

The fatal police shooting of Mr Mark Duggan on 4 August 2011

Independent Investigation
Final Report

IPCC Reference: 2011/013399

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Introduction

1. At approximately 6.13pm on Thursday 4 August 2011, as part of a pre-planned operation, code named Operation Dibri, armed officers from the Metropolitan Police Service (MPS) CO19 Tactical Support Team stopped a minicab on Ferry Lane in Tottenham, London.
2. Mr Mark Duggan, one of the subjects of the pre-planned operation, was fatally shot by a CO19 police officer, referred to as V53.
3. A non-police issue firearm was recovered approximately 4.35 metres away from Mr Duggan's body on the grassed area adjacent to the pavement at Ferry Lane.
4. The Independent Police Complaints Commission (IPCC) was notified of the fatal shooting by the MPS and commenced an independent investigation at 7.20pm that evening.

Terms of Reference

D540

5. The terms of reference for the investigation were:
 1. To investigate the circumstances surrounding the police contact with Mr Duggan, to include:
 - a) the actions of any officer firing shots on 4 August 2011; and
 - b) the planning, decision making and implementation of Operation Dibri.
 2. To assist in fulfilling the state's investigative obligation arising under the European Convention of Human Rights (ECHR) by ensuring as far as possible that:
 - a) the investigation is independent on a practical as well as an institutional level; and
 - b) the full facts are brought to light and any lessons are learned.
 3. To identify whether any subject of the investigation may have committed a criminal offence and, if appropriate, send a copy of the investigation report to the Director of Public Prosecutions (DPP) for her to decide whether criminal proceedings are to be brought.
 4. To identify whether any subject of the investigation may have

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

5. To consider and report on whether there is organisational learning, including:
 - whether any change in policy or practice would help to prevent a recurrence of the event, incident or conduct investigated; and
 - whether the incident highlights any good practice that should be disseminated.
6. Complaints were made by solicitors for Mr Duggan's partner in August 2011 (Ms Precious Douaihy) and solicitors for Mr Duggan's mother (Mrs Pamela Duggan) in the course of correspondence with the IPCC during July and August 2012.

The gist of the complaints was:

- a) That all CO19 officers present at the scene have perverted the course of justice and/or misconducted themselves in public office in relation to relocation of the firearm in the sock and deliberately suppressing the true circumstances of how the firearm reached the location on the grassed area.

The complaint was against all the CO19 officers because all the officers claim not to have handled the firearm in the sock and not to know how it reached the location on the grassed area and therefore all may be deliberately suppressing the true circumstances.
 - b) That the principal officer, V53, did not fire shots in the belief that Mr Duggan was pointing a firearm at him and did not use lawful force.
7. The complaints allege that the police relocated the firearm to the grassed area, that the police had not been truthful about how the firearm reached this position and that V53 had used unlawful force when he fired at Mr Duggan.

D868

8. The terms of reference for the complaints were:
 1. To investigate the accounts provided by the CO19 officers and surrounding evidence to identify whether they may have committed criminal offences as alleged by Ms Douaihy and Mrs Pamela Duggan, including whether V53 used lawful force.
 2. To identify whether any subject of the investigation may have committed a criminal offence and, if appropriate, make early contact with the Director of Public Prosecutions (DPP). On receipt of the final report, the Commissioner shall determine whether the report should be sent to the DPP for her to decide whether criminal proceedings are to be brought.
 3. To identify whether any subject of the investigation, in the investigator's opinion, has a case to answer for misconduct or gross misconduct, or no case to answer.
 4. To consider and report on whether there is organisational learning, including:
 - whether any change in policy or practice would help to prevent a recurrence of the event, incident or conduct investigated; and
 - whether the incident highlights any good practice that should be shared.
9. On 12 August 2014, an additional term of reference was added to the investigation, namely:

Whether any other options were available to police to apprehend Mr Duggan at any earlier stage other than to stop the minicab in Ferry Lane which resulted in the minicab driver being exposed to the shooting of Mr Duggan.
10. This was originally a term of reference in a separate investigation into a complaint made by the minicab driver. On 12 August 2014, Deputy Chair Cerfontyne decided to split off the investigation of this part of the minicab driver's complaint from the remainder of that separate investigation and include it in this investigation, because this would be more efficient, effective and in the public interest (in line with the test set out in Regulation 19(2) of the Police (Complaints and Misconduct) Regulations 2004).

