeting, which this appears to have been, there could
 3 have been what you described as a meeting of
 4 investigators deciding what to do with the information
 5 received --
 6 MR BURROWS: Yes.
 7 THE CHAIRMAN: -- before?
 8 MR BURROWS: Yes.
 9 THE CHAIRMAN: Yes.
 10 MS BLACKWELL: Correct me if I don't summarise your
 11 evidence, Mr Burrows, accurately, but is what you are
 12 describing a meeting that was being planned around
 13 an agreed outcome?
 14 MR BURROWS: That is what began to emerge as we started
 15 doing our review.
 16 I must say, I kept looking for something which would
 17 suggest that my assumptions were wrong, but as it went
 18 on, it seemed to clarify the basis which we came to
 19 agreement on.
 20 Q. Thank you.
 21 Let's look at S48's notes of the next meeting, the
 22 second and final planning meeting on 3 December, which
 23 is IPC532, please, Mr Coates.
 24 Next page, please.
 25 These were the notes that were provided to the

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1 inquiry in relation to this second meeting. Again, the
 2 same questions, were you able, from these notes, to
 3 reach any conclusions on the issues that were being
 4 discussed, bearing in mind that we also know that there
 5 was no formal note or minute taken of this meeting
 6 either?
 7 MR ARUNDALE: I think, sir, that the great difficulty here
 8 is that you would expect, because sustained public
 9 protection was a key issue in relation to this, for that
 10 to be a fundamental overarching strategic decision to be
 11 made at a senior level, properly explored and properly
 12 documented.
 13 That would be the norm and that is not what we saw
 14 in this particular instance itself. But quite clearly
 15 the involvement of the tactical adviser and the SIO is
 16 giving us at this point in time more information, which
 17 tends to indicate there probably was going to be
 18 a pre-determined outcome.
 19 MR BURROWS: Sir, could we also add to that that, although
 20 there was a firearms element to this whole operation, we
 21 are simply talking about planning meetings where various
 22 people are brought together to make strategic decisions.
 23 It doesn't matter whether it is a firearms operation or
 24 any sort of policing event, you would expect that the
 25 person who chairs those meetings is the person who first

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1 some reason, as occasionally does happen, they may
 2 delegate, but it would be very rare in a case like this,
 3 given that he is the most senior person there, both in
 4 terms of rank and role, I would expect the SFC -- sorry,
 5 the superintendent to step forward and say, "I am
 6 chairing the meeting" and, "I am the chair" and take on
 7 responsibilities thereafter.
 8 MR ARUNDALE: Can I just slightly caveat that, as we have
 9 seen, there may well be a more senior person present who
 10 is not going to be the strategic firearms commander.
 11 They would have those responsibilities, but there should
 12 be absolute clarity of role and clarity of how this was
 13 going to be documented and allocated.
 14 There has been some discussion of daybooks. Good
 15 practice would indicate that there would be a clear
 16 policy in relation to the completion and maintenance of
 17 daybooks and what they should contain and how to manage
 18 sensitive data, which may be the case in the
 19 Metropolitan Police, I am not particularly sure, but is
 20 certainly the case in many other places.
 21 THE CHAIRMAN: Does the fact that there was no planning
 22 meeting between 11 November and 3 December support your
 23 opinion that the meeting which had taken place on
 24 11 November was being planned around an agreed outcome
 25 or does the fact that there was no planning meeting

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1 of all tells everyone why they are there, clarifies who
 2 is going to keep a record and minute of that meeting,
 3 clarifies the nature of the minute they want taken.
 4 I do appreciate that sometimes at these meetings there
 5 are sensitive intelligence being shared and sometimes
 6 that cannot be referred to openly within the minute.
 7 However, senior police officers and officers who
 8 work within these crime directorates know how to handle
 9 those issues by simply referencing other documents.
 10 Q. Right.
 11 MR BURROWS: I noted that I think Mr Murray said it was his
 12 responsibility to take the note, I think he is being
 13 overly generous, it was the responsibility of the chair
 14 of that meeting to determine who would take the note and
 15 to be satisfied with the minute that was taken at the
 16 end.
 17 Q. Yes.
 18 And that would be?
 19 MR BURROWS: Normal police practice. In fact I think I work
 20 in a number of different sectors and whether it is
 21 a school governors' meeting or whatever, the same
 22 principles apply.
 23 Q. Would you expect the chair to have been the strategic
 24 firearms commander?
 25 MR BURROWS: Yes, being the senior person there, and if for

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1 within that three-week period not surprise you?
 2 MR ARUNDALE: It does surprise me in this particular
 3 instance, because there was intelligence being developed
 4 and intelligence feeds and normally the strategic
 5 firearms commander and tactical firearms commander,
 6 because they have absolute specific responsibilities for
 7 that armed deployment, would require updates and that
 8 would result in planning meetings being held.
 9 THE CHAIRMAN: Does that tend to support your view that the
 10 first meeting, and indeed the second meeting for that
 11 matter, were being planned around an agreed outcome?
 12 MR ARUNDALE: Yes, and this was being driven not necessarily
 13 by the SFC and TFC, it was being driven by other forces
 14 such as the SIO and the -- well, certainly the SIO.
 15 THE CHAIRMAN: Thank you.
 16 MR BURROWS: Related to that point, sir, after any meeting
 17 of this nature you would expect a number of actions to
 18 be set out. Normally they are set out in the minutes,
 19 detailing who is responsible to go and do what. In this
 20 particular case, clearly action was being taken in that
 21 people were doing various intelligence and planning and
 22 reconnaissance issues --
 23 MS BLACKWELL: Yes.
 24 MR BURROWS: -- but we would expect it then to be set out
 25 and be clear, so clearly there was action taken but not

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1 documented.

2 Q. It may seem like an obvious question, but what

3 difficulty is there in a failure to document those sorts

4 of actions and results?

5 MR ARUNDALE: I think the simple thing I mentioned, it is

6 very easy in a complex, busy deployment involving many,

7 many staff, for things to be missed. As a commander,

8 I would want to make sure that my directions enabling

9 and constraining were properly listed so I could check

10 and make sure they have been done and there would be no

11 confusion in relation to who was required to do what

12 particular tasks.

13 It also has the effect of not enabling post-incident

14 review, which is obviously a requirement.

15 Q. Yes.

16 MR BURROWS: Sir, again, taking notes and how they are made

17 starts with basic police training and certainly once

18 people get into management or leadership roles, it

19 becomes fundamental to the point. Particularly when you

20 are dealing with complex operations on a regular basis,

21 unless you keep notes and details you will forget and

22 not be able to recall what was discussed when and what

23 was agreed.

24 However, training for firearms operations highlights

25 this and it is written the whole way through the APP,

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1 It is relevant both to your own personnel, in other

2 words if people go sick, et cetera, but in the tactical

3 bit, what if this doesn't go forward? What if this is

4 not the mission car? What if some other car is used?

5 What if this is a ruse? What if there is corruption?

6 What if the Serco staff are actually placed people?

7 What if a bus or a lorry drives between the convoy and

8 us?

9 You make all the reasonably foreseeable what ifs.

10 I am talking about situations where you have time for

11 planning, but even if you are driving your response car

12 to a scene, they are the things that are going through

13 people's mind and you can fit them back into the NDM

14 model if you wish in terms of --

15 Q. I am just going to interrupt you for a moment, if I may,

16 to say that the inquiry has heard evidence from some

17 officers that those sorts of issues were going through

18 their minds.

19 MR BURROWS: Okay.

20 Q. However --

21 MR BURROWS: What we would expect would be at a planning

22 meeting, not necessarily one of these, it may be

23 a planning meeting where the OFC is asked to go away and

24 think some of that information out and to bring it back

25 as part of the planning at the next meeting.

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1 you have mentioned the mnemonic "PLAN" and "PLANE", the

2 "E" being "Ethics" being added to the end, so

3 "Proportionality", "Legality", "Accountability" and

4 "Necessity". Part of accountability is record keeping

5 and certainly when I am involved in training I use

6 a very simple comment:

7 "Move the debrief that is about to take place after

8 the incident into your thinking during the planning."

9 Q. Right.

10 MR BURROWS: I also add the words, "Think judge, think

11 court".

12 MR ARUNDALE: "Think public inquiry".

13 Q. Think public inquiry, quite so.

14 Because this is the only record of this meeting,

15 other than what was retrospectively written in the

16 witness statements to which you have had regard and also

17 the evidence that you have heard from the officers who

18 were present at the meeting, within the course of this

19 public inquiry, what would you expect by way of

20 discussion of contingencies or what ifs?

21 MR BURROWS: Sir, within the contingencies section of the

22 APP there is a reference to what ifs. It is both

23 strategic and tactical. It is simply thinking through

24 what might happen. What if this occurs? What if that

25 occurs?

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1 And then for all of those things to be risk assessed

2 in terms of what is the likelihood and what is the

3 impact, and we have heard some of that being discussed

4 in evidence.

5 MR ARUNDALE: I think, sir, the important point at this

6 stage is not necessarily to look at what many would

7 think are the contingencies, because they would be the

8 tactical issues and they would develop as you got closer

9 to the incident and closer to the deployment.

10 I think the key issues here are the strategic

11 implications and the contingencies. Much of that rests

12 around -- the big thing that jumps out of the page when

13 we first saw the documents was Serco. You would expect

14 somebody who has a much broader knowledge of the

15 organisation and the pitfalls of another partner

16 organisation being involved in this operation to start

17 thinking through what are the implications of another

18 agency, the courts, the prison service, Serco? Scoping

19 those issues, making decisions about who needs to be

20 notified and what the potential implications of dealing

21 with those issues are. I think that is the key issue

22 that we didn't see at the start of it. Much of the

23 planning issues develop, but I think that is the key

24 consideration and set of contingencies that had to be

25 addressed right at the start. The rest of the stuff

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1 could be tasked out to an extent.
 2 Q. Yes.
 3 MR BURROWS: In the APP legal section, not only does it
 4 address Article 2, but it sets out the main articles
 5 relevant to policing in the Human Rights Act, article 5,
 6 article 8, et cetera.
 7 It is set out in a grid, and it is there for
 8 a purpose. The idea is that you should actually
 9 consider how are any one of those engaged in the
 10 operation that I am planning. Now, they may not be, or
 11 they may be, but certainly if you are wanting to block
 12 streets or you are putting families at risk, they may
 13 all be engaged. I would expect them at least to be
 14 documented, an N/A against it if it is not applicable or
 15 if it is applicable, then to work out what the issues
 16 are and again we didn't see that occurring.
 17 Q. Right.
 18 Some of those considerations, it seems, were
 19 documented in the FA forms, in the firearms authority
 20 forms.
 21 I would like to move, please, to ask you some
 22 questions about those. You have had access to those
 23 forms, I think, and you have also heard several officers
 24 be examined about their contents and the manner in which
 25 that set of forms was created and then later utilised.

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1 spontaneous -- although I don't use that term -- event
 2 that occurred with Izzet Eren's arrest and this being
 3 a follow on.
 4 It would have been helpful had one have been
 5 supplied. We were not overly critical in our report
 6 about the fact that the first one wasn't there, although
 7 having heard the evidence that has come out in
 8 proceedings, it certainly should have been at some
 9 stage. Would be our agreed view, I think.
 10 Q. Were --
 11 THE CHAIRMAN: It is all right.
 12 MS BLACKWELL: Were you surprised that the lack of an FA1
 13 form had not been picked up by anybody or had not been
 14 commented on by any of the officers in command?
 15 MR BURROWS: I noticed that the Metropolitan SOPs, that that
 16 FA1 form is supposed to go, and I believe I am speaking
 17 correctly, to SCO19, so they actually know about all
 18 planned firearms operations and it goes to a senior
 19 level within that unit. What impact that would have
 20 had, I don't know, it would be a Metropolitan Police --
 21 but not providing this ... going back to thinking about
 22 inquiries and thinking post incident at the start, does
 23 not help in terms of the accountability issue.
 24 THE CHAIRMAN: If nobody raised it, said: where is the FA1?
 25 Does it look as though FA1s were dispensed with as

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1 The first issue that I would like to ask you about
 2 is the absence of the FA1 form. Were you able to
 3 consider this and to form an opinion on, firstly,
 4 whether it mattered and, secondly, if it did, then how
 5 did it put the team at a disadvantage?
 6 MR BURROWS: Sir, first of all I think the point to make is
 7 that the FA forms that we have seen are
 8 Metropolitan Police FA forms, they were not all
 9 nationally agreed forms, certainly at the end of the
 10 2010s. There was a move going on during the earlier
 11 part of 2011, 2012 and 2013, to bring forms of that
 12 nature in nationally. We have recently been involved in
 13 a case where a very similar form was being used, but not
 14 exactly the same.
 15 That was a 2016 one, where the code of ethics was
 16 written into it.
 17 It is the responsibility of each individual police
 18 service to ensure that they have a system for
 19 authorising firearms operations.
 20 Q. Yes.
 21 MR BURROWS: These particular forms are set out within the
 22 MPS SOP.
 23 Q. Yes.
 24 MR BURROWS: We had noted the rationale for one not being
 25 there, based on the earlier, as they referred to,

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1 a matter of course?
 2 MR BURROWS: It looked like that to us, sir.
 3 MR ARUNDALE: I think, sir, part of this is the
 4 Metropolitan Police has many, many armed policing
 5 deployments. They need to have a good audit trail for
 6 those issues, so there should be a system there which is
 7 a check and balance. What I would not advocate is that
 8 are done retrospectively. The question should be asked:
 9 why was it not submitted? And a note put in to say,
 10 "This was not submitted, this was the reason", and if
 11 there is a training issue or a need to change policy,
 12 that that is done.
 13 I think some of the evidence we heard dismissed it
 14 and said it was not appropriate, it was bureaucratic.
 15 I would not agree with that view at all, there is
 16 a specific purpose for it, the Met Police want that to
 17 be done. If it was not done for a reason, it should
 18 just be acknowledged.
 19 Q. As you say, there is a duty to fill out an FA1 form
 20 according to the MPS SOP.
 21 MR ARUNDALE: There is a requirement and somebody has to
 22 make a decision based on the content of it. This,
 23 again, seemed to be an assumption that it was going to
 24 happen anyway, it was a natural consequence. Well,
 25 neither the APP nor the Metropolitan SOP is based on

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1 that premise, it is based on an overt decision
 2 considering the intelligence and surveillance.
 3 Q. Thank you.
 4 Did you want to add something, Mr Burrows?
 5 MR BURROWS: In the event of an acknowledgment that it was
 6 not done for a reason, I would expect the next form to
 7 go in to actually document that, "An FA1 was not filled
 8 in in the last deployment for the following reason ..."
 9 And explain it so you have an audit trail as to the
 10 omission.
 11 Q. As to why.
 12 MR ARUNDALE: Yes.
 13 Q. Yes.
 14 You have been present at the inquiry whilst several
 15 command officers were questioned about mistakes on the
 16 forms, be they by way of date, by way of the wrong
 17 operation name being used, cutting and pasting from one
 18 document to another, which led to the wrong information
 19 being provided in a second document, et cetera. I am
 20 not going to take you to each of those individual
 21 errors, but I would like you to provide us with your
 22 opinion as to the relevance of that and the effect of
 23 it.
 24 MR ARUNDALE: I think the first question it raises is the
 25 method of administration of those forms, how they are

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1 Metropolitan Police, don't just cut and paste, think it
 2 through and have a very good system which ensures you
 3 only retransfer forward those issues which are
 4 particularly relevant, and you make it very clear what
 5 is bespoke to the operation.
 6 Because I don't think there probably can be
 7 an operation which has not got something which is unique
 8 which needs to be documented, particularly around the
 9 intelligence and the assessment of tactical options.
 10 It does create the impression that there is not due
 11 regard given to the consideration of those options in
 12 relation to the specific nature of that operation.
 13 MR BURROWS: Sir, could I add two points to that?
 14 One, is I think in terms of the form, when they get
 15 to technical options there were generic references to
 16 the SCO19 toolbox --
 17 Q. Yes.
 18 MR BURROWS: -- and there were options set out which are
 19 again generic and not specific to the operation.
 20 On a different matter entirely, and I think it is
 21 a matter for the police service and for the
 22 Metropolitan Police, because we have seen this in
 23 similar cases, where you get different iterations of the
 24 same form going forward, you need a system of document
 25 management, so that you actually know that changes were

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1 prepared and who prepares them. For a busy department
 2 dealing with these sort of issues, I think it is fair to
 3 say that there should be far more rigour in relation to
 4 it. There is clearly a significant element of cutting
 5 and pasting, evident from the fact that the wrong
 6 operation name was on the front of some of the forms and
 7 there was direct cut and paste lifts of main parts of
 8 the text, much of which was not relevant.
 9 I would have expected -- because there is nothing
 10 wrong with cutting and pasting relevant information,
 11 relevant summaries and the details of relevant tactics,
 12 there is no point in that being typed out again.
 13 Q. It is simply a time-saving matter, isn't it?
 14 MR ARUNDALE: It is, but it is very, very simple to say:
 15 "The following entry is generic and I would just
 16 make the following points which are specific to
 17 Operation Ankaa."
 18 So the reader knows full well that that is
 19 effectively a generic cut and paste, but you can see
 20 exactly what is bespoke to the operation, so you can
 21 demonstrate and you can exercise good sound judgment in
 22 relation to it. I think it was an uncomfortable
 23 experience for those witnesses, it didn't look
 24 professional at all and I think the lessons are patently
 25 obvious to those individuals and the

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1 made to that particular document on a certain time.
 2 I know it caused the inquiry and it caused us
 3 endless hours working out which FA5 we were referring
 4 to, which ones referred to the operation on the 8th,
 5 which was supposed to be the 7th and which ones were in
 6 relation to the 11th.
 7 I think that is a lesson that could be easily
 8 learned and could be addressed by using proper IT
 9 software.
 10 Q. Thank you.
 11 I am going to ask that we look at some aspects of
 12 these forms, please. Could we put up IPC385 at page 11,
 13 Mr Coates.
 14 This is an extract, I think, from Mr Hartley's
 15 report, because he assessed something which I am going
 16 to describe, and I think he described throughout the
 17 course of his report, as the lack of any
 18 multidimensional risk assessment.
 19 Particularly yesterday it became clear that there is
 20 or was a divergence between the threat and risk
 21 assessment that was performed by W80 as at the time of
 22 interception, which as you will recollect he assessed as
 23 being very high, and almost at the highest part of his
 24 scale, as opposed to the risk assessments that we see
 25 carried out in these forms that are universally assessed

