

# PUBLIC INQUIRY INTO THE DEATH OF JERMAINE BAKER

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## Closing Submission on behalf of the Independent Office for Police Conduct following the evidence of Catherine Hall

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### Introduction

1. The IOPC wishes to place on record its appreciation of the hard work and thoroughness of the Inquiry and its legal team.
2. The role played by the IOPC in the Inquiry has been limited to trying to assist it with the evidence. Likewise, these submissions are not intended to advance a case but to assist the Inquiry to understand some of the issues, connected to the IOPC's role, which have arisen during Inquiry.
3. The IOPC has considered and respectfully agrees with the *Written Submissions of Counsel to the Inquiry on the Applicable Legal Framework dated 23 August 2021*. It does not intend to make oral closing submissions but, if as a result of other parties' written or oral submissions there are additional matters on which it believes it can assist it will seek permission to do so.

### The relevance of IOPC Case to Answer determinations

4. The IOPC's report and the evidence it gathered during its investigation have been provided to the Inquiry to help it perform its role in investigating Mr Baker's death. Separately, the IOPC had its own duties to make determinations under the police disciplinary regime. Those determinations are legally distinct and made applying a different legal framework from those the Inquiry must make concerning the short form conclusion and identifying any failures. Whether the requirement under Article 2 European Convention for Human Rights for an effective investigation, including identifying and punishing wrongdoing, has been met will ultimately be answered by looking at the outcomes from the Inquiry and the IOPC investigation holistically<sup>1</sup>.
5. During its investigation the IOPC served notices of investigation on W80 and FE16 and at the conclusion of its investigation made determinations that:
  - a. W80 has a case to answer for gross misconduct for breaching the 'Use of Force' standard of professional behaviour and directed a gross misconduct hearing, which is presently adjourned due to the pending

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<sup>1</sup> R (on the application of Grice) v HM Senior Coroner of Brighton and Hove [2021] EWHC 3581 (Admin)

application for leave to appeal to the Supreme Court concerning the correct interpretation of that standard.

- b. DCI Neil Williams would have had a case to answer for misconduct had he still been serving.

6. The IOPC did not serve a notice of investigation on Superintendent Turner although a number of the concerns raised during the Inquiry had been identified in the report, for example the absence of any notes<sup>2</sup> and cutting and pasting to the FA3<sup>3</sup>.

7. A notice of investigation must be served where there is an indication that there may have been a breach of the standards of professional which *justifies disciplinary proceedings*<sup>4</sup>. Police officers are supervised by line managers similarly to any other employee and poor performance, mistakes, and misjudgments (even those requiring compensation in tort) will usually be dealt with by supervisors, as “management action”.

8. The legal requirement that before a notice is served, any breach of the standards of professional behavior must *justify disciplinary proceedings* is interpreted to mean that at least a written warning would be the appropriate outcome if the breach is proved<sup>5</sup> and that it cannot appropriately be dealt with by management action or performance procedures<sup>6</sup>. It follows that a notice of investigation for breach of the Duties and Responsibilities standard of professional behavior<sup>7</sup> will not usually be served unless the alleged conduct is to some degree ‘*morally blameworthy and would convey a degree of opprobrium to the ordinary intelligent citizen*’<sup>8</sup>. In determining whether disciplinary proceedings are justified, the investigator should have regard to the *College of Policing Guidance on Outcomes in Police Misconduct Proceedings*<sup>9</sup>. The courts will only interfere with their assessment in a particularly clear case<sup>10</sup>.

9. A case to answer means that a tribunal, properly directed, could, on one view of the evidence, find the officer breached the relevant standard of professional behaviour, applying the balance of probabilities<sup>11</sup>.

10. Under the police disciplinary regime in force at the time of the investigation, the investigator gave their opinion in the final report on whether there was a case to answer. The Metropolitan Police Service (as the Appropriate Authority) then

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<sup>2</sup> IPC0001145\_0039 para 169

<sup>3</sup> IPC0001145\_0034 para 159

<sup>4</sup> Section 12 Police Reform Act and Schedule 3 paragraph 19A

<sup>5</sup> This was not explicit in the 2012 regulations but is made so in the 2020 regime, see amended paragraph 19A, Schedule 3, PRA 2002, and Regulation 16 Police (Complaints and Misconduct) Regulations 2020.

<sup>6</sup> Police (Performance) Regulations 2020

<sup>7</sup> Schedule 2 Police (Conduct) Regulations 2012

<sup>8</sup> *R (On the Application of Shaw) v General Osteopathic Council* [2015] EWHC 2721 (Admin), concerning an osteopath, at paragraph 47, approving *Spencer v General Osteopathic Council* [2012] EWHC 3147

<sup>9</sup> [guidance on outcomes in police misconduct proceedings-1-.pdf \(paas-s3-broker-prod-lon-6453d964-1d1a-432a-9260-5e0ba7d2fc51.s3.eu-west-2.amazonaws.com\)](#)

<sup>10</sup> *R. (on the application of Chief Constable of Nottinghamshire) v Police Appeals Tribunal* [2021] EWHC 1248 (Admin).

<sup>11</sup> *R (Commissioner of the City of London Police) v IOPC* [2018] EWHC 2997 (Admin) where Sharp LJ said at [14] to [16]:

responded, disagreeing that there were cases to answer, following which the IOPC Regional Director Sarah Green recommended that DCI Williams and W80 had cases to answer and there should be a misconduct hearing for W80 (not for DCI Williams as he had retired). The MPS declined to accept the recommendation and Ms Green then directed them to bring proceedings for gross misconduct for W80<sup>12</sup>. In the Administrative Court W80 argued that even applying the “objective test” to a mistake of fact, it was irrational to have found a case to answer. The court rejected that submission and W80 did not seek to cross-appeal its decision<sup>13</sup>. The Court of Appeal held that the “objective test” applied<sup>14</sup>.