11. The IPCC investigation into Mr Duggan's death has incorporated the original terms of reference, Ms Douaihy and Mrs Pamela Duggan's complaints and one aspect of the minicab driver's complaint as set out above. It has also addressed a series of specific questions raised by Mr Duggan's family. These questions were: why Mr Duggan was being followed; why was he stopped (and why then and why there); why was Mr Duggan surrounded by 31 police officers; did Mr Duggan get out of the minicab voluntarily; what happened then; what did Mr Duggan do; what did the officers do; why was Mr Duggan shot (why in the chest and why twice); how did the gun get to where it was found? Therefore, the principal factual matters which have been the subject of the IPCC's investigation are (findings 1-24 in relation to these factual matters, are set out in Chapter 10):
- a) The intelligence relating to Mr Duggan and its development - in particular during early August 2011 (findings 1-3);
 - b) The planning of the police armed surveillance operation that led to Mr Duggan's death (findings 4-6);
 - c) What happened on 4 August 2011, in particular the full circumstances of:
 - i. The initial events of Mr Duggan's journey in the minicab (findings 7-9);
 - ii. The decision to stop the minicab and the timing and location of the stop (findings 10-11);
 - iii. What happened after the stop of the minicab, including: Mr Duggan's exit from the minicab; when Mr Duggan was shot; whether CO19 officers gave Mr Duggan verbal commands to stop; and, where Mr Duggan and V53 were located when Mr Duggan was shot (findings 12-15);
 - iv. The number of shots fired by V53 (finding 16);
 - v. Mr Duggan's body posture and the position of his jacket, when he was shot (findings 17-18);
 - vi. The length of time between each shot, where the shots impacted on Mr Duggan's body, the sequence of the shots and where the bullets were found (finding 19-20);
 - vii. Evidence concerning V53's belief when he fired the shots (finding 21);
 - viii. The location where the firearm associated with Mr Duggan, was found; whether the firearm was thrown or planted by the police; and the most plausible explanation for the

location of the firearm (findings 22-24).

12. The IPCC conducted extensive enquiries during its independent investigation. The investigation obtained over 1200 documents, over 500 witness statements and over 340 exhibits. The IPCC conducted numerous witness appeals, distributed hundreds of leaflets and posters, travelled on board the relevant bus routes and visited a large number of residential and commercial premises in the area of Ferry Lane, in order to trace independent witnesses. Investigators completed a methodical CCTV trawl. A substantial amount of CCTV footage and other audio and visual material was gathered, viewed and utilised by the investigation. The evidence assessed as relevant is set out below in Chapters 1 to 8 of this report.
13. As the investigation progressed, the IPCC sought reports from a number of experts, including in the fields of: pathology, DNA profiling, firearms and ballistics, gunshot residue analysis, fibre analysis, toxicology, pharmacology, finger and palm print and bio-engineering. Further reports were required from a number of these experts as the complex evidential picture developed.
14. Throughout this investigation, the IPCC has continued to review the conduct of the officers involved to determine whether there are any indications of misconduct or criminal conduct. All of the officers involved have been treated as witnesses by the investigation apart from ZZ46 (see further detail in Figure 5 and Appendix A)).

Linked matters

Trials of Mr Kevin Hutchinson-Foster

15. During the course of the IPCC investigation, there were two related criminal trials of a man named Mr Kevin Hutchinson-Foster. He was accused of supplying the firearm, recovered from the grassed area at Ferry Lane, to Mr Duggan.
16. On 16 November 2011 Mr Hutchinson-Foster was charged with “*selling or transferring a prohibited firearm*” to Mr Duggan on 4 August 2011. Mr Hutchinson-Foster stood trial at Snaresbrook Crown Court for five weeks from 18 September 2012. The jury failed to reach a verdict. A re-trial commenced on 7 January 2013 at the Central Criminal Court and on 31 January 2013 Mr Hutchinson-Foster was found guilty of transferring a firearm to Mr Duggan. Any references in this report to the ‘first trial’, ‘second

trial', 'the criminal trials' or 'the trials' are to these events.