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1 as being low.
 2 Mr Hartley, when he assisted the IPCC, considered
 3 the issue of a multidimensional risk assessment and
 4 promoted that as being a better system and one that
 5 would be more effective in terms of identifying at
 6 various stages whether a risk and threat was raised or
 7 was lowered.
 8 Do you agree with his assessment and suggestion in
 9 that regard?
 10 MR ARUNDALE: I say, we fully agree with his suggestion.
 11 I think it is far more than that, because the
 12 requirement is already there and the training should
 13 already be there.
 14 So I don't think this is a recommendation, I think
 15 it is a need to comply with ...
 16 The term "corporate risk assessment" has been used
 17 in evidence. It is not and should not be considered
 18 a corporate risk assessment. The risk assessment that's
 19 carried out should be bespoke, specific and relevant to
 20 the operation itself. It drives some of the activity
 21 and it helps with the assessment and selection of
 22 tactics, particularly.
 23 Particularly in relation to the issue of tactics,
 24 the APP gives guidance that tactics should be considered
 25 on three dimensions, the feasibility, the acceptability

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1 saw of everything being low and some of them saying it
 2 is the highest risk that they have ever walked forward
 3 into.
 4 That is incongruous, it shouldn't happen and shows
 5 there was something fundamentally wrong with the
 6 understanding, the completion and application of that
 7 threat assessment.
 8 Q. Thank you.
 9 I am just going to read the way in which Mr Hartley
 10 expressed his concern in relation to the documentation,
 11 and it is from the middle of that page:
 12 "Each group that is assessed is ultimately graded as
 13 low in both the SFC and the TFC logs, as the risk level
 14 at the time of writing, there is supporting rationale
 15 that explores some elements of risk due to time and
 16 location, but this is not comprehensive. The use of
 17 multidimensional threat, harm and risk assessment should
 18 be adopted in the written command logs to give clarity
 19 of the multidimensional risk, such as risk now, risk
 20 should the subjects drive a point of contact (the
 21 criminal intent) or; risk at the police point of contact
 22 (our intervention)."
 23 MR ARUNDALE: This should take into account all the players
 24 as well, so it is not just the points in time, it is the
 25 key players and people relation to it, ranging from

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1 and the risk.
 2 The feasibility, have we got enough staff to do it?
 3 Can we do it? Are they trained in the right way?
 4 Acceptability gets into the Article 2 issues.
 5 Risk, very much looks at this. If it is a high-risk
 6 issue, or a very high-risk issue, the commander should
 7 be saying: can we mitigate that in some way, shape or
 8 form?
 9 The suggestion that the threat assessment is done at
 10 a point in time is not something that I am comfortable
 11 with or I have ever been presented with before. It is
 12 always multidimensional, it is looked at at the key
 13 stages of the operation, not from the planning stage
 14 three months before an issue is going to happen.
 15 So I didn't recognise it, I don't think it is
 16 relevant to the incident. It doesn't help with the
 17 selection of task tactics or the risk assessment that
 18 has to be done at the time.
 19 Tactical advisers particularly will help with this
 20 particular issue and again they are advising to say the
 21 high-risk elements of the operation itself, which should
 22 be taken into account.
 23 Whilst I accept there will be divergence sometimes
 24 between the CTSFOs in this case or the AFOs on the
 25 ground and a commander, it shouldn't be the gulf that we

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1 Serco through the public and other issues. That is why
 2 it is such an important document and sometimes the
 3 matrix itself is not sufficient to do it. Sometimes it
 4 does need a narrative as well, and I have seen various
 5 bespoke ways of doing it which although they can
 6 sometimes look messy, they really are well thought out
 7 and you can see that they are thinking in different
 8 dimensions using the national decision model to capture
 9 all the relevant issues.
 10 Q. Thank you.
 11 MR BURROWS: I think, sir, if I could add to that, in terms
 12 of acceptability, it is not just the Article 2
 13 considerations, it is: what are the implications of this
 14 should it go wrong? By that I mean end up with somebody
 15 being killed or seriously injured. Building into that
 16 would be community issues and a whole host of other
 17 things that strategic police commanders should be
 18 considering and certainly I know of lots of situations
 19 I have been in where I have said: what is the tactical
 20 option? And I have been told, "In that case, we are not
 21 going down that route".
 22 So you can square some things off, if that is the
 23 only way of dealing with this, we are not doing it. We
 24 will abort the operation or we will move on.
 25 The other point is, again, back to McCann, if you

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1 want to mitigate to the greatest extent possible resort
 2 to lethal force, you have to ask the question: at what
 3 point is lethal force likely to be used? What is the
 4 situation in which it will be used? And does this plan
 5 that is being brought forward take us to that point?
 6 And what can I do in terms of agreeing or distinguishing
 7 or setting aside some other plan that would mitigate it?
 8 Unless you think about the end point, you cannot
 9 actually be compliant with McCann.
 10 Q. Is it your view then that those sorts of thought
 11 processes, taking an operation from start to finish and
 12 considering the ultimate stage that may be reached,
 13 or --
 14 MR BURROWS: Yes --
 15 Q. -- a selection of different stages that might be reached
 16 as the ultimate point, should be considered on these
 17 forms?
 18 MR BURROWS: Absolutely. Absolutely.
 19 Q. It is moving forward slightly, but I wanted to draw
 20 a parallel as well with another aspect of risk
 21 assessment that was clarified yesterday, when we invited
 22 W80 to consider the words provided to him at the 5.00 am
 23 briefing by the ground tactical firearms commander,
 24 Keely Smith, who at that stage -- so on the morning of
 25 the operation -- assessed the threat and risk assessment

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1 Metropolitan Police's articulation, a high-benefit
 2 operation.
 3 THE CHAIRMAN: Yes.
 4 MR BURROWS: That being the case --
 5 THE CHAIRMAN: Because of the sustained public protection
 6 that which they were expecting to achieve?
 7 MR BURROWS: Indeed.
 8 The evidence appears to be that they were putting
 9 the right mitigating factors in to reduce the risk, but
 10 it was still always going to be a high-risk operation,
 11 particularly if for some reason they were blindsided,
 12 a term that they have used in their statements, in
 13 respect of the Serco vehicle. I know we will probably
 14 come to that, but that is an issue that I have wrestled
 15 with in terms of the Serco vehicle and the drivers and
 16 the occupants on the vehicle. Right from the start of
 17 this operation.
 18 MR ARUNDALE: It is normally a logical consequence of
 19 sustained public protection, you are allowing a criminal
 20 enterprise to run longer than it would normally run, for
 21 the right reasons. But when that contains the potential
 22 for firearms, there must be an elevated risk and those
 23 documents did not reflect that level of risk.
 24 Never mind the policing action which was being
 25 planned to resolve that.

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1 to each individual and organisation involved in the
 2 operation as being universally low.
 3 That was, of course, whilst she was in the meeting
 4 room and at the point of leaving and before state amber
 5 was called. But how helpful do you think that is as
 6 a risk assessment being presented to the firearms
 7 officers on the morning of the deployment?
 8 MR BURROWS: It's meaningless.
 9 MR ARUNDALE: Yes, it is -- yes, Colin has used the term
 10 meaningless. It doesn't seem to have any relation to
 11 the armed deployment at all. Particularly given that
 12 individual's role, they very clearly had a role on the
 13 ground with the CTSFOs and there was a clear
 14 understanding in the minds of many of the witnesses as
 15 to exactly what they were going to do, that it was going
 16 to be an armed extraction.
 17 That should have reflected it. You know, that
 18 should -- it could have and should have reflected
 19 various stages of deployment, but that is where it
 20 should have ended. Again, that could raise questions
 21 itself which need to be fed back into the chain if the
 22 risk was deemed to be too high.
 23 MR BURROWS: Sir, our view, and I think it is -- I think it
 24 comes through in our report, was that this was always
 25 going to be a high risk, but in accordance with the

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1 MR BURROWS: Sir, I think we should add we are not adverse
 2 to high-risk operation being run. They occur regularly,
 3 whether it is explosives being moved, drugs being moved,
 4 firearms being moved, murder plots being planned, but
 5 actually being in control of them and by that I don't
 6 just simply mean having eyes on something, I mean being
 7 fully in control of the risks that may occur, would be
 8 an important element.
 9 THE CHAIRMAN: What is the potential consequence of
 10 a meaningless "low" risk assessment?
 11 MR BURROWS: It goes two ways, sir. It goes up to the
 12 higher command, who may be required to sign off
 13 an operation.
 14 THE CHAIRMAN: The lower the risk assessment the more likely
 15 they are to sign it off?
 16 MR BURROWS: Yes.
 17 THE CHAIRMAN: Yes.
 18 MR BURROWS: It also gives the command, the people who are
 19 actually in command, whether that is at TFC or SFC
 20 level, a false sense of security. It may be that they
 21 don't fully appreciate, because they are not necessarily
 22 people who have done it, the implications of standing
 23 directly in front of a vehicle with limited protection
 24 where you know that someone inside it may have -- or you
 25 believe that someone inside it may have a weapon which

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<p>1 is capable of discharging 12 rounds in one second. 2 The other difficulty is that -- we have both worked 3 with firearms officers, and I have been one, there is 4 a sense of which, "Well, that is what we are paid to do, 5 that is what we do and if you ask us, boss, to do it, we 6 will do it". 7 That in itself can be quite dangerous. Someone 8 needs to actually step in and say, "I know that, but 9 I am only going to ask you to do that if that is 10 absolutely necessary and we have no other choice but to 11 do it". 12 MR ARUNDALE: That is perhaps the most important reason why 13 it has to be accurate, for the safety of the officers. 14 The commanders need to know if it is high risk, whether 15 they are prepared to take that chance and send them 16 forward running towards a car where they think there may 17 be firearms in it, and that has to be balanced against 18 the proper assessment of all the consequences and all 19 the stages of the operation. 20 In terms of why that was done and set at low, 21 I can't really fathom that out, despite hearing the 22 evidence. 23 THE CHAIRMAN: Thank you. 24 Ms Blackwell, I am very conscious of the fact that 25 we resumed about 11.05, and I am just wondering whether</p> <p style="text-align: center;">Page 117</p>	<p>1 it would be an appropriate time for everybody's benefit 2 to take an early lunch? 3 MS BLACKWELL: Certainly. 4 THE CHAIRMAN: Shall we say 1.50? 5 MS BLACKWELL: Yes, please. 6 THE CHAIRMAN: Very good, thank you. 7 (12.51 pm) 8 (The Luncheon Adjournment) 9 (1.50 pm) 10 THE CHAIRMAN: Good afternoon, everyone. 11 MS BLACKWELL: Good afternoon, sir. 12 THE CHAIRMAN: Yes. 13 MS BLACKWELL: Thank you, sir. 14 Just before we broke for lunch, we were talking 15 about the threat and risk assessments and primarily 16 around the firearm authorisation forms which, as you 17 know, are forms required by Metropolitan Police officers 18 to complete in order to obtain authorisation for 19 a firearms operation. We discussed briefly the errors 20 that were on the forms and you have provided the inquiry 21 with your opinion and advice on how the forms can better 22 be utilised. 23 I would like us just to look though, please, at two 24 aspects of the FA2 and the FA3 form, and really to 25 invite you to reflect upon the way in which the</p> <p style="text-align: center;">Page 118</p>
<p>1 Article 2 obligations are considered within the body of 2 these forms. The FA2 form is at IPC1083, please, 3 Mr Coates, page 18. 4 Can we go to the next page, please. That is it. 5 This is a box headed "Powers & policy 6 considerations" and that is the extent of the reference 7 on this form to those various pieces of legislation and 8 guidance, including, you can see three up from the 9 bottom, Article 2, ECHR. 10 Is that an adequate reflection of how the principles 11 behind Article 2 may attach to this police operation? 12 MR ARUNDALE: Not in relation to the principles, because it 13 is just a heading without any context or detail. 14 Q. What would you expect there to be? 15 MR ARUNDALE: Well, clearly, you know, the Article 2 issues 16 indicate, first of all, that they have a power in 17 relation to whatever policing function they are carrying 18 out and delivering, is what they are doing 19 proportionate? Is there a less intrusive means of doing 20 that? Have they considered and properly documented the 21 various options that are available to them? And do they 22 have a full record of their reasoning? 23 Q. Yes. 24 MR ARUNDALE: The key aspects of the Article 2 requirements, 25 not the legislation.</p> <p style="text-align: center;">Page 119</p>	<p>1 MR BURROWS: If I could add to that, Article 2 would be 2 engaged in respect of a number of people in this 3 particular operation. So there are the Serco drivers, 4 how does it affect them? The two prisoners on the van, 5 who were related to the escape -- 6 Q. Yes. 7 MR BURROWS: -- and indeed the AN other, how it would affect 8 them? How did Article 2 affect the tactics that were 9 going to be used by the police officers who would be 10 placed in jeopardy as they moved forward? 11 THE CHAIRMAN: Article 2 is engaged in relation to all the 12 people -- 13 MR BURROWS: Absolutely. 14 THE CHAIRMAN: -- who are identified in the risk assessment 15 on the FA2? 16 MR BURROWS: Correct. 17 THE CHAIRMAN: Yes. 18 MS BLACKWELL: Can we please take that down and replace it 19 with the FA3 form, which is at IPC1085 and it is 20 page 15, please, Mr Coates. 21 This is the same part of the document, because it is 22 headed "Powers & policy considerations", but this is now 23 the FA3 authorisation form. It broadly mirrors the 24 information that we have seen set out in more detail on 25 this form, because as we can see in relation to</p> <p style="text-align: center;">Page 120</p>

1 Article 2, there is an explanation of what Article 2
 2 means and the principles that lie behind it.
 3 But there is no reference to those principles being
 4 applied to the individuals and organisations that you
 5 have begun to set out, Mr Burrows.
 6 Again, would you expect there to be more than simply
 7 a statement of the principles that lie behind the
 8 article?
 9 MR BURROWS: Yes, indeed.
 10 If it wasn't here, I would expect it to be drawn out
 11 in other parts of the form. Just while we are on the
 12 page, by the way, we had noted when we were doing this
 13 work that it refers to the ACPO manual of guidance,
 14 which is an outdated document, although below that it
 15 refers to the APP correctly.
 16 Nor does it make any distinction between the common
 17 law issues of self defence or the criminal law
 18 section 3, they just simply quote them and do not apply
 19 them to the particular incident in the case.
 20 Q. Yes.
 21 Thank you, we can take that down, please.
 22 I would like to, before we turn away from these
 23 forms, invite you to consider two additional matters.
 24 Did you view some of the difficulties that seem to
 25 have been experienced in filling in these forms by these

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1 Q. Using something as simple as a different colour print
 2 or --
 3 MR ARUNDALE: A different colour print, I have seen some
 4 with red print, I have seen some with handwritten
 5 notations against them, some it is typed in the same
 6 font and you can clearly see there is something bespoke
 7 to the operation, which might be fairly short and to
 8 point, and then you get well-written commentary, which
 9 is what they are trained about and which they understand
 10 in relation to Article 2 issues.
 11 Q. Yes, I think in fact part of the FA5 form, when we
 12 looked at it on the monitor, did include entries in
 13 a blue-coloured type, which indicated I think, not
 14 always but most of the time, that that was the bespoke
 15 information that was being added to the generic form?
 16 MR ARUNDALE: Yes, and that I think is good practice.
 17 Q. The other matter I would like to invite you to consider
 18 is whether or not there should have been an operational
 19 order drawn up and if so in what circumstances?
 20 MR BURROWS: So the police service, not necessarily within
 21 the firearms discipline, but could do within the
 22 firearms discipline, very often have for large-scale or
 23 important events an operational order which sets out the
 24 purpose of the operation, who will be involved in the
 25 operation. It does use many of the headings of the

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1 officers as a result of a lack of effective
 2 administration?
 3 MR ARUNDALE: There was certainly references to difficulties
 4 accessing copies of forms --
 5 Q. Yes.
 6 MR ARUNDALE: -- and there was the cut and paste from
 7 earlier forms. I think it does indicate that they would
 8 benefit from having a more effective support structure,
 9 not just in relation to the IT issues but in terms of
 10 the management of the forms, the oversight and helping
 11 to prompt commanders to make sure they are using the
 12 same form, not different iterations of it. And there
 13 was a number of issues to do with administration, which
 14 made it difficult for us going through this process in
 15 particular.
 16 Q. Yes.
 17 MR ARUNDALE: It also may make it easier in terms of where
 18 there is legitimate cut and paste they could be
 19 absolutely clear and add something which is bespoke, so
 20 that really takes life and takes meaning into that
 21 operation.
 22 Q. Right.
 23 MR ARUNDALE: So you can see that the principles are being
 24 applied, not just necessarily regurgitated, "Fill the
 25 form".