11. At each stage of the correspondence concerning opinions, recommendations, and directions, the IOPC and the MPS provided detailed rationales, which were taken into account by each other. Ms Green’s rationale for determining there was a case to answer did not adopt or accept all the opinions of the investigator. Importantly she accepted, that a tribunal would find that W80’s mistaken belief, that his life was in danger, was honestly held but that, applying the law as the Court of Appeal have now held it to be, it *could* find he had breached the standards of professional behaviour because that belief was not reasonably held<sup>15</sup>. She summarised her reasoning as follows:

***[Paragraph 52 letter of recommendation dated 19 March 2018]***<sup>16</sup>

*52. All these features would tend to indicate that a reasonable disciplinary tribunal, upon the evidence available, would be likely to find - on the balance of probabilities - that W80’s belief that he was in imminent danger was an honestly held one. However, a reasonable disciplinary tribunal, considering the conflicting evidence as to the covert audio recordings and as to the short space of time between the start of the interception and W80 firing the shot, could determine, on the balance of probabilities, that W80’s honest, but mistaken, belief that his life was threatened was unreasonable. Such a determination would necessarily involve a finding by a disciplinary tribunal that W80 had breached the standards of professional behaviour by failing to only use force to the extent that it is necessary, proportionate and reasonable in all the circumstances. If such a finding were to be made, given the wider circumstances of the case - in that Mr Baker was killed by W80’s actions – a reasonable disciplinary tribunal could readily determine, on the balance of probabilities, that dismissal is justified. For this reason, it is my opinion that a reasonable disciplinary tribunal could find that W80 has a case to answer for gross misconduct.*

***[ Direction letter 1 May 2018]***<sup>17</sup>

*14. You have determined not to accept my recommendations on the basis that, in summary, you do not consider that I have properly assessed the*

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<sup>12</sup> These procedures are contained were in paragraphs 22-27 Schedule 3 Police Reform Act 2002 and Regulation Police (Complaints and Misconduct) Regulations, as then in force.

<sup>13</sup> “...it seems to me impossible to say that, on one legitimate construction of the facts, there was not a case for the claimant to answer if the objective civil law test were to be applied. It simply cannot be said that the claimant is incontrovertibly right in his version of what occurred or that, even if he were, there would still not be a case to answer applying the objective civil law test; R (oao W80) v IOPC [2019] EWHC 2215 (Admin) paragraph 77.

<sup>14</sup> R (oao W80) v IOPC [2020] EWCA Civ 1301

<sup>15</sup> Police (Conduct) Regulations 2012 Schedule 2

<sup>16</sup> This does not appear to be on relativity but a copy was provided to the Inquiry Legal Team by email 16 June 2021 08.28hrs

<sup>17</sup> MPS0003421

*reasonableness of W80's belief, taking into account the short time frame within which he had to make the decision to use force rather than analysing the transcripts of audio recordings from the time. In your view there is nothing to indicate that W80 heard the words "put your hands up" nor grounds to say that he should have appreciated that this is what Mr Baker was doing. You further consider that the speed with which W80 made the decision to use force is "neither here nor there" in assessing reasonableness of belief.*

*15. The IOPC investigator's findings in her final report were not, in my view, decisively based on "a careful textual analysis of everything that was said" before W80 made his own assessment to fire his weapon. They are certainly not based on being able to prove that W80 heard an officer say "put your hands up" (as opposed to "put your hands on the dashboard") so that W80 must have appreciated that Mr Baker was responding to that discrete, clear instruction. As for the timings issue, the fact that the shot was discharged so quickly after the interception began and instructions were being shouted to Mr Baker to "put his hands on the dashboard" and/or "to put his hands up" and/or to "show his hands" is self-evidently relevant to the issue of whether the force used was necessary, reasonable or proportionate. The points made by the AA are of course relevant ones for W80 to make in the context of his defence to a disciplinary charge of gross misconduct but they do not of themselves carry such weight that a reasonable disciplinary tribunal would be bound to conclude that there is no case to answer for gross misconduct.*

*16. I refer to the rationale previously provided in my recommendations letter, on the basis of which I remain of the view that a reasonable disciplinary tribunal could find that W80 has a case to answer for gross misconduct.*

12. Because the functions and determinations by the IOPC are distinct from those of an inquest, it is not usually appropriate for IOPC investigators' opinions or the determinations of its decision makers to be adduced in evidence. Although the position is clearly different in a judge led inquiry, the introduction into evidence of the IOPC's case to answer determinations, has led to some of the expert witnesses, framing their evidence as a challenge to the opinions in the IOPC's report, rather than addressing the Inquiry's terms of reference. In doing so it is not clear that they have appreciated:

- a. That the rationale for the determination of a case to answer is that of Sarah Green's (not the opinions of the investigator in the report).
- b. That the IOPC investigator's opinions and Ms Green's direction, are not concerned with *determining* if there was a breach of the standards of professional behaviour but whether, there is *a case to answer*.
- c. That the case to answer determination for W80 concerned, not whether a criminal offence of homicide may have been committed but whether he breached "Use of Force" the standard of professional behaviour: *Police officers only use force to the extent that it is necessary, proportionate and reasonable in all the circumstances*<sup>18</sup>.
- d. That when considering if there was a case to answer the reasonableness of W80's mistaken belief that his life was in danger was relevant and not only whether it was honestly held.

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<sup>18</sup> Police (Conduct) Regulations 2012 Schedule 2

13. With the above in mind, the IOPC notes:
- a. The matters raised by Mr Burrows and Mr Arundale<sup>19</sup>. It agrees that “... *whether W80's actions were necessary and justifiable and if the force used was reasonable in the circumstances are questions for the inquiry after hearing witness testimony*” but with the additional qualification that whether there is a case to answer is a matter for the IOPC, applying the legal framework in police misconduct proceedings and whether it is then proved will be a matter for the misconduct hearing.
  - b. Mr Brooks' criticisms of the IOPC report, in particular of the passage at paragraph 1075 of the IOPC report<sup>20</sup>, that “*the positioning of Baker's left hand/palm, at least, would be consistent with putting his hands up*”. In his opinion there are alternative positions for Mr Baker's hands that would be consistent with the injuries and had they been in the classic 'hands-up' position, it would have led to different injuries<sup>21</sup>. As the IOPC understands the evidence from the reconstruction, with the straps of the bag pulled behind his back and compressed between the back seat<sup>22</sup>, his hands could have been in a position close to the bag. However, the issue for IOPC determination was whether, *on one view of the evidence*, a tribunal could find W80's belief Mr Baker was reaching for a firearm, and that his life was in imminent danger was unreasonable. That assessment will take account all of the circumstances, including Mr Brooks' evidence, the reconstruction, W80's accounts, the audio recordings of the instructions given to the occupants of the car, the timing of the shot, that there was nothing in the bag Mr Baker was likely to have been reaching for and the proximity of W80 and his firearm to Mr Baker at the time he was shot. In contrast the Chairman will be determining (at least if CTI's submissions are accepted) only whether his belief was honestly held.