17. Mr Hutchinson-Foster was sentenced to 11 years in prison for the transfer of the firearm to Mr Duggan and an assault he had committed on 29 July 2011, during which he struck a man (Mr Peter Osadebay) using the same firearm. Mr Hutchinson-Foster pleaded guilty to the assault.

Inquest into the death of Mr Duggan

18. The inquest into the death of Mr Duggan took place between 16 September 2013 and 9 January 2014. It took evidence from 93 witnesses and statements were read from a further 21 witnesses. References in this report to 'the inquest' are to this inquest.
19. The IPCC was an Interested Person at the inquest and monitored the evidence throughout. Key parts of the evidence given at the inquest have been summarised in this report. Full transcripts of the evidence given are available on the Mark Duggan inquest website (<http://dugganinquest.independent.gov.uk/index.htm>).
20. In order to assist the reader with understanding the summaries of the inquest evidence set out in this report or in reading the full transcripts, the key advocates who asked questions on behalf of Interested Persons at the inquest are set out below. They were:
 - Mr Underwood QC – counsel to the inquest;
 - Mr Stern QC – counsel for the CO19 officers;
 - Mr Keith QC – counsel for the MPS;
 - Mr Mansfield QC, Mr Thomas QC and Mr Straw – counsel for the Duggan family and Mr Duggan's loved ones;
 - Mr Butt – counsel for Z51;
 - Ms Leek QC – counsel for the Serious Organised Crime Agency ((SOCA) subsequently the National Crime Agency);
 - Ms Dobbin – counsel for DC Faulkner and DS Belfield;
 - Mr Glasson QC – counsel for the IPCC.
21. There were 10 jurors by the conclusion of the inquest, and they all found that the medical cause of Mr Duggan's death was a gunshot wound to the chest. They found that Mr Duggan died on 4 August 2011 at 18.41 in Ferry Lane. As to how he had died, they were asked to reply to a number of questions.

Question 1: In the period between midday 3 August and when “*state amber*” was called at 6.00pm on 4 August 2011, did the MPS and SOCA do the best they realistically could have done to gather and react to intelligence about the possibility of Mr Duggan collecting a gun from Mr Hutchinson-Foster? If no, what more could have been expected of them?

Answer: 10 jurors answered ‘no’ to this question, and they said:

- With respect to the Trident investigation, there was not enough current intelligence and information on Mr Hutchinson-Foster. There was no emphasis on exhausting all avenues which could have affected reaction and subsequent actions;
- There was insufficient information regarding any relevant intelligence gathering or activity on Mr Duggan or Mr Hutchinson-Foster between 9pm on 3 August 2011 (after surveillance lost him) until new intelligence came in from A10 on 4 August 2011.

Question 2: Was the stop conducted in a location and in a way which minimised to the greatest extent possible recourse to lethal force? If no, what more could have been expected of them?

Answer: 10 jurors answered ‘yes’ to this question.

Question 3: Did Mr Duggan have the gun with him in the taxi immediately before the stop?

Answer: 10 jurors answered ‘yes’ to this question.

Question 4: How did the gun get to the grass area where it was later found?

Answer: The jury, in a majority of 9:1, concluded that Mr Duggan threw the firearm onto the grass.

- 8 jurors concluded that it is more likely than not that Mr Duggan threw the firearm as soon as the minicab came to a stop and prior to any officers being on the pavement;
- 1 juror concluded that Mr Duggan threw the firearm while on the pavement and in the process of evading the police;
- 1 juror was not convinced of any supposition that Mr Duggan threw the firearm from the vehicle or from the pavement because no witnesses gave evidence to this effect.

Question 5: When Mr Duggan received the fatal shot did he have the gun in his hand?