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1 IIMARCH mnemonic, which we have heard about,
 2 information, methods -- sorry, it is skipping out of my
 3 head ...
 4 But it goes through all those. But it sets out
 5 clearly what the intention, what the purpose is, so that
 6 you end up with one document for doing briefing off.
 7 Q. Right.
 8 MR BURROWS: The difficulty with using the various
 9 iterations of the FA forms is they have all been
 10 prepared for different purposes, one to apply for
 11 firearms support, one for tactical advice, one for
 12 approving the firearms element.
 13 Q. Yes.
 14 MR BURROWS: The operational order I would be speaking off,
 15 and I would use for an operation of this type, would be
 16 for everybody, the surveillance officers, the firearms
 17 officers, so that everyone is going from the one hymn
 18 sheet.
 19 Q. One document for all the teams?
 20 MR BURROWS: Yes, I think that is ideal. I understand why
 21 it doesn't happen all the time. I am not overly
 22 critical that it didn't occur on this occasion, but
 23 I think that approach can be very successful.
 24 MR ARUNDALE: I think there may well be in this day and age,
 25 with the increased use of technology, a way of filling

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1 those gaps in, because traditionally this would have
 2 been a separate typed document, an operational order.
 3 I think there is probably a way of filling in the
 4 blanks, for example. It is unclear as to who was in
 5 charge, what their position was on that day.
 6 An operational order or a different way of filling in
 7 those blanks would have added to the audit trail that we
 8 have and made it far easier for us to understand what
 9 had happened, but far easier for the commanders to check
 10 and test that what they had directed was being
 11 implemented.
 12 MR BURROWS: It would also allow things like the
 13 administration, the communication channels being used by
 14 surveillance operatives, the risks, not just to the
 15 firearms officers but to the wider risks all to be set
 16 out clearly on one document.
 17 Q. Would it be an iterative document, a document that could
 18 be added to as the operation progressed, is that what
 19 you would expect?
 20 MR BURROWS: Yes, but it would be one final one that would
 21 probably be used at the final briefings, so that you had
 22 the one briefing document being used again across all
 23 aspects.
 24 Q. Thank you.
 25 I am going to move on now to the various

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1 deployment, so good practice would indicate that the
 2 commanders of the armed policing deployment would be
 3 part of that, and in this case it was the SIO who was
 4 part of that process.
 5 It is a very fair -- I say very -- it is a common
 6 process to deploy armed officers at courts, but always
 7 subject to the relevant applications itself.
 8 I think good practice would indicate you need to
 9 separate the investigative from the armed policing
 10 deployment issues.
 11 Q. It shouldn't have been Mr Murray making the application?
 12 MR ARUNDALE: Ideally not and it goes back to this principle
 13 of the SIO should not have a role in relation to the
 14 planning of the armed deployments.
 15 Q. In terms of the involvement that Mr Murray had at the
 16 prison in speaking to Governor Nichols, and the
 17 decisions that were taken to invite Governor Nichols and
 18 his colleagues there to keep the information about the
 19 planned deployment confidential, do you have any
 20 comments to make about that?
 21 MR ARUNDALE: This is part of the overall sustained public
 22 protection issue, because it is allowing the criminal
 23 enterprise to continue and it is bringing in a range of
 24 risks, not only to individuals but risks to reputation,
 25 and organisational issues, because it links into the

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1 investigative steps that were taken and plans that were
 2 furthered as we move towards 11 December.
 3 I am going to invite you, first, to consider the
 4 evidence that you have heard and read relating to the
 5 application to Wood Green Crown Court for the use of
 6 firearms facility on the day of the deployment.
 7 The inquiry has heard that the initial visit to the
 8 court was undertaken by Mr Murray, the SIO, who, whilst
 9 he was there, undertook or was involved in a recce of
 10 the court with other firearms officers.
 11 We also know that once it became apparent that
 12 an application to the resident judge there would not be
 13 sufficient, the following day there was an arrangement
 14 made for DCI Williams, the TFC, to attend at the Royal
 15 Courts of Justice and make an application before
 16 Mr Justice Sweeney.
 17 That that application itself was then considered by
 18 the senior presiding judge and it was approved.
 19 Do you have any comment to make or have you any
 20 suggestions by way of improvement in terms of that
 21 procedure and how it was carried out in this operation?
 22 MR ARUNDALE: In relation to the application process to have
 23 armed officers at court?
 24 Q. Yes, and who was making it?
 25 MR ARUNDALE: Quite clearly it was an armed policing

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1 Serco issues and the potential failure for the prison
 2 oversight authorities to be aware and to consider and
 3 sanction or refuse to allow that enterprise.
 4 It comes back to this issue that that should be
 5 a strategic decision in relation to withholding
 6 information and briefing information, because both are
 7 really important in terms of their consequences for the
 8 operation.
 9 I would again suggest that good practice should
 10 indicate, as that is part of the sustained public
 11 protection aspect, it is also relevant to the armed
 12 deployment that the armed policing commanders should
 13 have had a role in relation to those issues, and
 14 constrained or enabled those discussions going ahead,
 15 but not for them to be carried out without reference to
 16 them.
 17 MR BURROWS: Could I add to that, sir, an issue that we have
 18 discussed, an issue that I have personally wrestled with
 19 in trying to understand and I hope I am not jumping
 20 ahead in this, Izzet Eren and his compatriot were in the
 21 lawful custody of the prison service, put there as
 22 a result of a decision made by a judge.
 23 A decision had been made that they were going to
 24 allow those people to be conveyed to a court, during
 25 which there may well be an ambush on that vehicle.

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1 Q. Yes.
 2 MR BURROWS: But they weren't police prisoners at this
 3 stage, they were not people in remand in a police
 4 station, they were in the lawful custody of HMP.
 5 I have not been able to reconcile on what authority
 6 they would allow that movement to take place. It is
 7 an issue that if I had been involved or a consultant,
 8 I would have went to the highest level possible to
 9 ensure that I had authority to allow those people to be
 10 put at risk without the knowledge of the judicial system
 11 or indeed the knowledge of the prison service.
 12 I haven't got an answer to it, it is just something that
 13 I would have a very strategic thought about seeking
 14 clarification on.
 15 Q. I am going to move on to invite you to consider the
 16 issues with Serco in a little more detail in a moment.
 17 I am being asked to clarify that in terms of the
 18 applications made to Wood Green Crown Court, it was
 19 Mr Murray that went to Wood Green Crown Court to meet
 20 the resident judge, yes, who was Judge Pawlak, although
 21 his evidence was that in the event, he didn't actually
 22 meet Judge Pawlak, he only met the court manager. That
 23 it was Mr Williams who went to the RCJ to speak to
 24 Mr Justice Sweeney, and the application was in the name
 25 of Commander Ball. If that helps, sir?

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1 embedded people from organised crime groups working
 2 within Serco or is it just suspicion?
 3 I think having some idea of the nature of the
 4 problem then gives you a much better feel for how it
 5 should be dealt with, because irrespective of this
 6 operation, there is a much wider issue to be dealt with,
 7 potential corruption within Serco itself.
 8 It gives obvious dimensions in relation to the
 9 potential operation and the use of the Serco vehicle and
 10 the use of Serco staff, much of which has been discussed
 11 in evidence, but the obvious ones that came out to us
 12 when we first thought of it, well, if this is
 13 an actuality, corruption within Serco, then a driver or
 14 an employee of Serco linked to the transport of
 15 prisoners might be involved and that could cause
 16 significant problems.
 17 I think there are ways of mitigating that and there
 18 have been operations up and down the country where there
 19 has been a range of subterfuge, replacement of
 20 individuals by police officers, we heard evidence that
 21 that was an impossibility because you would have to
 22 deploy fully trained undercover officers, that is not my
 23 understanding or experience, that is an undercover
 24 police officer is a wholly different type of individual.
 25 So I think there are potentials for dealing with that

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1 THE CHAIRMAN: Thank you.
 2 MS BLACKWELL: Moving back to the issue of Serco, and the
 3 decision made by those running this operation that Serco
 4 would not be told about any aspect of it. I would like
 5 you to provide the inquiry, please, with your opinion on
 6 that as a set of circumstances and to tell us how that
 7 could have caused difficulties, how in your view it may
 8 have caused difficulties, how you would have grappled
 9 with the problem of a concern in relation to leakage or
 10 corruption, and whether or not there is any criticism to
 11 be made of the way in which that issue was handled in
 12 this operation.
 13 MR ARUNDALE: I think at a strategic level, the issue of
 14 potential corruption within Serco is an extreme concern,
 15 because it could have a number of implications in that
 16 space for policing, for policing London and wider
 17 afield. That itself should be looked at in detail by
 18 the Metropolitan Police. My first thought would be is
 19 there should be a proper problem profile compiled, which
 20 is a standard document and methodology linked to the
 21 national intelligence model which would give a senior
 22 person all the intelligence and assessment of what that
 23 problem actually was in the first instance. Because to
 24 make some of these decisions, you need to know something
 25 about: what is this? Is this a realistic case of

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1 and they were certainly options that were there.
 2 There is also significant strategic risks in not
 3 disclosing those issues to Serco itself.
 4 Q. What are those?
 5 MR ARUNDALE: You have the obvious issue of trust between
 6 two organisations. The Metropolitan Police Service has
 7 not got an employment duty of care towards Serco staff,
 8 but Serco staff have. The question must be: have all
 9 those implications for potential injury or other adverse
 10 consequences for individuals working for Serco been
 11 accepted? Have they been scoped? The trauma
 12 potentially of an event happening, which might lead to
 13 somebody leaving employment, an employment tribunal and
 14 unlimited damages. There is a whole host of things.
 15 I wouldn't expect some of the junior members of the
 16 organisation to be aware of those.
 17 Again, back to the sustained public protection
 18 issues, these issues have to be scoped early on. If
 19 high-risk decisions are being made, they must be made by
 20 people with the right level of authority in the
 21 organisation and they must be subject to rational
 22 debate, documented decisions so that those individuals
 23 are accountable for the consequences.
 24 I think there is a whole range of particular issues
 25 in relation to this as well. There is also issues in

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1 terms of the some of this intelligence was directly
 2 relevant to the threat and risk that the individuals in
 3 prison posed. To withhold some of that information
 4 prevents the authorities and Serco doing the necessary
 5 risk assessments.
 6 This is why, it is a bit like the multidimensional
 7 threat and risk assessment, it has to be taken to all
 8 the tiers of the operation, but the wider organisational
 9 issues, reputational, financial, health and safety of
 10 the individuals and the fact is there might be a range
 11 of less risky options that are available to the
 12 commanders.
 13 MR BURROWS: Sir, may I just add to the issues that I think
 14 Mr Arundale has articulated very clearly at a strategic
 15 level.
 16 I am aware of many similar operations that have been
 17 allowed to run, not necessarily with prison staff but
 18 where intelligence of this nature comes.
 19 The first question is: how can we maintain control?
 20 The second one is: how can we mitigate harm?
 21 Before that, of course, it is are we going to go
 22 with this operation -- but assuming we are going to go
 23 with this sort of operation, those two things maintain.
 24 How are we going to maintain control? Do we know
 25 the route that is going to be taken? What do we think

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1 load the prisoners onto the van but to have a duplicate
 2 van with the same number plate actually go on
 3 a particular route and then you handle the drivers
 4 accordingly.
 5 I realise that you might be saying what if the
 6 phone, the mobile phone is not being used, but that
 7 a risk to mitigate. Those issues need to be thought
 8 about, they need to be articulated, they need to be
 9 discounted, so that every risk is being managed, but
 10 certainly any operation I know of, and they are usually
 11 in a counter-terrorist environment, you would not allow
 12 civilians to be put at risk by driving that van. And no
 13 doubt you will come on to the other issue, there is
 14 another prisoner, who has nothing to do with this thing,
 15 why he is on the van, I have no -- I am saying "he",
 16 assuming it is a he.
 17 Q. Yes.
 18 MR BURROWS: I have no idea.
 19 The real issues I would struggle with, if I was
 20 going to run this operation, if it was, I certainly
 21 wouldn't have Serco people driving. Very simply, as
 22 Mr Arundale and I have discussed many times, you get the
 23 drivers to load the prisoners on the van, if you want
 24 and then you simply ask them come inside for a minute,
 25 and you actually give them a cup of coffee, you sit them

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1 if the driver deviates from that route? Do we believe
 2 at that point of deviation that they are in on the plan
 3 or being forced to do something? And they can be if it
 4 was known in advance that there had been a tiger
 5 kidnapping, where you actually force somebody to go
 6 a certain way because you have control of their family,
 7 that has been known to take place.
 8 What happens if they are blindsided, how will those
 9 drivers react? In terms of their physical health, in
 10 terms of taking emergency evasive action that we don't
 11 know about.
 12 So those issues have to be considered.
 13 The other one that has to be considered is: are we
 14 putting them in a position of informed consent, or their
 15 employers, to the risk that we are exposing them to?
 16 I know very well why the Metropolitan Police would
 17 not necessarily want to tell the drivers. There are
 18 ways of telling the organisation and these organisations
 19 normally have senior retired police officers in their
 20 hierarchy, which are often consulted in relation to
 21 situations like this.
 22 I have tried to work out why would you not replace
 23 them by police officers, and I have heard various
 24 articulations, none of which makes sense to me.
 25 First of all, one option, very simple, would be to

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1 down and you put somebody else in the van and off you
 2 drive.
 3 THE CHAIRMAN: And it has happened?
 4 MR BURROWS: It happens regularly. Not necessarily in
 5 prison environments, but it happens, you know, in other
 6 operations.
 7 MS BLACKWELL: You have been through the various stages of
 8 the thought process that you would have undertaken,
 9 including the possibility that you would eventually have
 10 discounted some of those considerations. Would you have
 11 made a record of that thought process?
 12 MR BURROWS: Absolutely.
 13 Q. Why?
 14 MR BURROWS: Number one, I may well have to come to
 15 an environment like this and explain it.
 16 Secondly, if any harm comes to an individual, I want
 17 to have a rationale, and it is just good simple plain
 18 practice.
 19 Q. Transparency?
 20 MR BURROWS: Transparency.
 21 MR ARUNDALE: These are high-risk decisions, mistakes are
 22 made, occasionally people are injured and you have to
 23 show that you have thought those issues through and you
 24 have made a reasonable decision in the circumstances.
 25 THE CHAIRMAN: Is it a case of the higher the risk, the

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1 higher the level to which the person in charge of
 2 strategy or the senior investigating officer must go in
 3 order to obtain the necessary sanction?
 4 MR ARUNDALE: Absolutely, sir, and in some operations I have
 5 been involved in, you obtain legal advice internally as
 6 well when you get into some of these high-risk areas,
 7 because quite often that sort of advice will give you
 8 other dimensions of risk that you hadn't necessarily
 9 thought about, and that is extremely useful before you
 10 go ahead.
 11 MS BLACKWELL: Thank you.
 12 The surveillance, or lack of surveillance, on
 13 Ozcan Eren in the days running up to 11 December, the
 14 inquiry has heard that he was, together with Izzet Eren,
 15 one of the main subjects of this operation. The inquiry
 16 has also heard explanation and justification as to why
 17 he was not kept under closer surveillance, because of
 18 the danger of exposing the operation.
 19 Do you have any thoughts or comments to make about
 20 the state of surveillance on that subject and whether or
 21 not it could or should have been improved?
 22 MR ARUNDALE: We wrestled initially when we were having
 23 discussions in relation to this, because the information
 24 which has been used to assess the threat and risk posed
 25 by the individuals in the Audi is the same intelligence

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1 Q. What I was asking you about was the lack of surveillance
 2 in the days leading up to --
 3 MR ARUNDALE: In the days leading up, I think it is
 4 a similar sort of issue and of course I do accept fully
 5 that some of the environments that that individual is in
 6 and the tight geographic area did put some constraints
 7 onto it. Of course there are other methods of
 8 surveillance, not just physical.
 9 Q. What do you mean by that?
 10 MR ARUNDALE: Technical surveillance, telephone for example.
 11 Q. Yes, all right.
 12 Another type of surveillance we have seen is the
 13 static camera that was positioned in the car park on the
 14 Audi or the area where the Audi was parked.
 15 You will be aware that the inquiry has also heard
 16 that that was not useful during the hours of darkness,
 17 in that it was not set up in a way so as to provide any
 18 meaningful footage from the camera in the hours of
 19 darkness.
 20 Again, would you consider that to be a missed
 21 opportunity?
 22 MR BURROWS: I think turning it the other way round, it was
 23 a real opportunity having the camera there.
 24 Q. Yes.
 25 MR BURROWS: Clearly the police would be interested in

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1 which refers to the individual Ozcan Eren as well, and
 2 yet it is used in two ways. It is used to discount the
 3 fact that there was any intelligence he had a firearm on
 4 that day, because there wasn't any intelligence for that
 5 day. It is the background intelligence of the OCG, the
 6 nature of the offences they have committed, or
 7 commissioned, and the firearms that they have already
 8 had possession of.
 9 Q. Yes.
 10 MR ARUNDALE: On reading of intelligence and listening to
 11 the evidence, it does seem to be that irrespective of no
 12 intelligence in relation to that time, that you still
 13 have the same level of threat and risk because of the
 14 nature of the OCG. So I thought early on it might have
 15 been a resource issue, and quite often it happens, you
 16 have not got enough resources to maintain three
 17 surveillances at once, and most forces would not have
 18 that sort of capability.
 19 But it turned out when we heard the evidence that
 20 very much no, it was a conscious decision. That seemed
 21 incongruous with the intelligence and the evidence that
 22 we had heard.
 23 Q. That answer appears to relate to the lack of armed
 24 surveillance on the day?
 25 MR ARUNDALE: Yes.

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1 anyone who went towards that vehicle, identifying them.
 2 Identifying is not just by facial, but how someone
 3 walks, how they move and the way that we usually
 4 identify people when they are 100 yards ahead of us. So
 5 police want that information. I am surprised that it
 6 wasn't being monitored or at least reviewed regularly.
 7 Q. Yes.
 8 MR BURROWS: So there was a real opportunity presented by
 9 that camera.
 10 I don't know what control they had remotely of the
 11 camera. But it could also be used to actually get some
 12 detail regarding the vehicle prior to the installation
 13 of the TSU equipment.
 14 When it was learnt that it was not working as
 15 effectively as required, and given that it was put in
 16 place in the evening, I think was the information,
 17 I can't see why another camera could not have been put
 18 in place or it rectified. We have no explanation for
 19 it.
 20 Q. No.
 21 Can we move on now, please, to deal with the
 22 briefing at New Scotland Yard on 10 November.
 23 As a concept, very good?
 24 MR BURROWS: Sir, I think the concept was excellent.
 25 I think Mr Williams said it wasn't the norm, but it was

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1 very important and his opening statement explains the
 2 importance of having every single part of the operation
 3 together and them all understanding their
 4 inter-dependency and how they would work together.
 5 Q. Yes.
 6 MR BURROWS: I think that was an exceptionally good idea.
 7 You can't have everybody, but if you could have key
 8 representatives from the various organisations, with
 9 a very clear message that they are to disseminate key
 10 parts of the information beyond, I think that is very
 11 important.
 12 I think there are some things about how it was given
 13 and the people who were there that perhaps you might
 14 want us to expand on?
 15 Q. Yes, please, if you could help us in relation to each of
 16 those two points.
 17 MR BURROWS: The first thing I noticed when I read the
 18 transcript was that Mr Williams, who was the TFC, opened
 19 it up and quite rightly invited other people like
 20 DC Kinch, et cetera, to participate.
 21 Q. Yes.
 22 MR BURROWS: That is as I would expect.
 23 I have been in many such briefings for large events.
 24 I note that the SFC was present but took no role.
 25 Mr Arundale and I have both spoke about this at length

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1 impressive, because everybody leaves the room knowing
 2 exactly what is required of them, knowing exactly what
 3 they have to go and do, who they have to brief in turn,
 4 what they have to brief them about and any questions
 5 which are raised, to make sure those questions are
 6 answered and they are built into the overall operation,
 7 to improve it. Some aspects of that were not present in
 8 the briefing.
 9 Q. Thank you.
 10 You were going to tell us something, Mr Burrows
 11 about the attendees at the meeting?
 12 MR BURROWS: First of all, I think it is important that you
 13 actually do know who was attending at a briefing, so you
 14 will have an invite list normally, and even if that was
 15 not quite as clear, you would have a signing in and you
 16 would actually say as part of it, "Would everyone make
 17 sure that they have signed in" or else you would have
 18 somebody to sign them in, so you know who attends and
 19 what department they are from.
 20 The second thing I would always do is I would have
 21 the key representative from each department, and in fact
 22 I think the TFC alludes to this at the start --
 23 Q. Yes.
 24 MR BURROWS: -- identifying who they are. So in terms of
 25 surveillance, we have inspector or chief inspector or

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1 and we have both been in similar situations. We would
 2 always -- this is a personal thing -- take the
 3 opportunity at the start --
 4 Q. As SFC?
 5 MR ARUNDALE: Yes.
 6 MR BURROWS: As the most senior person present, whether the
 7 gold commander for a public order operation or a major
 8 event or whether it is one of these, to simply impress
 9 on all present our values, our objectives and what we
 10 want to come out of it. You can wrap that all up in
 11 firearms speak, in terms of your strategic objectives,
 12 but that is what we would take the opportunity of doing.
 13 Then, quite rightly, hand over to the TFC and let
 14 him ... but we would also make ourselves available if
 15 anyone has any question or query they want to ask us at
 16 the end to do so.
 17 Q. Right.
 18 MR ARUNDALE: Yes, I think it is an opportunity for the SFC
 19 particularly to exercise good management, check and
 20 test, just to make sure that there are no issues which
 21 have been planned or considered that they have not been
 22 briefed in relation to and to manage the individuals in
 23 the room, to get them to rearticulate their roles and
 24 responsibilities. There is an art to managing
 25 a briefing and you see some commanders are extremely

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1 whatever, here -- make yourself known.
 2 In terms of firearms we have ...
 3 So that each constituent part knows who is there and
 4 I would then invite them all at the end, if there are
 5 any questions regarding their roles, please speak up
 6 before we finish.
 7 And I would follow the IIMARCH system, which I have
 8 sort of glanced over earlier, but: information;
 9 intelligence; our method, what we intend to do about it;
 10 the administration; the risks; the communication systems
 11 and how they are going to work, and that would include
 12 C3000, and who would be -- not necessarily the identity,
 13 but how it would be staffed and how it would work is
 14 an important role; and the H is for the human rights
 15 bit.
 16 Always aware of Article 2 and other articles are
 17 engaged and how important they are, and I would also
 18 deal with the ethical issues as well.
 19 Q. Did you see the lack of firearms officers present at the
 20 10 December briefing as a missed opportunity?
 21 MR BURROWS: Yes, and quite clearly there was an expectation
 22 by the TFC that they would be there. I am not sure
 23 I quite heard his articulation of the reason why he
 24 wanted them there but if you wanted them there, then you
 25 would make sure that they fulfilled that role.