14. The IOPC supports the opening submissions of CTI<sup>23</sup> and Ms Kauffman for Mr Baker's family<sup>24</sup> that the Chairman's short form conclusion, whether Mr Baker's killing was lawful or not, and his findings about any failures, should be made without reference to the IOPC's case to answer determinations and should not appear to determine if any failures by officers have breached the standards of professional behaviour. This is because, as explained above, the legal framework is different and, in any event, there is no power for the Chairman to bring or direct disciplinary proceedings. That is not to suggest that the Chairman's findings will be irrelevant, they will have authority and be considered with great care; should he consider it appropriate, he may draw the IOPC's attention to any findings or matters which he believes are relevant to its functions, including re-opening.

### **Learning Recommendations**

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<sup>19</sup> Transcript 21 July 2021 page 217 lines 1-12

<sup>20</sup> IPC0001145\_0212 and IPC0000514\_0213 ...

<sup>21</sup> SLA0000005\_0006, paragraph 6.5

<sup>22</sup> Transcript 27 July 2021 page 70 1-16

<sup>23</sup> Transcript 14 June 2021 page 21 lines 10-13

<sup>24</sup> Transcript 16 June 2021 page 13 lines 13-19

15. The IOPC Final Report, beginning at paragraph 1121<sup>25</sup>, made provisional learning recommendations which were communicated to the National Police Chiefs Council (NPCC), the College of Policing (CoP) and the Metropolitan Police Service (MPS) in May 2017. For convenience they are set out in Appendix A to these submissions.

16. The report expressly identified at paragraph 1124 that a number of its recommendations were similar to those made by the IPCC investigation into Mark Duggan's death. The evidence received by the Inquiry, in particular from the NPCC lead for armed policing, Chief Constable Simon Chesterman has identified that some also share themes identified in recommendations made following other fatal police shootings, notably those of Azelle Rodney and Anthony Grainger. There is plainly a concern that earlier recommendations may not have been responded to or acted on or at least not sufficiently.

17. The IOPC acknowledges the responses to its recommendations by CC Chesterman and has welcomed the formation of the Organisational Learning Governance Group within the NPCC Armed Policing Portfolio, its register of recommendations<sup>26</sup> and the liaison arrangements now in place for recommendations arising out of IOPC investigations<sup>27</sup>. Also, the responses of the Home Office to the Anthony Grainger report and those of Supt Ross McKibbin from the MPS. However, the IOPC believes that follow up on the implementation of recommendations which have been accepted is also important, as set out in the Director General's recent submissions to the Home Affairs Select Committee<sup>28</sup>. The IOPC does follow up on recommendations informally through meetings with police forces, elected local policing bodies, and professional standards departments but as a primarily investigative body, it is not set up to carry out survey or fieldwork of the sort that may be required, and this role would more naturally fall to other statutory bodies such as Her Majesty's Inspectorate of Constabulary, Fire and Rescue Services.

18. For the reasons explained above the IOPC invites the Chairman, if making recommendations to consider how, if they are accepted, their implementation should be followed up and reported on.

### **Co-operation with IOPC investigations**

19. In her written opening CTI said:

*35. During the course of the IPCC investigation, there were delays due to MPS police officers and staff not agreeing to provide the IPCC with witness accounts in person, instead requesting lists of questions to answer. This process is long and drawn-out, often resulting in counter-questions and answers, and more importantly does not achieve best quality evidential statements as there are inevitably still issues remaining that a conversation could clarify.*

*36. The Inquiry may wish to consider if a refusal to provide a witness account to an investigator fails to facilitate and promote public confidence in the evidential process or complaints system when officers will not speak to the investigating body in person.*

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<sup>25</sup> IPC0001145\_0222

<sup>26</sup> NPC0000001\_0006

<sup>27</sup> NPC0000001\_0008

<sup>28</sup> Evidence of Michael Lockwood and PC00083 Q306 May 2021

20. The current legal requirements on officers to co-operate with IOPC investigations were set out in the IOPC's note 22 June 2021 and attached in Appendix B. Officers subject to criminal investigation have the same rights as any other suspect and officers who have been served with a notice of investigation have a similar "right to silence" subject to the availability of inferences. These further submissions concern only officers whose status is that of a witness in the investigation.

21. At the time of the investigation, an IOPC investigator could require a serving officer who was a witness to attend at a date, time and place specified in a notice<sup>29</sup>. However, neither the regulations nor the "*Duties and Responsibilities*" standard of professional behaviour<sup>30</sup> included an express duty or responsibility to answer questions in a dynamic witness interview. The standard was amended in 2020<sup>31</sup> to add the words in the second paragraph below:

***Duties and Responsibilities***

*Police officers are diligent in the exercise of their duties and responsibilities.*

*Police officers have a responsibility to give appropriate cooperation during investigations, inquiries and formal proceedings, participating openly and professionally in line with the expectations of a police officer when identified as a witness.*

22. The Inquiry have a copy of the Police Federation's letter dated 26 May 2021<sup>32</sup> which concerns whether its members may be able to "defeat" a requirement to answer questions in a face to face interview:

*Despite concerns about the applicability of APP as a complete description of what is required [by the duty to cooperate], legal advice suggests that the relevant APP can still inform the last of these considerations and should certainly be used in argument should such an argument arise. **In addition, the fact that it is the usual practice of officers to write their own statements when witnesses in cases may be deployed to help defeat a requirement to answer orally face-to-face.***

23. It acknowledges that it was (and remains) untested whether officer witnesses who, as in this case, attend face to face appointments, refuse to answer questions but then provide a written account, would be in breach of the amended standard.

*It cannot be ruled out that offering to comply by way of writing their own statement could result in a successful duty to cooperate allegation. In theory and principle, the duty to cooperate can require face to face question/answering. However, the facts of such a case are difficult to conceive. In addition, if an officer's written statement answered the questions and topics raised in a timely fashion then it is unlikely that such an allegation would succeed on the basis that it could be argued an officer had given appropriate cooperation in a timely fashion and acted in line with the expectations of a police officer when they are identified as a witness.*

*Therefore, for the reasons above, the advice set out in JBB circulars 026/2013, 07/2013, 008/2010 and 007/2014 is no longer sustainable as there could be a case where the duty to cooperate requires officers to answer*

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<sup>29</sup> The Police (Complaints and Conduct) Regulations 2013

<sup>30</sup> Schedule 2 Police (Conduct) Regulations 2012

<sup>31</sup> Schedule 2 Police (Conduct) Regulations 2020

<sup>32</sup> POL0000001

*questions in a face to face meeting. However, legal advice suggests that in almost every conceivable individual case the approach that officers will write their own statements soon after could properly be taken and that it should be done that way where there is any prospect of self-incrimination or an officer evolving from a witness to a suspect. #concludes:*

24. The investigators in this case remain of the opinion set out at paragraph 20 IPCC report<sup>33</sup> that the completion of the investigation was delayed due to MPS police officers and staff not agreeing to provide the IPCC with witness accounts in person and instead requesting lists of questions to answer. More importantly that it prevented obtaining best evidence as there were inevitably still issues remaining that a conversation could have clarified, which may undermine confidence in the police<sup>34</sup>.