Answer:

- 8 jurors indicated that they were sure that Mr Duggan did not have a gun in his hand;
- 1 juror indicated that (s)he believed it is more likely than not that Mr Duggan did have a gun in his hand;
- 1 juror indicated that (s)he believed it is more likely than not that Mr Duggan did not have a gun in his hand.

22. In terms of their conclusions, the possibility of returning a conclusion of either lawful or unlawful killing, or an open verdict was left to the jury.
- 2 jurors gave an open conclusion;
 - 8 jurors gave a conclusion of lawful killing.
23. Mr Duggan's mother brought a claim for judicial review challenging the jury's conclusion of lawful killing (but not the rejection by the jury of a conclusion of unlawful killing). Her challenge was heard by the Divisional Court in July 2014, and the judgment of the Court, delivered by Sir Brian Leveson P, was handed down on 14 October 2014 (*R (oao Pamela Duggan) v HM Assistant Deputy Coroner for the Northern District of Greater London* [2014] EWHC 3343 (Admin)).
24. Having reviewed the law of self-defence for the purposes of criminal and civil law in England and Wales; the meaning of unlawful killing and lawful killing as conclusions at an inquest; the content of the Article 2 procedural obligation; and the jurisprudence of the European Court of Human Rights on the meaning of justifiable killing by state agents in the face of perceived threats, together with its view of the law of self-defence in England and Wales, the Court rejected the challenge.
25. In the final paragraph of the Court's judgment (at paragraph 91), Leveson P stated:
- "We conclude this judgment by recognising the tragedy that is the loss of Mr Duggan's life. In that context, we must emphasise what these verdicts do not mean. Although they exonerate the police on the criminal and civil standard of proof in relation to the unlawful killing on the criminal test for such liability, they provide no support*

for the proposition that they relieve the Commissioner of Police of the Metropolis or his officers from any liability in tort. As we have sought to make clear, it was not the purpose of the inquest to determine civil liability: in civil proceedings the burden of proof and the ingredients are different and may (we do not say must or will) provide a different answer to the very difficult questions posed by this case.”

26. The IPCC investigation initially completed a report before the start of the inquest. The findings of this report were to be reviewed at the end of the inquest. However, the Assistant Coroner indicated to the IPCC that he would prefer that the analysis, findings or recommendations were not finalised or published before the inquest. The Assistant Coroner’s concern was that the report could become known to the inquest jury and unduly influence them. In response to the Assistant Coroner’s request and following receipt of representations made by some of the Interested Parties to the inquest, the IPCC refrained from finalising the report before the inquest. Further evidence was generated at the inquest and this has been considered by the IPCC investigation and is explored within this report. In addition, some issues were raised by the inquest and the IPCC has gathered evidence to attempt to address this in the time that has elapsed. This report therefore takes in to account the evidence that the IPCC obtained before the inquest, the inquest evidence and evidence gathered after the inquest.
27. The IPCC has given careful consideration to the evidence that has emerged from the inquest and to the conclusions reached by the jury. It has, however, reached its own conclusions on the basis of all of the evidence that it has obtained, including evidence which was not before the jury at inquest and evidence that has been gathered since the inquest was completed. The IPCC acknowledges that in some instances, which are explained in full in Chapter 10, this has led to a difference between the IPCC’s findings and the jury’s conclusions.
28. Following the inquest, the Assistant Coroner completed a Report to Prevent Future Deaths, identifying a number of concerns. The IPCC responded to this report. The report and the IPCC’s response can be found at <http://www.judiciary.gov.uk/publications/mark-duggan/>.

Allegation of police corruption

29. During the course of the IPCC investigation, there was also a separate but linked investigation into an allegation of police corruption. In September 2012, the MPS provided the IPCC with a

copy of an anonymous letter it had received making a corruption allegation against an MPS officer (later referred to at the inquest as U3). The gist of the allegation was that a Trident officer had corruptly conspired with an informant (referred to at the inquest as U1) to ensure that Mr Duggan was in possession of a firearm. The allegation was already being investigated by Detective Inspector Katie Lilburn from the MPS Directorate of Professional Standards Special Investigations team (DPS). The IPCC Senior Investigator with oversight for corruption cases immediately began to liaise with the DPS investigation, meeting with the DPS investigator and monitoring their internal inquiries.