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1 Q. The briefings on the morning of 11 December, the
 2 briefing at 3.00 am at Leman Street was not recorded and
 3 the explanations given to the inquiry for that is that
 4 there was no direction or formal reason for that to have
 5 been done. Do you think that a briefing like that,
 6 described as a tactical briefing, should be recorded?
 7 MR ARUNDALE: Absolutely, I think that is in accordance with
 8 all good practice and guidance. It is directed related
 9 to the armed policing deployment, it is an armed
 10 policing briefing.
 11 MR BURROWS: I think also, sir, if it was called a tactical
 12 briefing, I would expect it to be spelt out at it the
 13 tactics that we were considering using. And that we
 14 have already heard evidence that MASTS is not a tactic,
 15 so therefore if we are required to intercept or
 16 intervene, the method which we are going to use for
 17 doing it to be explained, even if it is done in
 18 shorthand, because this is a group who understand what
 19 it is about.
 20 Q. Yes.
 21 MR BURROWS: Plus the sort of weaponry and equipment that we
 22 expect to be carried, if it is outside of the norm.
 23 THE CHAIRMAN: The justifications seemed to be that the
 24 firearms briefing was recorded, because it was
 25 a firearms briefing, but the tactical briefing was not

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1 potential geographic locations and mobile locations,
 2 particularly the Audi car itself and the Serco van
 3 itself.
 4 So it seemed extremely sensible to have the
 5 additional two tactical firearms commanders, because any
 6 one of those could have become a static incident
 7 requiring the deployment of armed officers. So it is
 8 good practice overall.
 9 Q. Have you received or heard any evidence, either during
 10 the course of the inquiry or in preparing your main
 11 report, of discussion between the overarching tactical
 12 firearms commander and the other ground tactical
 13 firearms commander as to their various roles and how
 14 their responsibilities might be shared?
 15 MR ARUNDALE: There certainly was some discussion, I think
 16 the question would be: how far has that discussion gone
 17 or was it discussion or was it literally that a broad
 18 skeleton plan was outlined to them as tactical firearms
 19 commanders? I think it probably is it was more of
 20 a skeleton outline of the operation that was delivered,
 21 rather than a full assessment of the potential options,
 22 contingencies and events they may have to deal with.
 23 Q. What would best practice suggest of the conversations
 24 that should have taken place then?
 25 MR ARUNDALE: I think this is back to some of the original

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1 recorded because it wasn't a firearms briefing.
 2 MR BURROWS: I don't understand the difference, sir.
 3 THE CHAIRMAN: Is it a bit disingenuous?
 4 MR BURROWS: I don't understand the difference.
 5 THE CHAIRMAN: It might be thought that if it was a tactical
 6 briefing, it was a tactical briefing relating to the
 7 deployment of firearms?
 8 MR BURROWS: Yes, sir.
 9 I can't understand the difference in the two terms.
 10 In fact there has been a move away in the APP from
 11 earlier manuals of talking about firearms as opposed to
 12 talking about armed operations. It is an armed
 13 operation in which there are several elements, have we
 14 authorisation for firearms? Have we authorisation for
 15 this operation? And what tactics are we going to use?
 16 The two terms used to distinguish this doesn't
 17 actually clarify the purpose of the briefing, unless it
 18 is documented you don't know.
 19 Q. Yes.
 20 THE CHAIRMAN: Thank you.
 21 MS BLACKWELL: The operation had an overarching tactical
 22 firearms commander and two ground TFCs.
 23 Is that good practice?
 24 MR ARUNDALE: It is accepted practice and good practice. We
 25 can see that the wider Operation Ankaa had a number of

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1 issues that the range of tactical options, contingencies
 2 and potential operational scenarios that they could be
 3 faced needed to be scoped through.
 4 By the overarching tactical firearms commander in
 5 the first instance and then having clear lines of
 6 demarcation and potential trigger points for handing
 7 over.
 8 I know sometimes you cannot plan for those, and the
 9 good practice is you have the ground TFCs in place, so
 10 that Mr Williams could have handed over to any one of
 11 them at a relevant time in relation to that, but they
 12 were clearly anticipating a potential multi-site
 13 incident, and it would have been good practice to
 14 consider exactly what that could look like, where it was
 15 going to happen, the potential threats, risks and
 16 appropriate contingencies.
 17 MR BURROWS: I think the other point, sir, is that they were
 18 using the traffic light system, which is well known by
 19 firearms officers of the green, amber and red, and it
 20 seems in this case that the amber was declared by the
 21 overarching TFC and I would have clarified, if that is
 22 the case, then I would have expected the ground TFC to
 23 give the state amber. Those points should not be left
 24 until the operation is ongoing.
 25 Q. They should be planned?

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1 MR BURROWS: They should be planned or indeed you have the
 2 right as a ground TFC to declare it if something happens
 3 in front of you that we haven't seen.
 4 Q. Yes.
 5 I am going to ask you now to deal with firstly
 6 a piece of intelligence and secondly a piece of
 7 information that were received into the C3000 room on
 8 the morning of 11 December.
 9 The first is the information that came to
 10 Mr Williams early that morning, that as of the night
 11 before the organised crime network had only managed to
 12 source an imitation firearm.
 13 The inquiry has heard that that information was not
 14 cascaded or disseminated down to the TFCs and
 15 Mr Williams has given his reasons for that.
 16 I would like you to provide the inquiry with your
 17 opinion as to whether or not that was the right decision
 18 and, if it wasn't, what should have happened?
 19 MR ARUNDALE: I think the first thing is that the APP and
 20 good practice indicates that the overall strategy in the
 21 operation itself must be intelligence led and the APP
 22 actually specifies that all intelligence must be taken
 23 into account.
 24 Of course that indicates that the TFC and the SFC
 25 should carefully consider those issues themselves.

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1 them the risk of their guard dropping. I wondered
 2 whether from your experience you were aware of it being
 3 an adopted practice and if so how widely?
 4 MR ARUNDALE: No, to our knowledge it is not and we have
 5 discussed this at some length itself. Of course the
 6 argument presented by the officers was the corollary
 7 effectively would be, "Don't brief us on anything that
 8 can indicate a reduced threat, only brief us on issues
 9 which relate to an increased threat", and, again, that
 10 is a difficult and slippery slope.
 11 The intelligence itself, clearly you would have to
 12 be extremely careful how that was presented. You would
 13 have to have absolute certainty in terms of the strength
 14 of that intelligence and of course its origin and its
 15 grading would be very relevant to that particular issue.
 16 The issue is you are considering the Article 2
 17 issues of everybody that is involved in that policing
 18 operation, not just the CTSFOs, members of the public
 19 and the subjects themselves.
 20 Of course their argument is that they will treat
 21 a firearm or what appears to be a firearm as real until
 22 you can prove otherwise. We fully understand that
 23 position.
 24 I think part of this is the rich picture of
 25 intelligence sometimes, you need to make sure that the

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1 We have heard some evidence, particularly from some
 2 of the CTSFOs as to why they think they shouldn't have
 3 been given that information.
 4 Q. Yes.
 5 MR ARUNDALE: We have a different view.
 6 The initial thing is all of those individuals are
 7 highly trained to make split-second decisions using the
 8 national decision making model in relation to the most
 9 significant and spontaneous threats that happen in front
 10 of them.
 11 It is a very dangerous and interesting situation to
 12 get in when you start to be selective with intelligence
 13 and if a decision were made to withhold anything at all,
 14 I would expect that to be very carefully considered and
 15 very carefully documented. Because there are a whole
 16 range of issues and if that is done as a matter of
 17 course, or if that becomes the norm in armed policing
 18 issues in the UK, it is going to become quite a complex
 19 situation, a complex issue to manage.
 20 THE CHAIRMAN: The suggestion was that it was effectively
 21 an acknowledged approach. I wondered --
 22 MR ARUNDALE: To withhold the information, sir?
 23 THE CHAIRMAN: Yes.
 24 MR ARUNDALE: No.
 25 THE CHAIRMAN: From firearms officers, to as it were spare

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1 AFOs are given sufficient information to make sure that
 2 they are acting within the law and they are protecting
 3 themselves and making the most rational decision on the
 4 basis of the most comprehensive information that they
 5 can and should have at the time.
 6 There was extremely valid information in there about
 7 one weapon, it is always important to know the number of
 8 weapons that may be available, and the nature of them.
 9 But as intelligence is the lifeblood really of these
 10 operations, it is a difficult concept to follow that you
 11 would not brief somebody if you had intelligence that
 12 the imitation was or was highly likely to be a replica
 13 firearm itself.
 14 We have worked through this and checked and tested
 15 it with ourselves and our view is that it should have
 16 been conveyed, but with an appropriate health warning.
 17 MR BURROWS: Sir, I must say I was quite shocked to hear
 18 officers at every level all giving the same account.
 19 There are a number of issues that I think are
 20 relevant here.
 21 First of all, all police officers who work in this
 22 field know that intelligence is not perfect, that
 23 intelligence can change and it can change right up to
 24 the last moment. It was a natural assumption that
 25 people who were going to spring somebody from a prison

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1 van would have a means of coercion, which would probably
 2 be a firearm or some other sort of weapon.
 3 There was intelligence that these people had used --
 4 when I say used I don't mean simply possessed but had
 5 used in their history weapons of the nature that
 6 Izzet Eren and his compatriot were found with.
 7 But to denude them of intelligence is to rob them
 8 from the position of making informed decisions. These
 9 are counter-terrorist specialist firearms officers, who
 10 will be used in sophisticated counter-terrorist
 11 operations. If I heard there was explosives moved
 12 across London today, I would want to know was that bomb
 13 primed or was it not primed. If it wasn't primed it
 14 doesn't mean I would treat it any differently, but
 15 I would want to know.
 16 If for some reason the operation slowed down and
 17 someone was in a hold-up position with a gun, I would
 18 want to know so I was looking with a very informed eye
 19 in slow time when I am not under pressure. So that
 20 information is important.
 21 Also if we get to the stage where in repeat
 22 operations officers begin to say, "We are not being told
 23 the full picture", it will affect their decisions in the
 24 future.
 25 I fully accept, I fully accept that if someone

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1 accepted, that it was an imitation firearm, then they
 2 may well have stood down. May have been stood down?
 3 MR ARUNDALE: We don't accept that position. The threshold
 4 for authorising the deployment of armed officers is
 5 extremely low. That is a reasonable contingency,
 6 because you do not necessarily know what they are going
 7 to be faced with.
 8 Q. Yes.
 9 MR ARUNDALE: The other thing is there is a strong public
 10 interest consideration in here that we do not want to be
 11 in a position where we put officers in a situation where
 12 they are unnecessarily hesitating, there is a strong
 13 public interest in AFOs of all types making the best
 14 rational decisions they can.
 15 There might be a nervousness amongst the officers
 16 about being given information which could reduce the
 17 threat, or their assessment of threat or the potential
 18 threat, but this has to be balanced, it has to be
 19 briefed in such a way which they understand, they are
 20 being given all the relevant information with
 21 appropriate caveats in relation to it, because the
 22 slippery slope of withholding that information and the
 23 art of managing a firearms incident is difficult enough
 24 as it is.
 25 So the officers do need an element of protection

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1 points a gun at me in situations like this, I am going
 2 to assume it is real unless I know someone has said for
 3 definite it is not.
 4 Q. Yes.
 5 MR BURROWS: But that is not the same thing as saying, "We
 6 are not going to tell them". I would tell them and
 7 I would put a very strong health warning on it.
 8 Q. Which would be?
 9 MR BURROWS: That's our current intelligence, this could
 10 change, a different gun could come to somebody or come
 11 by a different route or be delivered and you should
 12 treat any weapon you see as real until you have got real
 13 reason to believe different. In other words, I am
 14 taking the concept of informed consent and importing it
 15 into informed knowledge. If I was the officer facing it
 16 I would want to know, and be very angry that I didn't
 17 know, albeit it may never have changed my reaction or
 18 response.
 19 MR ARUNDALE: If I could just add, just a few issues, there
 20 was evidence given by one of the CTSFOs that the very
 21 fact that the authority stayed in existence indicated
 22 there were firearms to be deployed, or the intelligence
 23 indicated that.
 24 Q. Just to interrupt you, please, Mr Arundale, I think he
 25 went on to say that if that information had been

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1 around those issues, and of course the person who makes
 2 the decision to withhold a certain piece of intelligence
 3 or information is holding on to the risk and the
 4 consequences of that themselves.
 5 So that is a very big decision to make.
 6 There are circumstances I can think of where it is
 7 only right and proper to withhold certain issues, but
 8 they are quite specific, the ones I have been aware of,
 9 and they have been well documented.
 10 MR BURROWS: Sir, I think this is such an important point
 11 that I would make a couple of other points.
 12 I, in the role I am -- I have been doing this ...
 13 I have been involved in a number of incidents where the
 14 officers were told we believe that to be an air weapon,
 15 we believe that to be a replica weapon. The officers
 16 have had on one occasion the opportunity to view the
 17 weapon on CCTV very closely and come to the conclusion,
 18 "We are still not sure, we are treating it as real".
 19 In both of the ones that come immediately to mind,
 20 officers discharged shots and somebody was tragically
 21 killed, and it turned out to be that it was a BB gun in
 22 one case and an airgun in the other.
 23 Passing the information does not in any way
 24 determine the outcome, but it might. That is the point.
 25 Secondly, if I was the TFC and had that information,

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1 and I was reluctant to tell officers for any reason or
 2 any other piece of intelligence that I thought was
 3 relevant to how they might respond, and I thought there
 4 was good reason for it, my first course of action would
 5 be to speak with the SFC and say:
 6 "I am going to go down a certain course of action
 7 here, unless you tell me different, and my rational for
 8 doing it is as follows ..."
 9 And I would document that, providing I've got time,
 10 you know, and if I haven't I would find a way of
 11 ensuring that that conversation was recorded in some
 12 fashion.
 13 Q. Yes.
 14 MR BURROWS: So that at least we have, when we get to this
 15 type of environment, good sound rationale for why we
 16 didn't do something.
 17 Q. You would disseminate up and disseminate down?
 18 MR BURROWS: Disseminate up and down with rationale for what
 19 I was doing and why. I think the danger, which I think
 20 we are both alert to, is if this becomes the norm, then
 21 it may become the policy nationally.
 22 Now, if it is to become the policy nationally, then
 23 it needs to be thought through, it needs to be clearly
 24 articulated, risk based and it has to go through all
 25 those filters you would expect a national policy to go

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1 aspects of armed policing deployments, so there is no
 2 confusion, there is immediate understanding and no
 3 requirement for people to come back and start asking
 4 questions within a collapsing timeframe where they have
 5 to make rapid decisions in relation to this.
 6 I think it was an unfortunate use of terminology.
 7 That unfortunate use of terminology has appeared to
 8 increase the perception of threat on behalf of many of
 9 the officers involved in the operation, that is very
 10 unfortunate and not the sort of outcome that any of the
 11 commanders or individuals would have wanted to have
 12 happened from that.
 13 So it is a fairly significant issue and it is a very
 14 significant learning point. If that hasn't been
 15 properly progressed through the service up until this
 16 point.
 17 MR BURROWS: I think also, sir, while the term is used and
 18 in other academic literature and indeed it is used in
 19 criminal justice publications, as is the term "gun
 20 enabled" and "knife enabled", but the "firearms enabled"
 21 one in those other contexts is defined and does include
 22 imitation weapons, et cetera.
 23 However, if I heard that term coming across the
 24 radio during an operation, I would only have one
 25 thought: this is referring to real viable firearms. And

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1 through.
 2 Q. Thank you.
 3 We know that the information was not disseminated to
 4 the firearms officers, but there was a form of words
 5 disseminated to them shortly thereafter, which was
 6 "firearms enabled", that the attack would be firearms
 7 enabled.
 8 Your thoughts on that, please?
 9 MR ARUNDALE: Very much neither of us had heard of this term
 10 in this context. It is very much used in academic
 11 literature in relation to the assessment of a range of
 12 criminality, but not necessarily the armed policing
 13 arena itself.
 14 Just the obvious application of what that would mean
 15 to me in an operational environment, it would indicate
 16 to me live firearms. That was the first thought that
 17 popped into my head and I can understand how some of the
 18 officers, or most of the officers I think that gave
 19 evidence, assessed it that way. We did hear a couple of
 20 variations on that theme and one officer thought that it
 21 referred to the police firearms operation was enabled
 22 itself.
 23 Q. Yes.
 24 MR ARUNDALE: The heart of this is the absolute requirement
 25 to have well thought out and planned terminology for all

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1 I would link it to the intelligence I had been given
 2 regarding the group that I was operating against.
 3 MR ARUNDALE: I think, sir, at this point in the operation,
 4 particularly for the tactical firearms commander, there
 5 are two pieces of information there.
 6 1, it's firearms enabled.
 7 2, that they have only been able to source
 8 a replica.
 9 They are very important bits of information for the
 10 tactical firearms commander to review the tactical plan
 11 itself and what tactics may well be used to resolve the
 12 incident itself, because in some incidents the
 13 intelligence in relation to a replica could lead to
 14 a different tactical outcome than being told it is
 15 firearms enabled.
 16 To me they paint two different pictures.
 17 MR BURROWS: Yes, and so would you link it also to the
 18 tipping points that that had been determined ... to some
 19 extent in the event the answers(?) are articulated as
 20 having been determined.
 21 Q. Yes.
 22 MR BURROWS: It may well be that you actually say we have
 23 all the evidence we require, and we are not going to do
 24 an interception or intervention, we are going to deal
 25 with this a different way. So you don't have to follow