25. The IOPC has a current working group with terms of reference including to consider what constitutes appropriate co-operation by witnesses with its investigations and to propose a standard approach where co-operation is not forthcoming. The IOPC welcomes any consideration given by the Chairman to this issue.

### **Retirement**

26. Concerns have been expressed during the hearing about DCI Williams being able to retire whilst still subject to misconduct investigation and that retirement prevented misconduct proceedings, even though the IOPC considered he had a case to answer for misconduct<sup>35</sup>.

27. As explained in the IOPC's note dated 22 June 2021, it remains the case that an officer who retires whilst subject to investigation for *misconduct* (in contrast to *gross misconduct*) cannot be subject to disciplinary proceedings and there is no list or register which would reveal that they had retired which under investigation; it could only come to the attention of a potential employer through pre-employment checks (which would usually require consent) and/or security vetting procedures.

### **Post-Mortem photographs**

28. Questions were asked of Ms Hall<sup>36</sup> concerning the propriety of showing W80 photographs from the post-mortem during his interviews on 4 February 2016. This was raised again following the evidence of former Superintendent Jane Gyford (now Deputy Chief Constable of Cambridgeshire)<sup>37</sup>. This issue was addressed in the IOPC's note of 22 June 2021 and in Ms Hall's statement dated 30 July 2021<sup>38</sup>.

29. As explained in Ms Hall's statement, steps were taken to try and minimise any impact on W80's welfare and the intention to show the photographs was made clear to W80's solicitor prior to the day of the interview. W80's solicitor is and was then, highly experienced in representing firearms officers, including in homicide investigations and took no objection. The interviewers flagged when they were about

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<sup>33</sup> IPC0001145\_0009

<sup>34</sup> IPC0001145\_0009 paragraph 20

<sup>35</sup> Transcript 17 June 2021 P94 lines 11-17

<sup>36</sup> Transcript 17 June 2021 P69 line 5 to 71 line 18

<sup>37</sup> IPC0001028

<sup>38</sup> IPC0001321



to introduce the photographs, invited W80 to ask them to stop at any time and advised he would be given a break immediately after, which he was.

30. DCC Gyford's criticism rests on her own experience which she does not set out and a conversation with an unnamed person at the "*National Crime Academy*" (assumed to be the National Crime Agency which does not routinely investigate homicide), referring to unidentified "correct procedures".

31. As set out in the note and Ms Hall's statement it is acknowledged that body maps are used in criminal proceedings and that it may be possible and appropriate to use them during police interviews. However, the IOPC is not aware of any legal requirement or authoritative guidance that photographs may not be used in suspect interviews, certainly not where the position of wounds had provides the grounds for suspicion and fairness requires that the suspect is able to understand and if appropriate to challenge those grounds by reference to the best evidence of them.

32. Ms Hall remains of the opinion that in the circumstances of this case it was appropriate to show photographs, taking into account W80's welfare and also the interests of justice and fairness. Ms Hall has however brought the concerns raised in DCC Gyford's statement to the attention of the present Deputy Director General (Operations) with the intention of ensuring that best practice in this area was followed and will continue to be.

33. As explained in the email attaching Ms Hall's statement, it was made without prejudice to whether this is a matter is within the Inquiry's terms of reference, as are these submissions. Whether or not it is within the terms of reference, the IOPC's submission is that DCC Gyford's evidence alone is not a sufficient basis on which the Chairman could safely make a finding that it was inappropriate to have shown the photographs.

### **W80's Suspension**

34. In his evidence to the Inquiry Commander (formerly Superintendent) Simon Dobinson maintained, at least initially, as in his witness statement<sup>39</sup> that he had not been able to suspend W80 on the evening of 13 December 2015 due to a failure by the IOPC to provide relevant paperwork. As has been set out in Ms Hall's statement<sup>40</sup> and that of Commander Paul Betts<sup>41</sup>, his belief that he could not suspend W80 was, as a matter of law, wrong. As set out in Commander Bett's statement the guidance relied on by Commander Dobinson was amended in April 2016 to reflect the correct legal position. He appears to have known this<sup>42</sup> but initially repeated in his evidence that it was the IOPC's fault<sup>43</sup> that he had not been able to carry out the suspension.

35. As with the decision to suspend, the decision to remove W80's suspension and the duties he was given subsequently were a matter for the MPS.

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<sup>39</sup> MPS 0000087

<sup>40</sup> IPC1320

<sup>41</sup> MPS0004718

<sup>42</sup> Transcript 17 July 2021 page 33 lines 1-17

<sup>43</sup> Transcript 17 July 2021 page 16 lines 15-16

36. The IOPC has no doubt that Commander Dobinson's concerns were genuinely held at the time he made his statement, as were those of Deputy Chief Constable Gyford. Senior officers are important stakeholders in the police complaints system and the IOPC welcomes constructive criticism. However ungrounded, poorly based or researched criticism risks giving the impression of resenting rather than welcoming a robust and independent investigation of the sort that was required in this case.

Danny Simpson

Solicitor for the IOPC

26 August 2021

## **Appendix A-Learning recommendations**

The recommendations were sent, as set out below (where recommendations are directed to two or more of these bodies, the recommendation is repeated for each) follows:

### **NPCC:**

1. The National Police Chiefs' Council (NPCC)/College of Policing and MPS to review the national and local SFC and TFC logs/FA forms to prompt and adopt the consistent use of multi-dimensional Threat, Harm, Risk (THR) assessment.
2. The National Police Chiefs' Council (NPCC), in light of Emergency Services Mobile Communications Programme (ESMPC)/Emergency Services Network (ESN)<sup>44</sup> due to be rolled out from 2017 onwards, should ensure the software for the ESN will have capability to record radio transmissions for covert operations.

