

# Terms of Reference

## IPCC INVESTIGATION INTO THE DEATH OF JERMAINE BAKER

### Review by Chief Superintendent Dave Hartley and PS Glenn Mitchell

#### Terms of Reference

The terms of reference for this review are agreed as follows:

1. To review the actions of MPS officers in relation to the tactics used during the armed interception of vehicle Audi bearing VRM KM13YPT on Friday 11 December at approximately 09.00am.
2. To examine the decision making process by both the tactical and operational firearms commanders in relation to the tactics used.
3. Conduct this review with reference to:
  - a) College of Policing Approved Professional Practice for Armed Policing 2013
  - b) National Police Firearms Training Curriculum
  - c) The Metropolitan Police Firearms Policy
4. To assess the tactics used against national and MPS training and guidance.
5. To identify any best practice, learning or recommendations arising from the incident.
6. This review will not examine the use of force by W80.

#### Note:

This review will be undertaken within the scope of the IPCC Protocol with the NPCC Working Group on Police Use of Firearms: Use of Advisors in IPCC Police Shooting Investigations. This protocol states the following three factors will need to be taken into account with regards to the advice:

1. It is independent.
2. It will have operational, occupational credibility and relevance.
3. It will be able to withstand scrutiny, in any subsequent arena, where its validity is likely to be tested.

## The Review Approach

To fully respond and reply comprehensively to the Terms of Reference (ToR) set, the approach has been to

- Combine the first two questions posed, as they are intrinsically linked
- Reference point 3 ToR throughout all considerations
- Detail point 4 in isolation
- Summarise the Best Practice, Learning and Recommendations from all of the above

The rationale to combine points 1 & 2 is based upon the need to reflect the flow of intelligence from the earliest planning phase through to the activation phase of the operation. This involves the roles of the Tactical Firearms Commander (TFC) and Operational Firearms Commander (OFC) as requested in the ToR. I have also reflected on the role of the SFC (Strategic Firearms Commander) as it is impossible to assess the TFC and OFC role without the context of the SFC authority, parameters, protocols and command structure.

The national decision model has been used as the reference point for the review as all Police Firearms operations are conducted based upon the use of the NDM to provide audit trail, justification, proportionality and necessity of actions. It is therefore the only reference structure suitable for this review.

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### *APP – Armed Policing – Armed Deployment*

*In situations requiring the deployment of authorised firearms officers (AFOs), police decision making and response is directed by available information and the assessment of threat.*

*The National Decision Model (NDM) assists with this decision-making process and provides a structure for documenting decisions and their rationale.*

*Police officers have a positive duty to protect the public from harm – a duty of care to all involved must be the overriding consideration. The nature and urgency of police action will take account of any time imperative related to public safety as well as the skills and capability of officers available.*

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### **Ozcan Eren**

Identity – he is seen as the organizer and coordinator within the Tottenham Turks for the springing of OCG member Izzet Eren

Capability – Body armour, access viable firearms

Intent - organise and potentially take part in the attack on prison van to facilitate the release of his brother

Actively seeking members of the Aramagan family and others associated with the Hackney Bombacilla gang with an intent of murdering them.

### **The Unknown IC3 Males to Attack the Prison Van**

Identity – IC3 Males, number unknown, identity unknown

Capability – assumed the same capability as the overarching OCG, the SFC qualifies this in assessment as "Whilst there has been no further intelligence updates to indicate that firearms will be used on Friday I take the view that there is every likelihood that this will be the case, given the antecedents of this OCG and the fact that any successful attempt would involve considerable threat and duress to any custodians"

Intent - to spring Izzet Eren from the Prison Van whilst en route to, or at, Wood Green Crown Court. Evade police custody if challenged, potential transfer of malice to police and public.

As the subjects are not known, their personal vulnerabilities have been assessed but are unknown

#### **Finding:**

Both commanders have processed and assessed using the scalar from fact to assumption; they have done this accurately and proportionately.

The assessment of the unknown subject's firearms capability is fair and accurate.

#### **Recommendation**

The known information was not collated into clear and up to date subject profiles – this would have assisted the translation of the Threat, Harm and risk to the briefing phase, and helped inform officer mind-set

These options will provide me with the flexibility necessary for this type of operation. It is proportionate to the threat faced and follows best practice. SC&O7, SC&O35 and SC&O19 work regularly together and is my recommendation for this operation.

This rationale is completed after consideration of the following factors: -

1. The current intelligence and information about the operation and subjects,
2. The strategic intention, operation policing objectives and threat assessment.
3. The resources available at this time
4. Guidance contained in the Authorised Professional Practice Armed Policing Module
5. MPS Policy.

The proposed tactics meet the threat assessment, the working strategy, and are proportionate given the threats posed. All actions are legal as documented in this document.

Given the lack of knowledge of:

- the IC3 males suspected to be carrying out the attack
- Who would supply weapons, where and when
- the lack of clarity whether Ozcan Eren was simply coordinating or taking part in the attack
- the lack of detailed knowledge of whether the stolen Audi would be used
- would more vehicles be used and lack of knowledge of precisely where and when the attack would take place

The requested and approved tactic of three surveillance operations, The first on the Audi with Mobile Armed Support to Surveillance (Mast), the second on the Serco Prison vehicle (with Mast) and the third on Ozcan EREN if he is not with the Audi. (Unarmed) is the least intrusive and most consistent approach to achieve Strategy.

There is a clear written audit trail summarising the discussion between TFC and SFC in advance of any authority being given and the relatives For's and Against's are discussed for the overall recommended plan and also for each individual tactic considered.

**Finding:** The authority for a three-element surveillance MAST operation was well founded and the most appropriate tactic to give best chance of achieving the Strategy as set

The MASTS tactic falls under D8.2 and D8.3 of the National Police Firearms Training Curriculum (NPFTC), a document which is owned by the College of Policing (CoP).