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1 on with your plan. You might say, From what I have
 2 heard, and I understand ... I went through this
 3 transcript of the words being heard --
 4 Q. In the vehicle?
 5 MR BURROWS: -- from the vehicle, and there is ambiguity
 6 there, and at one point they were saying they have got
 7 a gun and there is a shooter, shoot the lock and then
 8 where is the ting, and it is difficult to understand.
 9 I might say:
 10 "Given that, I am not going to progress the
 11 operation in the way I was, I am going to deal with it
 12 a different way."
 13 THE CHAIRMAN: Bearing in mind that this was an operation
 14 aimed at sustained public protection --
 15 MR BURROWS: Yes.
 16 THE CHAIRMAN: -- what other way was there?
 17 That is not to ignore the questions about whether or
 18 not this should have been a sustained public protection
 19 exercise, but what other way could it have been
 20 achieved?
 21 MR BURROWS: Sir, what I am referring to is, having run the
 22 operation, having allowed the prison van to move, having
 23 kept it under surveillance with the mitigating factors,
 24 having known where our mission vehicle is, but bearing
 25 in mind I don't know who is in it, I don't know their

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1 "I considered at that point did I have the evidential
 2 threshold required?"
 3 That carries on, obviously.
 4 So during all of that time you have the choice of
 5 how you progress the operation and what sort of outcome
 6 you have.
 7 That would only happen, of course, provided your
 8 interception and extraction isn't actually your end
 9 goal, and indeed you would have to have thought that out
 10 in advance.
 11 Q. You have mentioned tipping points. We heard from
 12 Mr Murray earlier this week, who indicated that there
 13 were no evidential tipping points, that the intention
 14 was to allow the operation to run as long as it was safe
 15 and a time had reached when it was appropriate to call
 16 state red and arrest the conspirators.
 17 What thoughts do you have on the issue of tipping
 18 points as a global collection and including in that
 19 evidential geographical risk?
 20 MR ARUNDALE: What I have seen on many occasions is well
 21 crafted SIOs' evidential desired outcomes and the SIO
 22 will say, "My ideal evidential outcome from this
 23 particular investigation and operation is a certain
 24 amount of evidence", and they would paint the picture
 25 for it. I would normally expect that there would be

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1 background or antecedents, I am unsure what weaponry
 2 they do and do not have.
 3 And I have made a decision that the prison van is
 4 going to go safely to prison.
 5 The question is: how do I arrest or when do I arrest
 6 the people in that vehicle? Now that I've got my
 7 evidence.
 8 One issue is simply let the van go overt, the people
 9 in the vehicle and the third eyes will say, "Abort the
 10 operation", and you continue your surveillance operation
 11 on that vehicle and you arrest the people at a point of
 12 choosing, perhaps whenever they are abandoning the
 13 vehicle, they are getting out or whatever, but that
 14 should have been one of the what ifs that was being
 15 thought of either in advance or during this hour in the
 16 morning when they have that period of grace.
 17 All I am saying is it is the sort of thinking that
 18 I would be doing if I was in that position.
 19 Q. You would have been considering less dynamic options,
 20 and in the hour -- your reference to the hour, is that
 21 the hour from the time that the Audi settles in
 22 Bracknell Close?
 23 MR BURROWS: From when it settles in Bracknell Close and we
 24 begin to hear the chatter coming back -- indeed, I think
 25 in fairness to the TFC, he does say at one stage,

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1 some other objectives as well, so you would have the
 2 optimum level of evidence required to get the charges
 3 that's required, perhaps a medium evidential outcome
 4 that was wanted and the bottom one which is acceptable
 5 but is it is not ideal in the circumstances. Something
 6 like that, and I have seen some which are more complex
 7 and some which are quite simple.
 8 That then allows the tactical firearms commander to
 9 make some decisions, because they are very clear in
 10 relation to what the SIO is seeking to achieve. There
 11 is no doubt, there is an overarching criminal justice
 12 strategy probably for the major organised crime group
 13 and SIO objectives for what is in front of us in
 14 relation to this escape plot and plan itself.
 15 That is the way it would normally work and then you
 16 would be very, very clear because the tactical firearms
 17 commander would be responsible for trying to resolve it
 18 and to apply the Article 2 principles in relation to
 19 safety and hopefully manage those two in an acceptable
 20 balance.
 21 Q. Yes.
 22 MR ARUNDALE: The evidence we heard was that you can never
 23 have enough evidence, whilst I understand the general
 24 thoughts behind that, in this sort of operation the only
 25 balance you can make is the evidential one against the

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1 operational outcome. Without that, I have great
 2 difficulty -- if I was a commander, I would not be
 3 clear. That is where there does seem to be these
 4 blurring of lines of responsibilities, because who was
 5 actually making the final decision in relation to the
 6 evidence threshold and the Article 2 threshold is not as
 7 clear as I would have expected to have seen.

8 Q. What is your view of Mr Murray's evidence that there was
 9 no evidential threshold or tipping point?

10 MR ARUNDALE: I find it very surprising, because I would
 11 have thought he would have come into that -- I can see
 12 quite clearly that sometimes the desired optimum
 13 evidential threshold is it is almost like the bank
 14 robbery where they are going in through the doors with
 15 loaded revolvers in their hands, balaclavas on, talking
 16 to each other, but you can very fairly rarely deliver
 17 that in those sort of criminal enterprises.

18 There would have been something which was carefully
 19 crafted in relation to the sentencing options,
 20 themselves, and whether that balances the sustained
 21 public protection, so you have some clarity of what sort
 22 of sentences you need to get the people behind bars to
 23 deliver sustained public protection.

24 THE CHAIRMAN: This would all be recorded in writing?

25 MR ARUNDALE: Absolutely, because there would have to be

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1 commander.

2 What you would expect is, if the best evidential
 3 outcome is too risky and too dangerous, a tactical
 4 firearms commander to say:

5 "I am sorry, I am not delivering that, I am going to
 6 deliver on your secondary evidential outcome, which is
 7 ... because I think that is the best balance of the
 8 sustained public protection, managing Article 2 issues
 9 and delivering the best outcome."

10 Or sometimes saying, "I can't do any of them", it
 11 would vary according to the operation.

12 MR BURROWS: Sir, there were two opportunities or objectives
 13 mentioned early in the documentation. That was to take
 14 live firearms off the streets of London, and the other
 15 was to lock up people who were involved in this sort of
 16 criminality.

17 Q. Yes.

18 MR BURROWS: Certainly I think our view would be that we
 19 would start off with what evidence do we currently have
 20 and how far have we got already, we have got two people
 21 who have pleaded guilty and are going for sentencing.

22 When I heard that they only had been able to obtain
 23 a replica firearm, I would have been saying, "Well, what
 24 offences can we get them for in relation to that?"
 25 Mr Arundale has articulated very clearly what the

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1 clarity. That could be ranging from the possession of
 2 an imitation firearm with intent, the 1968 Act offences,
 3 because they are very substantive, it is up to 10 years
 4 on that, it attracts the additional tariffs with the
 5 2003 Criminal Justice Act issues linked to that as well,
 6 so there are lower thresholds for some of these and
 7 I would have thought an SIO would be very much focused
 8 on those issues, because they are your creative use of
 9 charges and legislation. CPS issues have been
 10 mentioned, I do have knowledge that the CPS are used in
 11 these discussions on many occasions to check and test
 12 thoughts. It is not about charging advice, it is just
 13 about good management and assisting the police service.

14 THE CHAIRMAN: It is not about charging advice, because you
 15 are not asking for authority to charge, you are asking
 16 for the sort of evidence you would need in order to be
 17 able to make a charge stick?

18 MR ARUNDALE: And without that, I don't think you can make
 19 a really balanced decision in relation to sustained
 20 public protection, because you could be on the constant
 21 pursuit of the perfection of evidence which you cannot
 22 necessarily deliver within the Article 2 constraints and
 23 to achieve that balance, I did mention earlier,
 24 an overarching criminal justice strategy, clear SIO
 25 objectives and then that does allow a tactical firearms

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1 sentencing opportunities are, so I've got that bit.

2 Who is it I am going to take off the streets of
 3 London? Well, that would come into what do we know
 4 about the people who are likely to be in that van or
 5 that car, and what do we know about Ozcan Eren and the
 6 other people who were arrested later.

7 Q. Yes?

8 MR BURROWS: I would be working through all those things,
 9 both in terms of the continuation of the operation on
 10 that morning and in determining the tipping points that
 11 you have mentioned. It seemed to me that the SIO had
 12 clearly these in his mind, but why they were not
 13 articulated and why they were not transferred onto
 14 document that we have seen I think was missing. There
 15 was no rationale for it, I would like to have seen the
 16 rationale for it before I had any either criticism or
 17 comment to make.

18 Q. Thank you.

19 THE CHAIRMAN: Yes.

20 MS BLACKWELL: The inquiry has heard the officers in command
 21 justify their decision to engage the firearms officers
 22 in a dynamic extraction, an interception.

23 They have been asked to consider the alternative of
 24 a contain and call out and you have heard their
 25 wholesale rejection of that and the reasons why they

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1 have and did at the time decide that that was not
 2 appropriate in this case.
 3 Do you agree that both are valid options and both
 4 have a range of benefits and limitations?
 5 MR ARUNDALE: Absolutely.
 6 MR BURROWS: If it were not so they would not be in the
 7 critic column or alluded to in the APP.
 8 MR ARUNDALE: Or trained.
 9 Q. Or trained, yes, thank you.
 10 What is your view on the growing evidence to suggest
 11 that strong and intrusive leadership is required to
 12 ensure that specialist and elite units are properly
 13 constrained and enabled in order to counter the apparent
 14 cultural pre-disposition is I think how you have
 15 described it of highly trained CTSFOs to utilise top-end
 16 or high-risk/benefit tactics and that would be to the
 17 exclusion of slower, some might say safer options?
 18 MR ARUNDALE: I think, sir, there is a natural cultural
 19 predisposition that when you select and train people to
 20 such a high-level, they will naturally want to exercise
 21 their skills and abilities and to use the kit and
 22 equipment that they have been supplied with. There is
 23 growing evidence in relation to a drive from these
 24 highly trained officers to want to implement the
 25 higher-end tactics. Part of the command structure of

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1 visitor to London and I know a bit about armed policing
 2 in London. But I was astounded to hear that, in London,
 3 including the leafy lanes and side streets and cul de
 4 sacs that you can never do contain and call out in
 5 London.
 6 MR ARUNDALE: I would echo that, there is rarely a perfect
 7 location to do any tactical option, because they are all
 8 high risk in terms of the deployment of firearms, or
 9 they are all risky and certainly that these are some of
 10 the more high-risk options. So I too was surprised, it
 11 was not a response I was expecting to hear.
 12 Q. Is it your experience that the majority of subjects are
 13 compliant when challenged by armed officers?
 14 MR BURROWS: Yes, sir, because the statistics of the number
 15 of armed deployments that occur nationally, and those
 16 that occur in London, are significant. The number of
 17 times that firearms are discharged is exceedingly low.
 18 We are getting into 0.000 something of a per cent.
 19 Therefore, the only conclusion from that is that the
 20 vast majority of them are compliant in terms of their
 21 response, or else in fairness to the tactic being
 22 suggested, they have no other option but to comply
 23 because they are contained.
 24 Q. Thank you.
 25 Proceeding on the basis that the choices for those

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1 armed policing deployment is to make sure that that is
 2 enabled when it is appropriate, but that it is
 3 constrained when it is not. There has been inquiries
 4 such as this where the conclusion has been that the
 5 outcome is effectively pre-determined and it is the
 6 high-end, high-risk tactics, high-risk, potentially
 7 high-benefit tactics that can become the default
 8 position. There is a view that sometimes that is
 9 because of the natural predisposition to use those
 10 issues.
 11 It is the balancing of those issues which I think we
 12 have discussed and it is important, sir, is that we do
 13 not discount either they are both valid tactics that
 14 should be properly considered and not excluded using
 15 a different criteria to that for which we include
 16 a tactical option.
 17 MR BURROWS: We certainly would not want to denude the
 18 police service from being able to use those tactics when
 19 necessary and when appropriate.
 20 Q. Yes.
 21 What is your view of the explanation heard by this
 22 inquiry that contain and call out will rarely, if ever,
 23 be an appropriate tactic in London because of the risks
 24 associated to that or with that?
 25 MR BURROWS: Sir, I have not policed London. I am a regular

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1 in command on the morning of 11 December were contain
 2 and call out or interception, I would like you to take
 3 us through incident-specific factors that might suggest
 4 one rather than the other and things that need to be
 5 taken into account when that decision is being made,
 6 before inviting you also to list the benefits and
 7 limitations of each.
 8 First of all, what are the incident factors that you
 9 would be considering in making this decision?
 10 MR ARUNDALE: First of all, it is a stationary vehicle, we
 11 know the vehicle has been stationary for approximately
 12 an hour at that point in time.
 13 Q. Yes.
 14 MR ARUNDALE: It is a residential area of a similar nature
 15 to estates up and down the country, there is nothing
 16 special in relation to the area itself.
 17 The vehicle is parked in I think a bay, there are
 18 four other bays of vehicles alongside it.
 19 Some of this is known with hindsight, there were
 20 a few builders in the area in relation to that.
 21 We now know that drug use was a factor that morning.
 22 Residual alcohol was mentioned by one of the
 23 witnesses, that they had been drinking and I think had
 24 been out all night.
 25 Q. The night before, yes.

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1 MR ARUNDALE: The occupants of the vehicle were unknown at
 2 that particular point in time.
 3 There was apparently contradictory evidence in
 4 relation to weaponry, but reliable information
 5 indicating that they had only been able to source
 6 a replica. However, on top of that there was
 7 significant and reliable information in relation to the
 8 wider OCG, those issues there.
 9 Q. Yes.
 10 MR ARUNDALE: There was a completely divergent mindset in
 11 relation to the commander's view of the risk of the
 12 operation and that from the CTSFOs themselves.
 13 The vehicle windows were misted up.
 14 I think probably that is the issues that spring to
 15 mind --
 16 MR BURROWS: The only other one that would come to my mind,
 17 and is generic, sir, it is not situationally appropriate
 18 is there are some environments, there are housing
 19 estates up and down the country where a prolonged police
 20 presence may result in other policing difficulties, this
 21 wasn't one of them. Or there may be other criminal
 22 accomplices in the area who may be armed and create
 23 a problem, which may influence your decision to go for
 24 a fast in and a fast out.
 25 MR ARUNDALE: Yes, you obviously have the time of the day,

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1 opportunity to wear enhanced ballistic protection,
 2 because the officers deploying on the alternative have
 3 very limited ballistic cover, they have the covert
 4 ballistic vests which provide minimal protection and
 5 certainly nothing to the face and large parts of the
 6 body.
 7 MR BURROWS: Sir --
 8 THE CHAIRMAN: Do you go so far as to say that the decision
 9 to have a plan for intervention and an extraction was
 10 outside the bounds of reasonableness?
 11 MR ARUNDALE: What I am suggesting, sir, is that you need to
 12 consider the benefits and limitations of both options.
 13 THE CHAIRMAN: Yes.
 14 MR ARUNDALE: The great benefit from a containment and call
 15 out as opposed to that is it is slower, you are not
 16 sending people running forward to a vehicle where the
 17 CTSFOs believed that there was automatic weapons in
 18 there that could be used against them, when they had no
 19 sight or visibility into the vehicle and they had very
 20 limited ballistic protection at that point in time.
 21 The two types of options have very different
 22 benefits and limitations when you look at them.
 23 THE CHAIRMAN: My task is not to be a counsel of perfection,
 24 as I have already been reminded and I will no doubt be
 25 reminded again. I have to ask myself whether a given

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1 in terms of the potential pedestrians and vehicles
 2 moving in there. We have done a site visit and we have
 3 been to the site to get a feel for that.
 4 Q. Thank you.
 5 With those incident-specific factors in mind, what
 6 in your view would be the benefits of deciding to mount
 7 a contain and call out?
 8 MR ARUNDALE: Some of the key principles contained within
 9 the APP, particularly, and from experience, is: how
 10 could the potential conflict of that situation be
 11 deescalated?
 12 Q. Yes.
 13 MR ARUNDALE: It is considering those principles of is there
 14 a possibility to use a tactic which can give you more
 15 time and space to assess the situation, to consider
 16 less-lethal options, to manage the environment, manage
 17 members of the public who might be around and evacuate
 18 the area.
 19 That is, you know, the obvious one which is
 20 a consideration.
 21 How you could slow down the potential interaction
 22 itself, to manage down the risks and hopefully a safe
 23 surrender of the individuals.
 24 Q. Right.
 25 MR ARUNDALE: Of course the other issues, it gives the

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1 response at a given time was a reasonable response, not
 2 necessarily the one that expert witnesses would
 3 themselves have chosen, but whether it was one which
 4 fell within the bounds of reasonableness given all the
 5 information which was known.
 6 MR ARUNDALE: I think, sir, and we are very conscious not to
 7 suggest a counsel of perfection ourselves --
 8 THE CHAIRMAN: No, you would be unlikely to find one sitting
 9 here.
 10 MR ARUNDALE: The very strong point is I think the essential
 11 thing was to properly consider any viable option not to
 12 have a pre-determined outcome, because you haven't
 13 considered the potential benefits and limitations --
 14 THE CHAIRMAN: In other words, your criticism is not
 15 necessarily the choice which was made, but in not making
 16 a decision as it were to decide between the merits of
 17 the two options?
 18 MR ARUNDALE: Yes, and I think our difficulty is exacerbated
 19 by the evidence we have heard with the outright
 20 rejection of contain and call out, which of course to
 21 our experience we have had different experiences with.
 22 MR BURROWS: The APP is very clear, that once you get to
 23 decisive action, and that applies to persons on foot,
 24 persons in buildings, or persons in structures, and
 25 structures include trains, planes, automobiles,