### **MPS**

1. Radio channels utilised within the C3000 control room are not routinely recorded for all covert operations. The MPS Standard Operating Procedures (SOP) relating to C3000 is dated July 2008. Given technological developments, the MPS should review and update their SOP relating to capabilities around recording and retaining covert radio channel transmissions for all operations ran from covert operation rooms.
2. CLIO (Computer Logging of Intelligence Operations) is an MPS system designed to be used by commanders/decision makers/loggists during operations. It would seem the MPS do not have any policy or training in regard to its use outlining clear expectations of what can and should be recorded. The MPS should develop clear policy and/or training for commanders and general users on the appropriate use of CLIO, in particular for recording intelligence, information received and recording decision making.
3. When a Covert Monitoring Post (CMP) is being utilised to gather evidence/intelligence, the MPS should develop an SOP to ensure that the information received is documented in a digital format instead of, or in addition to handwritten notes, in order to provide a clear audit trail of the information received, decisions relating to further dissemination and to whom. For example, a CLIO loggist could be utilised within the CMP to provide this functionality.
4. Review, and where appropriate amend, the MPS Firearms SOP and training, to ensure that all briefings relating to firearms deployments are audio recorded, including intelligence elements, and that consistent intelligence form of words are documented and supplied to any officer delivering briefings.

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<sup>44</sup> <https://www.gov.uk/government/publications/the-emergency-services-mobile-communications-programme/emergency-services-network#latest-procurement-news>

5. MPS Firearms SOP to be amended to direct all firearms commanders to audio record all risk assessment, planning and briefing meetings in relation to pre-planned firearms operations.
6. The MPS to ensure that all officers briefing for firearms deployments use a uniform briefing template, consistent with Authorised Professional Practice on Armed Policing.
7. The National Police Chiefs' Council (NPCC)/College of Policing and MPS to review the national and local SFC and TFC logs/FA forms to prompt and adopt the consistent use of multi-dimensional Threat, Harm, Risk (THR) assessment.
8. The MPS to revise the MPS Firearms SOP to be more specific in that Tactical Firearms Commanders (TFC's) for pre-planned firearms operations should not be the Senior Investigating Officer (SIO) or an officer who is operationally involved with the investigation team whatsoever.
9. The MPS and College of Policing should give consideration to reviewing and/or amending the National Police Firearms Training Curriculum (NPFTC) and local MPS training, to advise Authorised Firearms Officers and Firearms Commanders that prior to deploying they should agree the terms of the instructions that are to be communicated to subjects during armed interceptions/interventions.
10. MPS Firearms SOP to be amended to direct all firearms commanders to audio record all risk assessment, planning and briefing meetings in relation to pre-planned firearms operations.
11. The MPS to ensure that all officers briefing for firearms deployments use a uniform briefing template, consistent with Authorised Professional Practice on Armed Policing.
12. The MPS National Police Chiefs' Council (NPCC)/College of Policing to review the national and local SFC and TFC logs/FA forms to prompt and adopt the consistent use of multi-dimensional Threat, Harm, Risk (THR) assessment.
13. The MPS to revise the MPS Firearms SOP to be more specific in that Tactical Firearms Commanders (TFC's) for pre-planned firearms operations should not be the Senior Investigating Officer (SIO) or an officer who is operationally involved with the investigation team whatsoever.
14. The MPS College of Policing should give consideration to reviewing and/or amending the National Police Firearms Training Curriculum (NPFTC) and local MPS training, to advise Authorised Firearms Officers and Firearms Commanders that prior to deploying they should agree the terms of the instructions that are to be communicated to subjects during armed interceptions/interventions.

**CoP:**

1. The College of Policing, National Police Chiefs' Council (NPCC)/ and MPS to review the national and local SFC and TFC logs/FA forms to prompt and adopt the consistent use of multi-dimensional Threat, Harm, Risk (THR) assessment.

2. The College of Policing and MPS should give consideration to reviewing and/or amending the National Police Firearms Training Curriculum (NPFTC) and local MPS training, to advise Authorised Firearms Officers and Firearms Commanders that prior to deploying they should agree the terms of the instructions that are to be communicated to subjects during armed interceptions/interventions.

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**Note on behalf of the Independent Office for Police Conduct  
following the evidence of Catherine Hall**

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**Introduction**

1. This note is submitted on behalf of the Independent Office for Police Conduct (IOPC) and is intended to assist the Inquiry by addressing issues raised in connection with the evidence given Operations Manager Catherine Hall on 17 June 2021. It primarily concerns the applicable law and practice in IOPC investigations. The IOPC welcomes any guidance from the Chair and/or the Inquiry Legal Team about whether the contents should be supported with a witness statement and/or included in closing submissions.

2. It is not usually appropriate for IOPC investigators' opinions (no longer given) or the determinations of its decision makers to be adduced in evidence at an inquest<sup>45</sup>. The position is, of course, different in a judge led inquiry but the IOPC supports the submissions of Counsel to the Inquiry<sup>46</sup> and for Mr Baker's family<sup>47</sup>, that findings concerning the reasonableness of force used by W80 and/or compliance with armed policing policy and guidance should be made by the Chairman without regard to IOPC decision making. Further that any findings of wrongdoing should not be expressed in terms of whether there has been a breach of the standards of professional behavior. That is a matter for police misconduct proceedings, applying the legal tests from that jurisdiction which are not the same as in a public inquiry<sup>48</sup>. If following the Inquiry, it appears that IOPC decision making may have been flawed and/or there is new information which has a material impact on it, the IOPC may re-open the investigation and/or decision making<sup>49</sup>.

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<sup>45</sup> *R(Stanley) v HM Coroner for Inner North London* [2003] EWHC 1180 (Admin) and *Re Siberry (2)* [2008] NIQB 147 (Postscript [72])

<sup>46</sup> P102 lines 7-20

<sup>47</sup> P13 lines 13-15

<sup>48</sup> See paragraph 51 CTI's opening note referencing <https://www.judiciary.uk/wp-content/uploads/2020/10/R-W80-v-DIRECTOR-GENERAL-OF-THE-INDEPENDENT-OFFICE-FOR-POLICE-CONDUCT-judgment.pdf>

<sup>49</sup> Section 13B PRA 2002 and IOPC Operations Manual: [Re-investigation of an IOPC investigation \(Section 13B\) | IOPC Operations Manual \(policeconduct.gov.uk\)](https://www.policeconduct.gov.uk)

3. Prior to 2018 the IOPC was known as the Independent Police Complaint Commission but for simplicity “IOPC” is used throughout. References to legislation are to the law in force at the time of the investigation unless otherwise indicated.