The MASTS tactic is designed to provide a flexible and mobile platform to intervene once a tipping point or threshold for arrest has been reached. As in these circumstances, the detail of the environment when threshold is reached is unknown in advance, it could be one person in a vehicle, 5 people in a vehicle, multiple vehicles, a vehicle in a wide range of situations, a person on foot, on a motorbike and so forth.

The Masts platform allows intelligence and evidence to be gleaned from a covert operation, with the capability for specialist firearms officers to intervene when command directs that a tipping point or threshold is now met. More detail of the MAST tactic is explored in Question 4, below.

### **Tactical Parameters**

The SFC having authorised the tactical plan then details the tactical parameter for the operation to be conducted within:

- No intervention is to take place within premises unless to prevent immediate loss to life or serious harm to any individual.
- Should at any stage surveillance control be lost on the Audi or the subjects planning this offence, an additional contingency of an overt armed police presence on the van is included within the firearms operational plan and will be utilised.
- Should the van reach the Wood Green area, and the subjects have not intercepted, the overt police presence will move forward and will escort the van to the Court.
- In addition a further overt armed unit will be ahead and waiting and will deploy outside the front door of the court, prior to the van arriving. This will mitigate any potential threat from suspects running en masse through the Court Security. This has been discussed with the Firearms Tactical Adviser and we have sufficient resources to deploy this further control measure, thereby maximising the safety of all court users. (Full consultation has taken place with Lord Justice Sweeney)

The SFC presents clear tactical parameters which demonstrates the 'What if' contingency planning around the level of control held. Additionally from the TFC notes when considering options it is repeatedly highlighted that interception of any subject vehicle will be made before any commission of the offence. It is clear that the operation is based upon the parameter that the offence will not be allowed to take place, although this is not recorded directly in the parameters, rather in the considerations of options.

The tipping points for intervention are delegated to the TFC for dynamic assessment. It would be better if these were identified and recorded explicitly, for example the SFC could have defined –

**Recommendation:** to capture the full audit trail of considerations it is recommended that all risk assessment, planning and briefing meetings are audio recorded.

### Activation Phase

#### **Briefings**

After authority for the armed plan was given a series of briefings were arranged. This commenced with an overall TFC briefing the day before, on the 10<sup>th</sup> December 2015, followed by cascade briefing by the functional TFCs and OFCs as defined in command structure. These were performed between 3am and 5.30am on the day of the operation, 11<sup>th</sup> December 2015.

#### **Advance TFC briefing – 10/12/15**


This was attended by all relevant staff who had a role the following day, and were available at the time. The SFC, TFC and intelligence staff were present. A PowerPoint briefing was conducted and the meeting was audio recorded.

Key information was passed during the meeting, key being:

- The different elements and concurrent policing activity, and the need for coordination with multiple surveillance and MASTs assets on the ground
- Seek all those present to raise any oversights, vulnerabilities or new ideas as the plan is presented
- That the overall aim is to tackle the long term threat from the OCG, and in the short term to deliver Izzet Eren safely to crown court, and arrest unknown dangerous individuals for serious offences.
- The contingency for a loss of control was explored with the need to move to an overt platform at the van and the court, and the parameter that the subjects were not to be allowed to come anywhere near the prison van.

**Findings:** The advance briefing is seen as good practice. Despite the NDM based briefing template that the Metropolitan Police directs to be used, the briefing was not presented in that format. The key information above is passed in narrative by the TFC, but absence of the NDM briefing structures sees no reference to the Identity, Capability and Intent of the OCG/subjects, Threat harm and risk, Strategy, parameters and tipping points. These are, however, detailed in the cascade TFC briefing the next day, so all officers are briefed of the necessary detail prior to deployment.

**Recommendation:** That all briefings are compliant with the briefing policy direction at Stage 2 & 3 and NDM is used as the briefing template, not the outdated IIMARCH.



The TFC FE1 (Team Bravo) delivers an effective briefing to all officers involved in the deployments

The briefing could have been enhanced further by the use of ICI summary in advance of threat and risk determination to assist providing clarity of officer mind-set.

**Recommendation:**

ICI summary of the risk faced from the subjects to be included in the TFC briefing phase.

The OFC briefing of tactical roles and responsibilities should be included in the TFC briefing and overseen by the TFC. This briefing should also be audio recorded for audit trail.

**Control Room**

In advance of the authorisation for the operation, consideration is given to the facilities needed to effectively command the operation. At the time of authorising the operation the SFC also directs the use of C3000 command suite.

The suite was used such that the physical proximity of support to the TFC FE16 was immediate, with tactical advice, surveillance control, SIO, communications with all support TFCs, awareness of normal policing demand and all intelligence support being co-located. Order was brought to this scale of support by means of an effective command structure, utilising named bronze commanders to coordinate activity. This is seen as good practice.

Bronze intelligence coordinated the timely flow of intelligence to the FE16, and this combined urgent verbal update, hand written updates and digital updates. These were recorded by the FE16 on his contemporaneous log.

**Finding:** The control room and supporting command structure provided adequate facility, capacity and control for the effective management of an operation of this scale.

**Intelligence gleaned from the Audio feed in the Audi – Influence on Decision Making**

Officers FE12 and FE13 monitored the live feed from the Audi and made hand written notes of their interpretation of the conversations heard. These were recorded by hand and appropriately directed to the TFC FE16 via the Intelligence Bronze FE19. The corresponding receipt can be seen on the log of FE16.

These officers monitored this feed and dynamically interpreted their thoughts of the conversation heard and relayed it to both the TFC and the SIO. The challenge from this role