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1 et cetera, you have two routes to go down.
 2 One is slow and methodical, and the other is fast
 3 and dynamic.
 4 MR ARUNDALE: Or shock and awe, as it has been described by
 5 the CTSFOs.
 6 THE CHAIRMAN: Yes.
 7 MR BURROWS: Again, not part of the normal lexicon of police
 8 officers.
 9 You have those two avenues to go down.
 10 Playing the long game was traditionally our
 11 rationale.
 12 I can understand in certain cases of hostage, kidnap
 13 and certain types of terrorism, why you need to move
 14 fast. I cannot understand why it was necessary in this
 15 case, either situationally or as a matter of
 16 pre-planning.
 17 THE CHAIRMAN: Thank you.
 18 MS BLACKWELL: Contain and call out has limitations, doesn't
 19 it?
 20 MR ARUNDALE: Hmm.
 21 Q. Including the operation resulting in a more prolonged
 22 period --
 23 MR ARUNDALE: It can be quite a quick operation, because
 24 most subjects are compliant, but it is has to be
 25 accepted, if you are dragging people out of a vehicle,

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1 street and we did hear evidence that the officers, both
 2 from several of the Alpha, Bravo, Charlie Cars and the
 3 Control Car moved forward to deal with the builders and
 4 others in the location.
 5 Q. Yes.
 6 MR ARUNDALE: I just think, in terms of one of the potential
 7 benefits here as well, of course sometimes with contain
 8 and call out there are more opportunities to consider
 9 and integrate less-lethal options into the operation
 10 itself. As you would have heard from the evidence from
 11 the officers, the extraction itself was happening in
 12 fast time, officers themselves were deciding which
 13 less-lethal options to take or not, so that was far less
 14 planned, commanded and considered in relation to
 15 less-lethal issues. The other alternative can result in
 16 a far more rational approach.
 17 THE CHAIRMAN: As I understand it, your main concern and
 18 complaint is the fact that a reasoned and rational
 19 choice between the two options was not undertaken?
 20 MR ARUNDALE: Yes, and that other issue of course that it
 21 appears to be an outright rejection in advance from the
 22 evidence we have heard, which is unusual.
 23 THE CHAIRMAN: Thank you.
 24 MR BURROWS: There are some situational one, sir, we heard
 25 the evidence, I think it was yesterday, that it wasn't

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1 that could happen far more quickly than if you have
 2 non-compliant subjects and then it can become prolonged
 3 and there is the requirement for cordons, more
 4 evacuation and the management of community implications
 5 and things which -- so if it is not resolved quickly,
 6 then that is the downside of this.
 7 Having said that, an extraction doesn't necessarily
 8 always go to plan and they can become problematic as
 9 well.
 10 Q. Yes.
 11 Another limitation to the contain and call out is
 12 that because of the slowing down of the intervention, or
 13 of the arrests, it gives subjects more time to plan
 14 an escape or an attack?
 15 MR ARUNDALE: Yes.
 16 Q. What would you say about the necessity for cordons in
 17 relation to a contain and call out?
 18 MR ARUNDALE: If it is prolonged, quite clearly that is the
 19 case. It is not necessarily the case when they go, as
 20 the vast majority do and they are fairly quick
 21 operations, but it is an absolute necessity in prolonged
 22 incidents.
 23 MR BURROWS: In this particular case we did hear evidence
 24 that the other vehicles that were involved, as opposed
 25 the Alpha, Bravo and Charlie Cars, did seal off the

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1 really until they turned the corner that they realised
 2 the disposition of the two vehicles, I think there was
 3 a third vehicle to the right of the other car --
 4 Q. Yes.
 5 MR BURROWS: -- a blue Land Rover. A narrow corridor that
 6 they were going to have to move down. Indeed one of the
 7 officers I think last week said that one of the times
 8 they wouldn't do this is if somebody had an explosive
 9 device in the car, because they would not want to go up
 10 against it.
 11 In this case they believed they were going up
 12 against the door of a car, in a narrow channel, where
 13 someone had potentially -- the officers had good reason
 14 to believe did have -- a high-powered weapon of the
 15 nature of a Skorpion, an Uzi or a MAC 10, which when the
 16 trigger was squeezed for one second, 12 rounds would
 17 have been discharged.
 18 That is a frightening proposition and when W80 and
 19 others say that they were terrified at that point,
 20 I think they have every reason to believe that, albeit
 21 it is what they are trained for and what they do.
 22 You are actually asked them to move into
 23 an explosive situation, but if that trigger is
 24 squeezed -- it doesn't have to be raised, if these are
 25 the sort of people we believe they are, a gun held down

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1 at your side, and I have sat in vehicles with guns held
 2 down at my side in that nature, if you squeeze the
 3 trigger, it will go straight through the car, as they
 4 have explained, and they would be shot.
 5 It is a very dangerous position that you are putting
 6 people into and therefore, sir, a rather long-winded
 7 answer to your question, thinking McCann through at the
 8 very start, I would be saying: do I want to put someone
 9 into that position or have I an alternative?
 10 THE CHAIRMAN: Ms Blackwell --
 11 MS BLACKWELL: Is that a convenient moment?
 12 THE CHAIRMAN: It is convenient I think for everybody. We
 13 have been going an hour and a half since we resumed.
 14 MS BLACKWELL: Thank you.
 15 THE CHAIRMAN: Is 10 minutes sufficient or would you prefer
 16 15 minutes?
 17 We will take 15 minutes.
 18 (3.19 pm)
 19 (A short adjournment)
 20 (3.41 pm)
 21 THE CHAIRMAN: Thank you.
 22 MS BLACKWELL: Thank you, sir.
 23 I am invited to correct a piece of evidence that was
 24 provided in the previous session. Could I invite you
 25 please, Mr Coates, to put up the evidence of officer

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1 which is at IPC82, please, Mr Coates, page 15.
 2 Let's look together at paragraph 7.46:
 3 "It is the responsibility of the TFC to ensure that
 4 all main briefings for firearms operations are audio
 5 recorded. This is the minimum standard and commanders
 6 may wish to consider recording all briefings for best
 7 practice."
 8 Reflecting upon that, do you agree that what took
 9 place at 3.00 am on Leman Street was a tactical
 10 briefing?
 11 MR ARUNDALE: Yes, and I think the evidence clearly
 12 indicates that it was discussing actual tactics and
 13 deployment on the day.
 14 Q. Does that in your opinion accord with the description of
 15 being a main briefing or not?
 16 MR ARUNDALE: Yes, it does.
 17 Q. Even if it wasn't a main briefing, does this piece of
 18 guidance in the MPS SOP suggest that the recording of
 19 main briefings is a minimum standard and that commanders
 20 may wish to consider recording all briefings for best
 21 practice?
 22 MR ARUNDALE: Yes, and that could be a directive rather than
 23 a conditional statement.
 24 Q. Is the principle contained within that directive one
 25 with which you agree?

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1 V64, Darren Stewart, who gave evidence earlier this
 2 month.
 3 It relates to what was or was not said about the
 4 briefing at 3.00 am at Leman Street.
 5 I think it was suggested that the briefing was
 6 described as a firearms briefing, and I just want to
 7 look at the passage that is in bold, because this is the
 8 answer that he gave on the issue.
 9 Yes, if I can invite your attention, sir, to line
 10 16:
 11 "Question: Was it audio recorded?
 12 "Answer: No, it is not.
 13 "Question: Was that normal practice not to audio
 14 record a tactical briefing?
 15 "Answer: That is normal practice. I know it is
 16 a situation which has been reviewed on numerous
 17 occasions over the years, and the current position is
 18 that the MPS, the Metropolitan Police Service, do not
 19 record the tactical briefings."
 20 I think it was being suggested, sir, that the
 21 explanation for the lack of recording was because it was
 22 not a firearms briefing. In fact, no witness has said
 23 that.
 24 THE CHAIRMAN: No.
 25 MS BLACKWELL: Could I now invite us to look at the MPS SOP,

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1 MR ARUNDALE: I would say -- it says "all main briefings for
 2 firearms operations", "all main briefings", but I am
 3 just a bit concerned with the term "main", what does
 4 that mean? I think it should be all briefings which are
 5 directly relevant to the firearms deployment, because
 6 an intelligence briefing for example itself could be
 7 just about intelligence, but it is absolutely vital to
 8 the tactics and approach of the armed officers.
 9 Q. Right, thank you very much.
 10 I hope that has cleared that up.
 11 Can we take that down, please?
 12 THE CHAIRMAN: Thank you.
 13 MS BLACKWELL: Choice of weapons on the morning of
 14 11 December and selection of equipment. The inquiry has
 15 heard a wealth of evidence about the equipment and
 16 weaponry that was available to the officers and that
 17 which was chosen for the deployment.
 18 The first question I would like to ask you relates
 19 to vehicles and armoured vehicles and what your
 20 experience is of the deployment of those in an incident
 21 such as this.
 22 MR BURROWS: Sir, we have heard evidence that the CTsFO
 23 vehicles were all soft-skin vehicles. That was clearly
 24 a procurement issue that the Metropolitan Police had
 25 determined whenever they went down the road of having

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1 the covert CTSFO vehicles.
 2 Some forces, for the vehicles that they use for
 3 their specialist firearms officers, have the appearance
 4 of normal vehicles but have a degree of ballistic
 5 protection, and I say deliberately "a degree", because
 6 having it all armoured creates difficulties -- it is not
 7 insurmountable -- so it is a decision that you make as
 8 part of your procurement. Some forces went down road of
 9 having parts of their doors armoured to provide
 10 protection against small arms fire and particularly in
 11 relation to handgun ammunition, which is the sort of
 12 ammunition that was being used in the Skorpion,
 13 et cetera.
 14 Others have gone further and have some of their
 15 glass armoured to different levels. I don't know,
 16 I have only heard the evidence that the
 17 Metropolitan Police on this occasion were using
 18 soft-skin vehicles that had no armour. I do know, and
 19 this is well known, that the Metropolitan Police also
 20 have armoured vehicles and I do realise that they would
 21 have caused some issues in relation to the main
 22 MASTS-type operation, whether or not consideration was
 23 given to having them in reserve, I am not sure.
 24 Q. Right, thank you.
 25 Ballistic protection. Body armour was worn, ear

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1 a decision about whether you insert them. By "them",
 2 sir, I just mean they are very often ceramic or other
 3 modern material plates that go on that would stop
 4 heavier ammunition, rifle ammunition. That is an issue
 5 where blue on blue has been used as well by the way, if
 6 the police are using high-velocity ammunition there is
 7 a risk, but leaving that aside, it is bulky, it's hard
 8 to wear, hard to wear for long times, I have worn them
 9 for many years, and it is uncomfortable and it is
 10 difficult to do if you are being covert.
 11 Q. Right.
 12 What about shields?
 13 MR BURROWS: Yes, one of the officers did mention that there
 14 are shields in a vehicle, if I have picked it up right.
 15 The shields come in different shapes and forms.
 16 Some of them are full-length shields that have a heavy
 17 degree of ballistic protection. Others are much
 18 smaller. They are usually used in stand-off positions
 19 or moving into danger zones. It would be difficult to
 20 use them with the extraction method that we have been
 21 hearing about.
 22 Q. Yes.
 23 MR BURROWS: But, yes, again as part of your planning
 24 situation.
 25 Q. All right.

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1 protectors were worn and MPS caps or hats to indicate
 2 that the firearms officers were members of the
 3 Metropolitan Police Service.
 4 Was there any other item of ballistic protection in
 5 your view that could or should have been utilised?
 6 MR BURROWS: Sir, again we are into perhaps should, and
 7 again this is risk assessment and this is planning.
 8 In a number of MASTS-type operations, officers very
 9 often have ballistic helmets that they do not don until
 10 the last minute.
 11 Q. Yes.
 12 MR BURROWS: I know in other parts of the country that would
 13 be the standard. It does mean there's an extra piece of
 14 equipment you have to place on. We do make the point in
 15 our report that we never used the word "bulletproof".
 16 Q. Yes.
 17 MR BURROWS: That all of these only provide a degree of
 18 protection and that all of them leave large parts of the
 19 body very vulnerable, particularly the face, the neck,
 20 through which the main arteries flow between the heart
 21 and the brain, the limbs and the lower part of the
 22 trunk, unless you are wearing heavier body armour.
 23 You can wear body armour that has ballistic plates
 24 in, and we did hear the evidence from the CTSFOs that
 25 some of them had those in their vehicles. Again,

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1 Moving on to weaponry, we have heard each of the
 2 officers provide the inquiry with their choice of
 3 weapons, and in the case of W80, it was a Glock pistol
 4 and a carbine rifle. What the inquiry has also heard is
 5 that there was one Taser available per car, that was
 6 usually carried by the driver.
 7 Is there any --
 8 THE CHAIRMAN: Apart from one car, where there were two
 9 Tasers.
 10 MS BLACKWELL: Yes, because one of the officers had come
 11 from a different team.
 12 THE CHAIRMAN: Yes.
 13 MS BLACKWELL: Are there any comments that you wish to make
 14 about those choice of weapons and less-lethal options?
 15 MR ARUNDALE: I think the comment in relation to Taser needs
 16 to be perhaps a slightly more broader comment in
 17 relation to less-lethal options, particularly the AEP as
 18 well. It seems to me that that was the standard that
 19 the driver would have the Taser. Of course the driver
 20 is not the first person out of vehicle and indeed
 21 generally is the last person out of vehicle in this
 22 tactic. Less-lethal options need to be readily
 23 available for immediate deployment and if you are facing
 24 a vehicle and your only weapon is a conventional
 25 firearm, then that is your own method of self defence

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1 against whatever the threat you are being faced with,
 2 other than hand-to-hand/hands-on techniques, as we have
 3 heard for taking people out.
 4 In some instances there does need to be careful
 5 consideration of the availability of less-lethal
 6 options.
 7 What we found listening to the evidence is that very
 8 much this is down to the discretion of the individual
 9 CTSFO.
 10 Q. Yes.
 11 MR ARUNDALE: So there wasn't direction and command in terms
 12 of a spread of less-lethal options or a consideration on
 13 deployment, and that could lead to a different
 14 assessment of the situation from different CTSFOs. This
 15 also applies to the Hatton rounds with the shotgun issue
 16 as well.
 17 Q. Yes.
 18 MR ARUNDALE: We thought that good practice would dictate
 19 that a discussion or some more direction about this
 20 would take out the element of chance and individual
 21 decision making, which could denude an operation of
 22 having the range of less-lethal options which would be
 23 optimum.
 24 Q. When should that discussion have taken place?
 25 MR ARUNDALE: Before they pulled into Bracknell Close,

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1 MR ARUNDALE: If the intelligence was sound about the
 2 replica firearms, of course, that could bring
 3 a different level of importance to the appropriate
 4 deployment of less-lethal options. That would be
 5 an important consideration for the deployment itself.
 6 Q. Are there any pieces of equipment or weaponry which you
 7 would have expected to be present in the vehicles in the
 8 event that a contain and call out was decided upon
 9 rather than an intervention or interception?
 10 MR BURROWS: That is one of the occasions when the shields
 11 that you have mentioned may well come into play, if
 12 there was no available cover or there was a requirement
 13 to move forward for a particular reason. You know, and
 14 that can happen if somebody is shot or injured and
 15 police officers had to move forward to rescue, having
 16 that availability of moving forward, protection becomes
 17 important to you. So there are issues that need to be
 18 thought about and planned.
 19 Q. Yes.
 20 MR ARUNDALE: Of course the issue is if that is never
 21 an option that is considered, then it is unlikely to be
 22 contingend for in terms of kit and equipment.
 23 Q. Yes.
 24 There has been mention made of CS gas. I think I am
 25 right in saying that the various references include CS

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1 possibly in Lordship Lane when you had the last chance
 2 to assess the situation they were facing, when you had
 3 the feedback from the surveillance officers. That would
 4 have been an ideal time to have the ground TFC to
 5 consider that with the OFC and make some decisions and
 6 directions then.
 7 MR BURROWS: Could I just add to that one, sir.
 8 In fact, I think the OFC, overarching OFC, should
 9 have been having that discussion in one of the earlier
 10 briefings that morning, because if you are deciding that
 11 we are only going to have one Taser per car or two, as
 12 the chair has pointed out on one occasion, that should
 13 be a conscious decision.
 14 THE CHAIRMAN: That was purely fortuitous.
 15 MR BURROWS: It was fortuitous, yes.
 16 THE CHAIRMAN: Yes.
 17 MR BURROWS: In other words, the state of readiness of the
 18 officers for a range of tactics needs to be part of the
 19 operational briefing. Whenever I go back to my
 20 operational order, when it got to the section for the
 21 firearms officers it would have precisely what type of
 22 weaponry would be carried, whether it is in a go-bag,
 23 whether it's in a vehicle or on the person and that
 24 would all depend on roles, not leaving it to chance or
 25 fortuitous outcomes.

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1 spray, CS pellets and a CS canister, which I understand
 2 to be a CS grenade?
 3 MR ARUNDALE: Yes.
 4 Q. Could you explain to the inquiry please whether you
 5 think that those less-lethal options were appropriate,
 6 and if so how and when they could have been utilised?
 7 MR BURROWS: Sir, perhaps it would be useful just for the
 8 record to explain that CS is not a gas. It is a white
 9 crystalline substance which is carried either in liquid
 10 or smoke or powder.
 11 The reason I make the point is that it is different
 12 in each of those cases.
 13 Q. Right.
 14 MR BURROWS: Also, the composition of the CS -- which
 15 doesn't come from a chemical name but it comes from the
 16 name of the person who first distilled it, Corson and
 17 Stoughton I think it is, a long, long time ago. The
 18 composition of it and how it is carried affects the type
 19 of response and reaction you get.
 20 Nearly every uniformed officer who patrols carries
 21 what is now referred to as an irritant spray.
 22 THE CHAIRMAN: Irritant spray?
 23 MR BURROWS: Irritant spray, it used to be called
 24 incapacitant, but it doesn't incapacitate so therefore
 25 we don't call it that and incapacitate has other aspects

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1 in relation to chemical weapons, so it is an irritant.
 2 THE CHAIRMAN: Yes.
 3 MR BURROWS: In a form of liquids, and the composition of it
 4 between the liquid and the CS white crystals, which look
 5 a bit like salt or a little flick of dandruff is how
 6 I would best describe them, are carried in the liquid
 7 and they are carried to you and you inhale them and they
 8 affect your eyes and they affect your nasal capacity and
 9 they are slow, it takes a while for them to work. So
 10 normally it might take anything -- I mean I would
 11 probably 20 to 30 seconds before they would begin to
 12 affect me.
 13 If we use the shotgun rounds, which used to be known
 14 as RIP rounds, that was round irritant projectile, now
 15 there are other manufacturers with other names. They
 16 come in two types. They are primarily used in
 17 buildings, and if we had a hostage situation in this
 18 building, we might fire it through the door, it comes
 19 through the door and it gives up a cloud.
 20 Now that is micronised CS, which is in a powder and
 21 the composition of it and the effect of it from
 22 a medical point of view has been well evaluated and
 23 determined and depends on the size of the room et cetera
 24 how you use it.
 25 Q. Right.