4. Page (P) and line references in footnotes are to the transcript from 17 June 2021 unless the contrary is stated.

### **Attending interviews and answering questions**

#### ***Criminal Suspects***

5. The IOPC’s powers and duties under the Police Reform Act 2002 (PRA 2002) include the investigation of misconduct and criminality by persons serving with the police.

6. The Lead Investigator and IOPC staff designated to assist them, have the powers of a constable<sup>50</sup>. The powers of arrest under Police and Criminal Evidence Act 1984 are therefore available if an interview is necessary for a prompt and effective investigation and a suspect will not attend voluntarily. A police officer suspect has the same rights as any other suspect including the “*right to remain silent*”.

#### ***Subjects of misconduct investigation***

7. A subject may be required to attend for an interview<sup>51</sup>. At interview the subject must be reminded of the misconduct caution that, “*whilst he does not have to say anything it may harm his case if he does not mention when interviewed or when providing any information under regulation 18 or regulation 22(2) or (3) of the Conduct Regulations (procedure on receipt of notice of referral to misconduct proceedings) something which he later relies on in any misconduct proceedings, special case hearing, an appeal meeting or appeal hearing.*”<sup>52</sup>

#### ***Witnesses***

8. An IOPC investigator may require a serving officer who is a witness to attend at a date, time and place specified in a notice<sup>53</sup>. However, neither the regulations nor the “*Duties and Responsibilities*” standard of professional behaviour<sup>54</sup> included an express duty or responsibility to answer questions in a dynamic witness interview. The standard was amended in 2020<sup>55</sup> to add the words in the second paragraph below:

##### *Duties and Responsibilities*

*Police officers are diligent in the exercise of their duties and responsibilities.*

*Police officers have a responsibility to give appropriate cooperation during investigations, inquiries and formal proceedings, participating openly and*

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<sup>50</sup> Paragraph 19(4) Schedule 3 Police Reform Act 2002

<sup>51</sup> Regulation 19 Police (Complaints and Misconduct) Regulations 2012

<sup>52</sup> Regulation 16(1)(b) Police (Complaints and Misconduct Regulation) s2012

<sup>53</sup> The Police (Complaints and Conduct) Regulations 2013

<sup>54</sup> Schedule 2 Police (Conduct) Regulations 2012

<sup>55</sup> Schedule 2 Police (Conduct) Regulations 2020

*professionally in line with the expectations of a police officer when identified as a witness.*

9. It has not been tested whether officer witnesses who, as in this case, attend appointments, refuse to answer questions in a dynamic interview but then provide a written account, would be in breach of the amended standard. The IOPC welcomes any consideration given by the Chairman to whether acting in this way fails to promote public confidence in policing, as invited in Counsel to the Inquiry's opening note at paragraph 36.

### **DCI Williams' Retirement**

#### ***The legal position***

10. Policing is not a regulated profession which admits or removes constables from a register. Police disciplinary proceedings have their origin in the employer, employee relationship between a constable and their Chief Officer (the Appropriate Authority) with the ultimate sanction being dismissal, rather than removal from a register. However, that relationship has been overlaid incrementally by a statutory regime intended to promote public confidence.

11. Prior to 15 December 2017 disciplinary proceedings could not be brought against officers who had ceased serving with the police. However, officers could be prevented from retiring if they were suspended<sup>56</sup>.

12. Although disciplinary proceedings could not be brought, a former officer's conduct could be investigated, and an opinion given in the final report on whether they had a case to answer for misconduct or gross misconduct or no misconduct. However, the Appropriate Authority (AA) was not required to (and should not) determine if there was a case to answer on receipt of the report<sup>57</sup>.

13. Where in the investigator's opinion there was a case to answer but the officer had retired before disciplinary proceedings could be brought, prior to 15 December 2017, there was no list giving this information which a potential future employer, whether police force or otherwise could consult. This gave rise to concerns<sup>58</sup>, similar to those expressed by the Chairman<sup>59</sup>. Since 15 December 2017, officers who retire may still be subject to misconduct proceedings if they have a case to answer for *gross misconduct* but not *misconduct*<sup>60</sup>. If they retire before such proceedings, they are placed on an advisory list and if subsequently dismissed (but not otherwise), they are placed on a barred list<sup>61</sup>.

#### ***DCI Williams becoming a subject of the investigation***

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<sup>56</sup> R (oao Birks) v Commissioner of Police for the Metropolis 2014 EWHC 3041(Admin). Regulation 10A Police (Conduct) Regulations 2012, introduced in 2014 would have prevented his retirement without the necessity to suspend but did not apply in his case because he had given notice of retirement prior to receiving the notice of investigation.

<sup>57</sup> Regulation 27 Police (Complaints and Misconduct) Regulations 2012 and see R Mark Gilmore v Police and Crime Commissioner for West Yorkshire [2017] EWHC 2867 (Admin).

<sup>58</sup> [Death of Ian Tomlinson - Wikipedia](#)

<sup>59</sup> P94 lines 11-17.

<sup>60</sup> These provisions are now contained, primarily in schedule 1 Police (Conduct) Regulations 2012.

<sup>61</sup> Police Advisory List and Police Barred List Regulations 2017.



14. Ms Hall said in her evidence “From recollection, Mr Williams became a subject of our investigation following a report written by an expert [Chief Superintendent Hartley]”<sup>62</sup>. This recollection was incorrect as Chief Superintendent Hartley’s Final Report was not in fact received until 10 October 2016<sup>63</sup>.

15. The rationale for making DCI Williams a subject was recorded on 21 July 2016 as being “...due to the alleged failure to accurately disseminate accurate information to MPS officers/staff deployed during the operation; and that the method of dissemination may not have complied with national and local procedures and guidance in place.”<sup>64</sup> This may have been informed by discussions with Chief Superintendent Hartley whose terms of reference had been agreed on 16 May 2016<sup>65</sup>.