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1 a slightly different route, but ended up in the same
 2 way.
 3 The RIP round that I referred to, or the shotgun
 4 round, it got grandparent rights because it had been in
 5 the service for a long, long time.
 6 Q. Right.
 7 MR BURROWS: The use of CS canisters takes us into
 8 a different realm altogether. Because, as we found out
 9 in Grainger, and Mr Arundale will talk about that in
 10 a bit of detail, it had not gone through any approval
 11 system, and was referred to as an illicit munition, but
 12 I will let Mr Arundale talk about that this detail.
 13 MR ARUNDALE: It was known as CSDC, a CS dispersal canister,
 14 in Grainger and it is a matter of record, the issues
 15 with it. I think the key issue was that it was not
 16 a piece of kit and equipment that was evaluated,
 17 approved and assessed in accordance with the 2003 Code
 18 of Practice.
 19 The assessment criteria doesn't just look at the
 20 item itself, it looks at the training, it looks at all
 21 the operational methodologies that can go with it and
 22 assesses a range of issues. For example, the CSDC was
 23 thrown inside vehicles, it would effectively explode and
 24 it would flood the inside of the vehicle with micronised
 25 CS, a cloud, so you couldn't see the individuals for

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1 MR BURROWS: When officers talk about carrying it, it was
 2 probably in case they got involved in that type of
 3 incident. I have known it being used in vehicles, but
 4 I think it would be a very extreme situation to be used.
 5 We were alarmed to hear, albeit it was pre-Grainger,
 6 that CS canisters or grenades and Mr Arundale will talk
 7 about that in a second.
 8 My point about the other two rounds is that in terms
 9 of the spray, it has to go through a Home Office
 10 approval system and was approved by the Home Secretary,
 11 and that is required under the 2003 Code of Practice and
 12 indeed still is required under the new 2020 one.
 13 It was tested in terms of its mutagenicity, its
 14 toxicity and its carcinogenicity.
 15 It was tested across all three by independent
 16 panels, the vast majority are evaluated by
 17 a non-governmental public body, known as SACMILL, which
 18 is the Scientific Advisory Committee on the Medical
 19 Implications of Less Lethal, a very high level
 20 containing medical practitioners and they are evaluated
 21 against the guidance that the police say we will use
 22 them.
 23 Q. Sorry to interrupt you, but that relates to the CS
 24 spray?
 25 MR BURROWS: That applies to the -- well, CS went through

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1 a period of time until it settled and of course it could
 2 cause involuntarily body movements, which could be
 3 misinterpreted by an AFO as a threat. The implications
 4 are quite obvious, that depending on the circumstances
 5 for the use of this grenade, and we are not aware of its
 6 provenance or where it has come from, but it does appear
 7 that it is not an approved piece of equipment.
 8 The Code of Practice was written as an adjunct to
 9 the legislation itself, so if it wasn't properly
 10 approved it could be an illicit munition, as it was in
 11 Greater Manchester. The major area of concern is how it
 12 has been evaluated, what its training and operational
 13 requirements are and we have not heard that. It does
 14 appear at first glance to be a piece of kit and
 15 equipment that may not be approved.
 16 The ones that we have become aware of have variable
 17 payloads, they have various methods of dispersal, none
 18 of which have been assessed, they are made in various
 19 parts of the world which don't have the quality control
 20 systems that the UK have and it certainly hasn't been
 21 through the SACMILL process that we are aware of.
 22 MR BURROWS: Sir, we were first alerted to this by one line,
 23 I think, in two of the FA forms, which referred to a CS
 24 device or canister.
 25 Q. Yes.

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1 MR BURROWS: It wasn't clear, but in the evidence that has
 2 come through here, it is clear that it was being
 3 carried, whether there was any intention of using it in
 4 the way it was used in Grainger or not we don't know,
 5 but, again, that is the sort of tactic that should be
 6 thought out in advance. We are carrying this, we are
 7 carrying it for a purpose. When would we use it, when
 8 would we not use it?
 9 Of course, at a higher level, it should have been
 10 approved before it ever was allowed to be carried out in
 11 the first place.
 12 Q. Quite so.
 13 Thank you, can I ask you to cast your mind to the
 14 issue of the laser and strobe facility on some of the
 15 weaponry and what your position is in relation to the
 16 state of research and authorisation?
 17 MR ARUNDALE: Both lasers and strobe devices were
 18 mentioned/considered going back to I think into the late
 19 1990s/early 2000s in relation to the Patten Commission,
 20 which commissioned the search for a less-lethal
 21 alternative to what was colloquially known as the old
 22 rubber bullet and a whole range of issues were looked
 23 at. It has always been on the Government's radar, and
 24 for Northern Ireland read England and Wales, because all
 25 the work was done in relation to being implemented

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1 said was the most extensive worldwide research ever done
 2 anywhere on less lethal. On the same programmes that
 3 brought in the AEP round, the attenuating energy
 4 projectile, wrongly referred to as the baton round and
 5 the same project that brought in the Taser, which is
 6 a brand name, we refer to as conductive energy devices,
 7 Taser just so happens to be the predominant brand in it.
 8 All these other devices were looked at. They looked at
 9 commercially off-the-shelf ones, and they also in terms
 10 of the Government programme looked at developing ones
 11 that were not available. Including ones using CS.
 12 So that programme, SACMILL eventually are part of
 13 the advisory thing is part of it. All those documents,
 14 which are publicly available, and the
 15 Metropolitan Police were heavily involved at commander
 16 level the whole way through, and at practitioner level,
 17 strobe lighting and laser lighting was included on the
 18 list of less lethal. But also across all the documents,
 19 that are linked to the police use of firearms in the
 20 United Kingdom, and the Code of Practice -- the 2003
 21 code, the term "weapon systems" are referred to.
 22 Q. Yes.
 23 MR BURROWS: So when I referred earlier to when SACMILL are
 24 going to do a review they look for police guidance.
 25 Guidance is just one part of the system. So a weapon,

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1 throughout England and Wales as well, not to single out
 2 Northern Ireland itself.
 3 I think it has always been known that the use of
 4 laser lights or strobes to distract, dissuade or dazzle
 5 in any way, shape or form should be subject to
 6 government oversight and therefore to be covered to be
 7 covered by the 2003, now the 2020, Code of Practice.
 8 Q. Yes.
 9 MR ARUNDALE: We would have expected that if they are being
 10 used for any of those purposes, that they should come
 11 under the code, be properly evaluated, on the basis that
 12 a laser may cause somebody damage to somebody's eyes, so
 13 that should be evaluated and if a strobe is being used,
 14 that there should be proper scientific research to show
 15 the frequency, the impact on an individual, the impact
 16 on CTSFOs within an operation itself, does it affect
 17 their situational awareness? Their ability to make
 18 decisions? Their vision? All of those sorts of issues.
 19 That is the sort of consideration we would have
 20 expected to be put into the acquisition and use of that
 21 equipment.
 22 MR BURROWS: Sir, again, just in terms of our providence in
 23 this, when you were doing our CVs at the start you
 24 mentioned various committees that we were on and we were
 25 central to that whole search which a Government minister

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1 any sighting system, any addition that goes on to the
 2 weapon, any change in munition that is fired, any
 3 lighting that goes on to it, anything to add to the
 4 facility in terms of less-lethal capability, all must go
 5 through the weapon system programme.
 6 If you go into the documents that are referred to as
 7 range management documents and what you can use on
 8 a police firearms range, which is also licensed and well
 9 documented, they use the term "weapons system" as well,
 10 meaning all of those other bits are taken as a whole.
 11 If I want to use something, it is the effect it has
 12 and it is a complete systems effect.
 13 THE CHAIRMAN: The intended effect or the mere consequence?
 14 MR BURROWS: Both sir, intended and unintended.
 15 THE CHAIRMAN: Because we have heard that the purpose for
 16 instance of the laser was to assist in relation to aim.
 17 MR BURROWS: Well, yes, sir, it does several things.
 18 One is it assists in terms of aim, very much so.
 19 If it is a visible laser, then it can also have
 20 a deterrent effect, not necessarily in this case because
 21 it is too close but in a hostage type situation, if
 22 I project a red dot onto your chest and you become aware
 23 of that, it is a very strong deterrent effect.
 24 THE CHAIRMAN: Yes.
 25 MR BURROWS: But all of that affects the balance of the

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1 weapon and the nature of the weapon that you are using,
 2 so all of it needs to be approved and considered in its
 3 entirety.
 4 THE CHAIRMAN: By the TFC or discussed in advance or what?
 5 MR BURROWS: No, we are talking -- sir, let's move back in
 6 terms of the acquisition by the police service.
 7 THE CHAIRMAN: Right from stage 1?
 8 MR BURROWS: Right from stage 1.
 9 THE CHAIRMAN: Thank you.
 10 Yes, Ms Blackwell.
 11 MS BLACKWELL: Is there any other comment that you would
 12 like to make about any of the other weaponry about which
 13 this inquiry has heard?
 14 MR BURROWS: Just in terms of the strobe lighting, my
 15 understanding, and this is from the data reference
 16 sheets regarding the particular device, and I simply ...
 17 this is research, so I have looked at the device as
 18 articulated by the Metropolitan Police, gone back to the
 19 manufacturer's data sheets in relation to it. The
 20 strobe lighting is an addition that comes along with it
 21 and there is a health warning on it that says if you are
 22 going to use strobe lighting, have it evaluated because
 23 it can affect all the various eyesight and epilepsy
 24 issues et cetera that come along with it.
 25 Q. Is it your understanding that it has not been evaluated?

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1 not a big believer in that particular use but if it was
 2 determined it was, then I think that the overall OFC
 3 should have said, "One person at least will deploy with
 4 the Hatton round", and if you are going to say that,
 5 then you are going to say which one it is.
 6 Q. Yes, identify.
 7 MR BURROWS: Otherwise it is everybody/somebody ...
 8 THE CHAIRMAN: If they think that the car is going to be
 9 used, somehow, to escape, to get away, then someone has
 10 to have the ability to stop it by firing a Hatton round?
 11 MR BURROWS: If that is the tactic they are going to use to
 12 stop it.
 13 THE CHAIRMAN: There no point having it in the car if that
 14 not the tactic in the first place?
 15 MR BURROWS: Correct, someone should, if that's going to be
 16 the tactic to use it.
 17 MR ARUNDALE: Sir, it has significant limitations,
 18 particularly with four-wheel drive cars, run-flat tyres
 19 it is not a guaranteed means of incapacitating a vehicle
 20 by any means.
 21 THE CHAIRMAN: With respect, that has not been given as
 22 a reason for not taking it, so we don't need to trouble
 23 with that.
 24 MR ARUNDALE: No.
 25 THE CHAIRMAN: Thank you.

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1 MR BURROWS: My understanding is it has not been evaluated
 2 through the official system --
 3 Q. Yes.
 4 MR BURROWS: -- and I am unaware of whether the
 5 Metropolitan Police in their acquisition of it have done
 6 any evaluation or not.
 7 Q. Thank you.
 8 Could I ask you about the choice of weapon made by
 9 W80 as he left the vehicle and moved towards the Audi.
 10 You will have heard his evidence that although he
 11 considered taking the Benelli shotgun, in the event he
 12 didn't and he took his carbine weapon as his main
 13 weapon, with his Glock as his secondary.
 14 Is that an acceptable and understandable decision?
 15 MR ARUNDALE: Yes, subject to the earlier comments that we
 16 made in relation to the fact there was no coordination
 17 of who was taking Hatton rounds and less-lethal issues,
 18 but in terms of the briefing that he had had and his
 19 articulation of his understanding of threat, yes, it
 20 seems completely understandable and acceptable.
 21 Q. Thank you.
 22 MR BURROWS: I think the important thing there, sir, is W80
 23 has articulated why he didn't take it. I understand his
 24 articulation. However, if it was believed that it may
 25 have been necessary to use the Hatton rounds, and I am

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1 MS BLACKWELL: You also heard W80 give evidence of the
 2 heightened sense of anxiety that he felt as he
 3 approached the vehicle and he explained why that was his
 4 state, given the knowledge that he had accumulated over
 5 the course of the operation and more recently on the
 6 morning of 11 December.
 7 Would you explain to the inquiry, please, what you
 8 understand to be the perceptual phenomena that occurs in
 9 high-stress, life-threatening, fast-moving situations?
 10 MR BURROWS: Yes, sir, I speak on this as having been
 11 involved in this for a very long time, right from when
 12 that language and terminology was first being used. It
 13 is usually referred to as "perceptual distortion",
 14 I don't use that term, I use "perceptual phenomenon".
 15 Q. Could you explain what it is, please?
 16 MR BURROWS: In high-risk situations or sudden and
 17 unexpected situations, and I include in that simple
 18 things like falling down the stairs or being involved in
 19 a road traffic accident, because both can be very
 20 dangerous, the senses become flooded. They are
 21 heightened whenever there is a sense of danger or
 22 vulnerability, particularly if it is life threatening.
 23 The things that tend to occur are that -- there are
 24 both physical and psychological reasons for this -- you
 25 get auditory exclusion or you get auditory

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1 amplification, in other words you might hear a click if
 2 a click is important to you, like a safety catch going
 3 off on a gun, or you might not hear the bang which has
 4 stunned everybody else, because your focus is so intent
 5 on what you are moving forward to.
 6 Actually we all do this, when intent on a bit of
 7 work that we are doing and our nearest and dearest says,
 8 "Did you not hear the phone ringing or the door
 9 ringing?" And you say, "No, I didn't". That becomes
 10 more amplified when we are dealing with this sort of
 11 situations that we are talking about.
 12 In terms of distance, we get a narrowing of our
 13 vision and a focusing in on the threat. That focusing
 14 in on the threat causes us to lose our periphery vision,
 15 our peripheral vision is very, very important actually
 16 when we are in life-threatening situations, but we focus
 17 in. Sometimes it is called tunnel vision, that is not
 18 a correct terminology but that focusing in and what that
 19 does is two things.
 20 One like the zoom camera, is it shortens distance,
 21 so therefore something that is a relatively long way
 22 away can seem very close, if I feel I am looking down
 23 the barrel of a gun or looking into something. It also
 24 means I fail to see the things that are happening in my
 25 periphery vision that I would normally do.

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1 Q. Thank you.
 2 In terms of the amount of time that W80 had for
 3 making what is described in your report as a critical
 4 decision, and that is the decision to shoot. Is it
 5 important to consider several factors, and in relation
 6 to your conclusions on this, did you agree with or
 7 disagree with the information that you read and the
 8 conclusions that were drawn in the IPCC report?
 9 MR ARUNDALE: No, we diverted away from the IPCC's
 10 conclusions and recommendations.
 11 Q. In what sense?
 12 MR ARUNDALE: We certainly felt that all the issues in
 13 relation to the decision making and what happened seemed
 14 to be focused in on W80 as an individual. They didn't
 15 necessarily take into account the fact and the
 16 circumstances surrounding the actual deployment, the
 17 threat the officer was facing, the dynamic situation
 18 that was ongoing, the noise, the stress, the speed of
 19 the situation itself, it didn't feel to us that there
 20 was any pause or gap really in relation to the events as
 21 they were unfolding, which gave the officer plenty of
 22 time to pause and consider what was happening.
 23 The officer -- of course we were present for the
 24 officer giving evidence as well for this, it was
 25 a dynamic situation. The officers were rushing forward

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1 We have our visual, we have got our hearing issues.
 2 There are a number of other ones which take place and
 3 they are really in relation to time and distance.
 4 I may well cover a relatively long distance in
 5 a short period of time, and my memory of that will
 6 become mixed up. I will remember significant parts of
 7 an incident and not know about others.
 8 I might well cross this entire room and not remember
 9 crossing the room, all I will know about is getting to
 10 the point of contact that is important to me.
 11 So all of those things police firearms officers are
 12 aware of and get a degree of training on.
 13 But they can become very intense if you are told
 14 I am approaching a vehicle in which there are the
 15 heavies, the terms that have been -- the heavily armed,
 16 the specially trained who are carrying this sort of
 17 weaponry that we are referring to. That will also
 18 affect their articulation, their articulation of what
 19 happens afterwards.
 20 Q. Right.
 21 MR BURROWS: What they will spend the next hour, the next
 22 day, the next week, the next five years is playing this
 23 over in their mind and trying to rationalise the bits of
 24 it that don't make sense, and that will affect their
 25 accounts of what takes place.

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1 and a lot was happening at the time and we didn't feel
 2 that there was obvious gaps there necessarily that could
 3 have led to a wholly different situation, if you accept
 4 the officer's articulation of the threat that he felt at
 5 that point in time.
 6 Q. Thank you.
 7 The inquiry has heard a phrase "action versus
 8 reaction".
 9 Is that a concept that in your opinion is embedded
 10 in officers' training to the extent that it has become
 11 a maxim which informs their tactics in life-threatening
 12 situations?
 13 MR ARUNDALE: It is a concept which has been the subject of
 14 much academic research and there a danger for this
 15 becoming a mantra that officers could use to justify
 16 actions inappropriately.
 17 Put it extremely simply, quite clearly if an officer
 18 perceives a threat and they are not ready to react, they
 19 have to see the action, they have to make a mental
 20 decision to react and there is a physical act to follow
 21 it. That, by its very nature, is not going to happen at
 22 the same speed as the subject if they have already made
 23 a decision to make a hostile act.
 24 Q. Yes.
 25 MR ARUNDALE: The other great danger with these situations

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1 is where subjects have been told to comply, put their
 2 hands up or put their hands on a dashboard, the very act
 3 of doing those movements can be the same act that
 4 a subject would be doing if they were making a threat
 5 against the officer. All of these things add to that
 6 difficult and confused situation.

7 Quite often, the scenario is proposed: why don't you
 8 wait until you can actually see a weapon? Well, quite
 9 often by the time an AFO sees a weapon, it is too late
 10 for them to react and protect themselves and any third
 11 parties at the scene.

12 But this is a very, very difficult situation for the
 13 AFO to assess and judge. There is a lot of research
 14 which will give you specifications of fractions of
 15 a second that officers can take to react and fire, but
 16 the overall basic principle is that the AFO should try
 17 and reduce those difficulties by being ready, by
 18 assessing the situation, by de-escalation and giving
 19 appropriate and non-conflicting commands, but it is
 20 accepted phenomenon, but there are limits to it. It
 21 shouldn't be used as excuse, it should be used as
 22 a valid explanation for the officers' actions.

23 Q. This is an issue that was considered in the Anthony
 24 Grainger Inquiry, isn't it?
 25 MR ARUNDALE: It was.

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1 based solely on the capability of the officers being
 2 deployed, nor the probability of an outcome based on
 3 a premise that in the majority of cases subjects
 4 complied with officers' directions."

5 Did you then go on to consider the environmental and
 6 behavioural influences as set out in the APP on armed
 7 policing?
 8 MR ARUNDALE: We did.

9 Q. Did you conclude that in any situation involving dynamic
 10 intervention, where verbal and sensory stunning is
 11 deliberately invoked, did you agree with the APP on
 12 armed policing that communication would be difficult,
 13 sensory impairment is an intended reaction and
 14 exaggerated movements, particularly a startle response
 15 from the subject, is a possible outcome?
 16 MR BURROWS: We did, sir. In fact I think I recall drafting
 17 those words and I think Mr Arundale remembers approving
 18 them.

19 Q. Thank you.

20 This context, together with the briefing and
 21 intelligence updates, both formal and informal and W80's
 22 experience and training, contribute to decision making
 23 under stress. In combination, an officer's
 24 interpretation of any sudden movement by any of the
 25 occupants of the Audi would in the circumstances set out

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1 Q. Where the phrase "action beats reaction" was described
 2 as, "A useful maxim not an inflexible rule"?

3 MR ARUNDALE: Yes, absolutely. I don't think that has been
 4 challenged, I think that is accepted.

5 Q. Thank you.

6 I am going to read out some of the comment and
 7 conclusions that appear in your report around these
 8 issues if I may.

9 You were of the view that dynamic interventions ...
 10 For your record, sir, it is paragraph 874?

11 THE CHAIRMAN: Thank you.

12 MS BLACKWELL: Dynamic interventions, whether into
 13 a structure or vehicle, should only be undertaken in
 14 extremis:

15 "This would include immediate intervention to save
 16 life or in certain situations to secure essential
 17 evidence required to link individuals to a particular
 18 crime. However, in the latter case this must be
 19 considered alongside the risks to all of those
 20 involved."

21 It is paragraph 874:
 22 "Where dynamic interventions are being considered,
 23 in situations that have time for detailed planning the
 24 planning should include the situationally specific risk
 25 assessments of such an intervention. This should not be

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1 in your report increase the acute sense of vulnerability
 2 of an officer.

3 Is that right?
 4 MR BURROWS: That's correct.
 5 MR ARUNDALE: Yes.

6 Q. You then went on to quote from the Anthony Grainger
 7 Inquiry, and also from a document, a report which you
 8 had to hand from 1982, in which the author suggested
 9 that a related psychological factor is the factual
 10 ambiguity implicit in armed confrontations and the
 11 officer's ability to define objective reality in
 12 a heated and rapidly occurring confrontation.

13 In rapidly evolving shooting incidents, what is
 14 believed true may not later in fact be true?
 15 MR BURROWS: That's correct.
 16 MR ARUNDALE: Yes.

17 Q. Did you conclude that in these situations, as set out,
 18 an officer's response will be determined by the
 19 following:
 20 "Prior information or intelligence regarding the
 21 individual, weaponry available to them and their intent.
 22 "The actions of others during the dynamics of the
 23 intervention.
 24 "Dynamically assess threats and risks to which they
 25 and others are being immediately exposed.

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1 "Situational and contextual cues as to the action
 2 about to be taken by the subject they are confronting.
 3 "Their assessment of the time available to make
 4 decisions and take positive action."
 5 MR BURROWS: Yes.
 6 MR ARUNDALE: That's correct.
 7 Q. Turning to paragraph 979, please.
 8 Do you here record the following, that throughout
 9 your research you have not identified evidence to
 10 justify the IPCC's position in relation to alleged gross
 11 misconduct or criminality by W80 and you are more
 12 critical of the manner in which Operation Ankaa as
 13 a whole was planned and organised?
 14 Pausing there, you heard the evidence of Mr Turner,
 15 the strategic firearms commander that, for part only of
 16 the time that the operation was running on the morning
 17 of 11 December, was he inside the control room at C3000.
 18 I would like to ask you to provide any comment you
 19 have on that, and also the suggestion that he was
 20 engaging throughout his role as strategic firearms
 21 commander in an intrusive way, by providing intrusive
 22 supervision.
 23 MR ARUNDALE: I think the key issue, the origin of the
 24 strategic firearms commander's position is to discharge
 25 the range of responsibilities currently or as outlined

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1 MR BURROWS: The strategic parameters, which is a term used
 2 in the APP, that are placed appeared to be mainly
 3 regarding entry into premises, and that tends to be
 4 a generic one that appears in other cases that we have
 5 reviewed.
 6 It is of note that C3000 was being used, which was
 7 also the office location of the superintendent and the
 8 APP addresses command location.
 9 Q. Yes?
 10 MR BURROWS: If I may read it, it may just be of help:
 11 "All firearms commanders should endeavour to be
 12 located where they can best undertake their respective
 13 roles. Strategic and tactical firearms commanders
 14 should be located in positions where they are able to
 15 communicate and best discharge their command
 16 responsibility. As strategic and tactical firearms
 17 commanders perform different functions, their location
 18 needs may differ. Where they are located, the potential
 19 for responsibilities to become less clear should be
 20 recognised."
 21 Our observation was that the choice of C3000 seemed
 22 to be a very good idea. In fact it was one of the
 23 recommendations from one of the earlier major shootings
 24 that had occurred, I think it was the Azelle Rodney one.
 25 So it was a really first class decision, let's use

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1 in the APP, which is still current with a few minor
 2 changes. But the important part is to make sure they
 3 are completely in charge and they are properly enabling
 4 and constraining certain aspects of that operation.
 5 The evidence we heard didn't in our opinion evidence
 6 that that was being discharged on the day of the
 7 operation itself.
 8 It seemed to be a passive role rather than
 9 a proactive and intrusive role. A passive role is not
 10 in keeping with the requirements of the APP.
 11 Q. Do you have any comments to make on the state of his
 12 role and whether or not that was an intrusive role prior
 13 to 11 December?
 14 MR ARUNDALE: There are some elements there, where there was
 15 requirements and caveats given in relation to the
 16 operation as it developed, but it does seem to be that
 17 the tactical plan itself was polarised, had
 18 a pre-determined outcome itself and we would expect the
 19 strategic firearms commander to have put in appropriate
 20 challenge in relation to those issues, but also to
 21 ensure that everything from the meetings forward were
 22 properly managed, properly documented, reflected the
 23 requirements of the APP itself and showed that there was
 24 proper command throughout the operation.
 25 We did not find the evidence of that.

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1 somewhere that is purpose built, set up for the purpose.
 2 Q. Yes.
 3 MR BURROWS: The SFC's purpose in being there that day was
 4 to be supportive. We were surprised, in fact I was
 5 shocked more than surprised, that he only spent a few
 6 moments and went to his office, and particularly with
 7 Mr Gilmour, whose purpose in being there was a learning
 8 exercise for a role that he was going to have.
 9 So Mr Gilmour was not going to learn anything by
 10 having tea with Mr Turner.
 11 In terms of being in his office, that would have
 12 been fine if he had, and he may have had and we have not
 13 heard information about it, he may have had live feed
 14 back up to the C3000, but if that was the case, we
 15 haven't heard about it, so he was able to interfere --
 16 THE CHAIRMAN: I think we would have heard if there had
 17 been.
 18 MR BURROWS: Sir, that was my assumption.
 19 I would have expected all that to have taken place,
 20 and disappointed it didn't.
 21 MS BLACKWELL: Thank you.
 22 I interrupted my concentration on your conclusions
 23 with Mr Turner, but I am going to go back to those now.
 24 I had reached the end of paragraph 979.
 25 At 980 you say:

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1 "In particular, we would urge caution about some of
 2 the assertions in the IPCC report, in particular
 3 regarding the timing of the fatal shot, the time that
 4 W80 had available for decision making, their view on the
 5 command 'show me your hands' and their general
 6 expectations of an AFO in the situation that W80 was
 7 dealing with.
 8 "We do, however, fully acknowledge that whether
 9 W80's actions were necessary and justifiable and if the
 10 force used was reasonable in the circumstances are
 11 questions for the inquiry after hearing witness
 12 testimony."
 13 I know that you were present yesterday when W80 gave
 14 his evidence of, firstly, the reasons why he took the
 15 shot at the time that he did and, secondly, listening to
 16 the audio, when that shot was in terms of the noises
 17 that we heard on the interception audio.
 18 I am invited to return to ask you about alternatives
 19 to the contain and call out and the interception,
 20 because, Mr Burrows, you touched upon the fact that the
 21 surveillance on the van could have gone overt at some
 22 stage.
 23 MR BURROWS: Yes.
 24 Q. I am invited to ask you to expand upon the consequences
 25 of using that as a tactical option, the parameters of

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1 Q. Caught by the probe?
 2 MR BURROWS: Caught by the probe, which may give you more
 3 evidence to your conspiracy objective.
 4 I am not saying that that should have happened.
 5 THE CHAIRMAN: You are simply saying it should have been
 6 considered as an option.
 7 MR BURROWS: It should have been considered.
 8 MR ARUNDALE: Sir, one of the difficulties with that of
 9 course is the fact there was not clarity in terms of the
 10 SIO's evidential objectives. For example, it could have
 11 been that one of the objectives might have been met
 12 before the Serco van left the prison. Then there is
 13 an opportunity there to actually make a decision to say,
 14 "We have sufficient evidence to achieve sustainable
 15 public protection and the van hasn't left".
 16 Or that could have happened after the van had left.
 17 You could again make the same decision to say, "We have
 18 got enough, we don't have to go forward and arrest, we
 19 could go overt with the prison van", and then exactly
 20 the same outcome as the first option, see what is said
 21 in relation -- these are discussions you would expect to
 22 go on, because if you have clarity about your criminal
 23 justice outcomes, then you can make better decisions
 24 around the threat and risk associated with the wider
 25 armed deployment.

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1 that and the contingencies that may have been involved
 2 in a decision to use that tactic rather than anything
 3 else.
 4 MR BURROWS: I suppose the tactic is often referred to
 5 policing out an operation.
 6 Q. Yes.
 7 MR BURROWS: In other words, you go overt, that takes out
 8 any of the risk, or it reduces significantly the risk of
 9 that there will be an ambush on the prison van.
 10 Q. Yes.
 11 MR BURROWS: It leaves you with the problem as to what you
 12 are going to do with the mission car, as was said.
 13 But you have still got your options as originally,
 14 we will contain it and we will either do the extraction
 15 as planned or the contain and call out.
 16 Q. Right.
 17 MR BURROWS: The other point that I did allude to was -- we
 18 have discussed this -- whether or not that being the
 19 case, you just make the occupants abort their mission.
 20 There is no other purpose us being here, let's go away,
 21 and you have a surveillance operation in place. And you
 22 follow them to a place of your choosing and you arrest
 23 them in the way that you can.
 24 One of the advantages of that is that you may well
 25 get the additional chatter, coming from the vehicle.

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1 MS BLACKWELL: In either of those scenarios, the time would
 2 come either because they would have been left waiting or
 3 because they would have had some contact from Izzet Eren
 4 inside the van to say it is off, that the conspirators
 5 would have given up.
 6 MR ARUNDALE: Yes.
 7 Q. At that stage there were different options and a greater
 8 number of options that could have pertained?
 9 MR ARUNDALE: But there were not those trigger points is the
 10 term, but there were not those milestones in this
 11 operation to prompt discussion to say, "We could stop at
 12 this stage, should we or not?"
 13 Q. Yes.
 14 MR BURROWS: The other thing, sir, is that as events turned
 15 out, and turned out quite early in the morning, that the
 16 interception that perhaps was being envisaged of
 17 stopping a moving vehicle was not going to become
 18 necessary, because we had a stationary one.
 19 I appreciate it could have moved off at any stage,
 20 right up until the vehicles pull up in front, but when
 21 they knew that it was parked and there was surveillance
 22 on the vehicle at that time. They would have also known
 23 that there was a vehicle parked alongside and a blue
 24 vehicle and there were builders in the location, and
 25 they had known all of those factors.

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1 Apart from the builders, none of that seemed to be
 2 conveyed back to the ground TFC in terms of the decision
 3 making taking place or indeed the absence of the
 4 declaration of a state red.
 5 Q. Finally, I would like to ask you about the use of
 6 language by the police officers.
 7 In two aspects.
 8 As they were running towards the vehicle, the Audi
 9 vehicle, there were commands being shouted following the
 10 shouts of armed police, and your opinion and comment
 11 upon the variation of what may have been shouted.
 12 Secondly, the language that was used.
 13 MR ARUNDALE: I think the first thing is quite clearly when
 14 you listen to the tapes itself, it doesn't necessarily
 15 portray a particularly professional image and then it
 16 goes to the question: is the language being used
 17 deliberately?
 18 Q. Profane language?
 19 MR ARUNDALE: Profane language, is it a stress response from
 20 the CTSFOs? Is it a cultural response they have
 21 developed internally? Would they be using that response
 22 in training scenarios? It does raise a lot of
 23 interesting questions. There is some research and some
 24 literature on these issues and when we have discussed it
 25 in depth our view is that if profane language is used,

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1 I think it is an important issue in this context,
 2 because it adds to the complexity of the scene, it adds
 3 to the noise, it adds to the confusion, it adds to the
 4 mental capacity of the individuals in the cars
 5 assimilating what is going on. If they are heavily
 6 armed criminals, could that provoke an armed respond
 7 from them rather than reduce the potential for an armed
 8 response.
 9 We felt it was an important issue to raise, and it
 10 does leave some unanswered questions about whether the
 11 profane language is an ideal tactical response and
 12 certainly for more training and more discipline in
 13 relation to the use of commands, consistency of commands
 14 and terminology.
 15 Q. Thank you.
 16 MR BURROWS: Sir, we understand the origins of this whole
 17 concept of overwhelming superiority, speed and
 18 aggression. In fact after such language being used in
 19 a court in Northern Ireland in 1983 it was removed from
 20 the lexicon of the police service, at least there and
 21 I tried to do it insofar as I was rewriting the APP.
 22 I understand dominance, I understand verbal stunning
 23 and I understand why at times it may be appropriate.
 24 But it is a direct lift from special forces and
 25 special forces application, and has been around the

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1 it should be carefully thought out and it should be
 2 a tactical response by the officers. We can accept that
 3 an appropriately used word in conjunction with the use
 4 of force can potentially lead to a positive outcome.
 5 But it shouldn't evolve, it should be designed. It
 6 should become part of training and we are not quite
 7 clear whether those CTSFOs would use that in training or
 8 not and whether it just comes in there. It does raise
 9 that question.
 10 Perhaps the more concerning side is where you hear
 11 diverse commands being shouted at individuals, "Show me
 12 your hands", "Put your hands up", "Put your hands on the
 13 dashboard".
 14 The question is: would a subject know exactly who
 15 was sending that command, who they were sending it to?
 16 The CTSFOs indicate that they were going to get eye
 17 contact with the individuals, we know on this situation
 18 that that was a difficult issue to say the least because
 19 of the visibility in and out of the vehicle.
 20 This is the stuff that is normally trained,
 21 particularly in relation to giving commands in a contain
 22 and call out, for people to manage commands, quite often
 23 you will separate an individual out, they will get all
 24 the commands, be restrained and then you will deal with
 25 another subject.

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1 police service for quite a while, particularly in
 2 hostage situations where you are having to move in and
 3 intersperse yourself between the hostage taker and the
 4 hostage -- when that is absolutely necessary in
 5 extremis.
 6 I was concerned to see it as part of the doctrine,
 7 and I use that word slightly -- it appeared to be the
 8 doctrine almost that was being articulated in this case.
 9 I would be keen to see that when that dynamic sort
 10 of intervention -- I am talking about at the point of
 11 intervention, not in the sense being discussed in this
 12 Tribunal, at that point it is articulated differently.
 13 I have another concern about the profane language
 14 (a) it doesn't look professional, (b) it will be caught
 15 by everybody who has a video camera and will be
 16 projected around the country, if not around the world,
 17 but also these same officers deploy against other
 18 people. I have been in exercises with special forces,
 19 I have been in exercises with UK police officers abroad.
 20 I think of one occasion when profane language was used
 21 against a person of Muslim faith and it caused a major
 22 diplomatic incident that went from exercise level to
 23 number 10 within 10 minutes.
 24 It can have an effect on people, particularly people
 25 of a religious or priority that can swing things the

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1 wrong way. It can have the wrong effect. So therefore
 2 be professional, I do understand that occasionally it
 3 might be, "Drop the gun, drop the gun", and somebody
 4 might, for emphasis, say, "Drop the F-ing gun",
 5 I understand that, but that is very different from this
 6 cloud.
 7 The other problem we have is this -- we start off
 8 reading this and look at the language and you analyse it
 9 according to a table on a transcript. We then had the
 10 luxury, sir, of coming across and hearing it here played
 11 in slow time, amplified, with the sound separated out so
 12 that words could be heard, but we heard the first lot,
 13 it was a cacophony of noise, I couldn't distinguish when
 14 I first heard it, "Hands up", "Stand still", so you
 15 don't get the response that you want.
 16 When we heard evidence being given yesterday about
 17 what is in the training manual, where people use simple
 18 words and they are monosyllabic words of "Out", "Down",
 19 and "Stop", those words make sense, particularly in
 20 high-stress situations where I want to have a clear
 21 response from somebody. If I say "Stop", if I say
 22 "Out", if I say "Down", people know what I want. If
 23 I yell and shout and get excited, I am not saying that
 24 wrongly, the officers were doing it for a reason.
 25 So I would have an issue that I think needs to go

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1 back and be rethought by the police service, and where
 2 it is appropriate, it is done in a proper, trained and
 3 controlled way.
 4 If, and I think I read something to this effect,
 5 this is not a trained tactic, but it may happen and
 6 I was the chief firearms instructor, if I have seen
 7 things happening that caused me concern, then I stepped
 8 in and said, "Why did that happen? We need to think
 9 about that, should that happen?" Because if you allow
 10 it to happen by default, you are actually encouraging it
 11 to become established practice.
 12 Therefore, I think there is a bigger issue than the
 13 one we have just seen in this particular case.
 14 MS BLACKWELL: Thank you very much.
 15 Sir, is that a convenient moment to pause overnight?
 16 I know that both of our experts will be returning
 17 tomorrow for more questioning.
 18 THE CHAIRMAN: Yes, very well.
 19 MS BLACKWELL: Thank you.
 20 THE CHAIRMAN: Is it convenient now to deal with the
 21 principle of further questioning, so that once you have
 22 finished your questioning we can proceed if there are to
 23 be any further questions?
 24 I'm talking about the principle of the other core
 25 participants asking questions of these witnesses.

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1 MS BLACKWELL: I understand certainly my learned friend
 2 Mr Butt will be making an application to ask questions
 3 and there may be others, but because I have been on my
 4 feet all day I have not had an opportunity of discussing
 5 the matter with them.
 6 THE CHAIRMAN: Would you rather pursue it in the morning?
 7 MS BLACKWELL: Yes, I would.
 8 THE CHAIRMAN: 10.00 then, or do you want make it a little
 9 earlier for your convenience?
 10 MS BLACKWELL: Could we say 9.45, please?
 11 THE CHAIRMAN: Certainly.
 12 9.45 am, thank you.
 13 (4.49 pm)
 14 (The Inquiry adjourned until 9.45 am the following day)
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