### ***DCI Williams’ retirement***

16. DCI Williams was made a subject of the investigation by a notice dated 28 July 2016. He was not suspended and retired prior to the completion of the IOPC investigation. In the final report Ms Hall gave an opinion that he had a case to answer but, as above, no misconduct proceedings could be brought.<sup>66</sup>

17. The IOPC and Mr Baker’s family became aware of DCI Williams’ intended date of retirement and made representations to the AA that he should be suspended to prevent it<sup>67</sup>. The AA declined to suspend him, and Mr Baker’s family issued judicial review proceedings seeking an order that it should do so. That application was refused<sup>68</sup>.

18. The Chairman requested a chronology for DCI Williams’ retirement<sup>69</sup> which is as follows<sup>70</sup>:

**11 May 2016:** DCI Williams gave notice to the MPS he would retire on 27 September 2016 due to completing 30 years’ service.

**28 July 2016:** notice of investigation served (amended 10 August 2016).

**18 and 24 August 2016:** interviews.

**27 September 2016:** retired<sup>71</sup>.

**23 November 2016:** final report completed.

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<sup>62</sup> P75 lines 7-9

<sup>63</sup> The report is undated but IOPC records show that it was sent by email on that date IPC0000630.

<sup>64</sup> IPCC D1 PL239 (I have not been able to find D1 on relativity but is listed on the IOPC schedules and we believe was reviewed by Ms Cartwright directly on the HOLMES account).

<sup>65</sup> D1, PL197

<sup>66</sup> Transcript 17/6/21 p86 line 12 -13

<sup>67</sup> The decision to suspend or not is a matter for the AA, although the IPCC were entitled to be consulted/make representations; regulation 10 Police (Conduct) Regulations 2012

<sup>68</sup>R. (on the application of AB) v Commissioner of Police of the Metropolis [2016] EWHC 2714 (Admin)

<sup>69</sup> P88 line 21

<sup>70</sup> IPC0001059\_2

<sup>71</sup> This is the intended date but following the application for judicial review, it was deferred until after the hearing for permission and interim relief had been heard on 4 October 2016; it is not known to the IOPC what the actual date of retirement was.

19. The Chairman explained that his interest in this issue was because retired officers may seek employment in connected areas<sup>72</sup>. As explained above under the regime as it was then, there was no list which could be consulted by a potential employer which would reveal that DCI Williams had been under investigation for misconduct when he retired or that Ms Hall's opinion subsequently was that he had a case to answer. Since her opinion (and Ms Greens determination) was that he had a case to answer for misconduct only, that would also be the position now and it could only come to the attention of a potential employer through pre-employment checks (which would usually require consent) and/or security vetting procedures.

### ***Whether DCI Williams was a criminal suspect***

20. In her evidence Ms Hall could not remember if she had considered treating DCI Williams as a criminal suspect/subject for an offence of misconduct in a public office<sup>73</sup>. The policy log<sup>74</sup> and the IOPC Final Report at paragraph 1142 confirms he was investigated for misconduct only.

### **Detective Superintendent Turner (Strategic Firearms Commander)**

21. The Chairman asked why no notice of investigation had been served on Detective Superintendent Turner and for any rationale that may have been recorded in relation to it<sup>75</sup>.

22. A conduct matter should be recorded where<sup>76</sup>:

*there is an indication that a person serving with the police ("the person whose conduct is in question") may have—*

*(a) committed a criminal offence, or*

*(b) behaved in a manner which would justify the bringing of disciplinary proceedings,*

23. Police officers are supervised by line managers similarly to any other employee. Poor performance, mistakes, and misjudgments (even those requiring compensation in tort) will usually be dealt with by supervisors, as "management action".

24. The legal requirement that before conduct is recorded, any breach of the standards of professional behavior must *justify disciplinary proceedings* is interpreted to mean that at least a written warning would be the appropriate sanction if the breach is proved<sup>77</sup> and that it cannot appropriately be dealt with by management action or performance procedures. It follows that a breach of the Duties and Responsibilities standard of professional behavior<sup>78</sup> will not usually amount to misconduct "*justifying disciplinary action*" unless it is to some degree '*morally blameworthy and would convey*

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<sup>72</sup> P94 lines 11-17

<sup>73</sup> P77 Lines 12-13 17 June.

<sup>74</sup> D1 PL240, this does not appear to have been uploaded to Perito but is listed in IPC0000508\_0001

<sup>75</sup> P101, line 5 to P102 line 24

<sup>76</sup> Paragraph 21A, Schedule 3, PRA 2002

<sup>77</sup> This was not explicit in the 2012 regulations but is made so in the 2020 regime, see amended paragraph 19A, Schedule 3, PRA 2002, and Regulation 16 Police (Complaints and Misconduct) Regulations 2020.

<sup>78</sup> Schedule 2 Police (Conduct) Regulations 2012

a degree of opprobrium to the ordinary intelligent citizen<sup>79</sup> or, to use the Chairman's paraphrase of Ms Hall's evidence, it was "poor but not that poor"<sup>80</sup>.

25. Whether there is an indication of a breach sufficient to justify disciplinary proceedings is a matter kept under review throughout an investigation applying the relevant law and guidance<sup>81</sup>. When such an indication becomes apparent, as for DCI Williams, the regulations require it to be recorded by the AA, for a severity assessment to be carried out<sup>82</sup> and a notice to investigation to served<sup>83</sup>. There is no requirement to make or record rationales where the investigator does not believe there to be an indication. In answer to the Chairman's request<sup>84</sup> there is no record of meetings at which whether there was an indication for Detective Superintendent Turner was discussed.

### **Policy about securing electronic data retention**

26. Ms Kaufmann asked Ms Hall what steps she took to identify what relevant repositories of police information existed<sup>85</sup> and if there was any policy within the IOPC about securing electronic data that is relevant to a particular operation<sup>86</sup>.

27. As Ms Hall explained<sup>87</sup> where a matter involving a Death or Serious Injury comes to the attention of the AA it is placed under a statutory duty to "secure that all such steps as are appropriate .... are taken, both initially and from time to time after that, for obtaining and preserving evidence relating to that matter"<sup>88</sup>. The AA may also be subject to other legal duties to preserve evidence, for example by disclosure under the Criminal Procedure and Investigation Act 1996 and for coronial proceedings.

28. Where the matter is referred to the IOPC and it investigates, the AA is also under a duty to provide "all such assistance as the [investigator] may reasonably require for the purposes of, or in connection with, the carrying out the investigation"<sup>89</sup> and to provide all information, evidence and other things required for the purposes of an IOPC investigation<sup>90</sup>. In MPS cases, the Commissioner's duty to provide assistance and material is delegated to the Department of Professional Standards (DPS), which is independent from those being investigated.

29. Investigators and their supervisors working on MPS cases will have a general understanding of MPS information systems from their training and experience.

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<sup>79</sup> *R (On the Application of Shaw) v General Osteopathic Council* [2015] EWHC 2721 (Admin), concerning an osteopath, at paragraph 47, approving *Spencer v General Osteopathic Council* [2012] EWHC 3147

<sup>80</sup> P101 lines 21-24

<sup>81</sup> Guidance included Home Office *Statutory Guidance on Professional Standards*, and the College of Policing's Code of Ethics and now, its Guidance on Outcomes in Police Misconduct proceedings Performance and Integrity in Policing

<sup>82</sup> Paragraph 19B, Schedule 3, PRA 2002

<sup>83</sup> Regulation 16 Police (Complaints and Misconduct) Regulations 2012

<sup>84</sup> P102 lines 4-6

<sup>85</sup> P107 lines 17-18

<sup>86</sup> P108 13-17

<sup>87</sup> P107 lines 1-8

<sup>88</sup> Paragraph 14B, Schedule 3, PRA 2002.

<sup>89</sup> Section 15(4), PRA 2002.

<sup>90</sup> Section 17(2) PRA 2002

However, there is no policy document describing the MPS information systems' architecture, not least because this subject to constant change.

30. The IOPC has no direct access to any police force's information systems. Where the IOPC requires material from MPS information systems for an investigation, it notifies DPS. The IOPC describes the information required, for example, in the case of W80, as "*email and associated drives*". It does not specify the systems which should be searched. It is then for DPS to ensure *all* information systems are searched for the information requested, usually by arranging a search by the High Technology Crime Unit (HTCU)<sup>91</sup>.

31. Reference was made during Ms Hall's evidence to email accounts for some of the officers involved in Operation Ankaa being deleted<sup>92</sup>. The evidence is that these were deleted in accordance with standard MPS procedures as they not been specially demarked for preservation<sup>93</sup>. It is correct that no request was made by the IOPC for the contents of or the preservation of those accounts (save insofar as they may have related to the FA documents<sup>94</sup>). However, as set out above the duty to *preserve* relevant evidence operated on the AA by statute and did not require a request from the IOPC.

32. The duty on the AA to preserve evidence is absolute but the exercise of IOPC's powers to require material from the AA, particularly if it may contain personal data and/or private information, must be exercised reasonably and proportionately. The IOPC investigation did not request the deleted information as it did not believe it to be relevant for its investigation. It is, of course, a separate consideration whether it may be relevant to the inquest/inquiry. If there is an issue whether material may be relevant or not the AA can seek the views of the IOPC and/or coroner before deletion. In this case, officers were clearly aware of the necessity to preserve material for the inquest/inquiry<sup>95</sup>.

33. Ms Hall confirmed in her evidence that the material resulting from the searches of W80's email account and associated drives had been provided to the inquiry<sup>96</sup>. The results of the searches are produced as exhibits to Gary Hankey's statement dated 27 September 2016<sup>97</sup>.

### **Examining Daybooks**

34. It was put to Ms Hall by Ms Kauffman QC that "*the daybooks were actually reviewed by DCI Kinch and not by the IPCC*"<sup>98</sup>. This question was in reference to an

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<sup>91</sup> See IPC0000318

<sup>92</sup> P108 lines 8-12

<sup>93</sup> MPS0003140\_ Statement of Rob McPhee paragraph 13 and see MPS0003139 statement of Jamie Hewitt.

<sup>94</sup> P107 line 21

<sup>95</sup> MPS0001613

<sup>96</sup> P84 line 24

<sup>97</sup> IPC0001061, the exhibits do not appear to have been uploaded to relativity.

<sup>98</sup> P104 lines 23-25

entry in the CRIS log at page 166<sup>99</sup>. Ms Hall replied that she thought they were also reviewed by Ms Parsons but would clarify that.<sup>100</sup>

35. Ms Parsons met DI Murray on 27 May 2016<sup>101</sup>, when he had his day books with him and she examined his Operation Ankaa policy decisions. He agreed to make arrangements for the books to be retained after his retirement<sup>102</sup>. Ms Parsons subsequently made a request on 25 August 2016 for copies of notes from the books (and those of CS Turner)<sup>103</sup>. MPS provided copies on 30 August 2016 by email. The text in the CRIS log at page 166 which Ms Kauffman QC referred to in her question is pasted from that email. In other words, Ms Parsons attendance on DI Murray with his day books had in fact taken place before the request to the police to copy them.

36. Additionally, Alex Ives, disclosure officer, reviewed all Operation Ankaa material on 7 September 2016<sup>104</sup>.

### **Body Maps**

37. Ms Hall was asked about showing of photographs to W80 during his interview on 4 February 2016 and whether consideration had been given to using body diagrams to avoid unduly distressing W80<sup>105</sup>.

38. No body diagrams had been prepared at the time of the interview or since. W80 was represented by a highly experienced solicitor and an appropriate adult. Prior to showing the photographs the interviewers said:

*AS. Okay. What I'm gonna do now, and then I'm gonna take a break straight after, is we've got some photos from erm, post mortem. Erm, I appreciate they erm, are, are gonna be quite graphic and they're not, they're not nice to look at and I apologise for that. But we're gonna show them to you now and then we're going to take a break and then we'll come back in after that. Okay.*

*Richard, do you want to go through these?*

*RC. Yeah.*

*RC. Okay. If, just again for health reasons, if you, if you want me to stop showing you these at the moment just tell me and I'll put them away.*

39. No objections were made and W80 replied “no comment” to questions relating to the photographs.<sup>106</sup>

40. The IOPC will consider using body diagrams where appropriate in future.

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<sup>99</sup> IPC0000502\_166

<sup>100</sup> P110 L19-24

<sup>101</sup> Liz Parsons Workbook 9, D544 which is included on schedule IPC0000503\_0070 but does not appear to have been uploaded to relativity.

<sup>102</sup> It is evidenced that he did so by reference to MPS0001613

<sup>103</sup> Email Liz Parsons to Jason Tunn 25 August 2016 13:59 which does not appear to have been uploaded to relativity.

<sup>104</sup> R30 which is included on schedule IPC0000513\_0026 but does not appear to have been uploaded to relativity.

<sup>105</sup> P69 line 5 to 71 line 18

<sup>106</sup> IPC0000653\_0018

**Danny Simpson**

**Dated: 22 June 2021**