30. The IPCC investigation into the shooting of Mark Duggan was led by Deputy Senior Investigator (“DSI”) Colin Sparrow and he took over liaison with DI Lilburn’s investigation and held regular meetings with her. At DSI Sparrow’s request, DI Lilburn provided relevant underlying material and provided a detailed statement that outlined the current findings of the corruption investigation.
31. DI Lilburn provided two statements, dated 13 September 2013 and 23 September 2013, to the inquest concerning the death of Mr Duggan. In her oral evidence to the inquest on 26 September 2013, DI Lilburn stated that she had set three terms of reference for the corruption investigation:
 - To establish or prove whether there was a corrupt relationship between U3 and U1;
 - To assess whether a police officer was leaking information about informants and operations;
 - To identify the author of the anonymous letter and establish whether any offences had been committed by sending the letter.
32. DI Lilburn stated that she approached the investigation with an open mind and carried out 26 actions to investigate the matter. In summary, she stated that her enquiries indicated to her that:
 - There was no evidence of any relationship or connection between U3 and U1;
 - U1 was not and had never been a police informant;
 - There was evidence to suggest that an individual (U11), who was on trial for an unrelated charge of possession of a firearm, had sent the anonymous letter before his trial. Scientific analysis recovered U11’s DNA on the envelope of the letter and DI Lilburn had found a USB device with a copy of the letter

on it when she searched his flat. There was also other supporting circumstantial evidence that U11 was responsible for the letter;

- There was overwhelming evidence the corruption allegation was false.
33. U3 gave oral evidence to the inquest on 27 September 2013. He stated that there was no truth in the allegation in the letter.
34. DI Lilburn submitted a file to the Crown Prosecution Service requesting it consider whether U11 had attempted to pervert the course of justice; the Crown Prosecution Service has indicated that it is taking no further action in relation to this matter. The IPCC has monitored this investigation and the evidence indicates the corruption allegation is unfounded.

Structure of the report

35. The remainder of this report is structured as follows:
- **Chapter 1 – Operation Dibri January 2009 to May 2011:** this section provides information on the development of the police operation that led to Mr Duggan's death. It includes the developing intelligence picture and how the armed operation was authorised;
 - **Chapter 2 – Operation Dibri Planning and Deployment, June 2011 onwards:** this section sets out the planning and deployments involved in Operation Dibri between June 2011 and 3 August 2011. It sets out the intelligence being shared between the MPS and SOCA up to 3 August 2011;
 - **Chapter 3 – Evidence relating to Mr Duggan's minicab journey on 4 August 2011:** this section provides the evidence about Mr Duggan's journey in a minicab to Vicarage Road in Leyton, London at 5.30pm on 4 August 2011;
 - **Chapter 4 – Evidence relating to the shooting of Mr Duggan on 4 August 2011:** this chapter covers the evidence about the stop of the minicab on Ferry Lane at 6.13pm and the shooting of Mr Duggan by V53. It sets out the account of the minicab driver, the CO19 officers, including V53, and the accounts of any independent witnesses who stated they saw the stop and/or the shooting;
 - **Chapter 5 – The immediate aftermath of the shooting at Ferry Lane:** this chapter covers the evidence about what happened after the shooting, including the finding of the non-

police issue firearm, the attendance of medical professionals, and the forensic strategy. It also covers the emergence of an early suggestion that there had been an exchange of fire during the shooting which later transpired to be incorrect;

- **Chapter 6 – Post-incident procedures:** this chapter covers the evidence about the procedures involved in taking statements from police officers in the immediate aftermath of Mr Duggan's death;
- **Chapter 7 – Ferry Lane 5 August 2011:** this chapter sets out the evidence in relation to the search of the scene that took place on 5 August 2011;
- **Chapter 8 – Forensic evidence:** this chapter sets out the forensic evidence obtained by the IPCC and others following Mr Duggan's death, and sets out the key evidence arising from the evidence given by forensic expert witnesses at the criminal trials and/or the inquest;
- **Chapter 9 – Policies, Procedures & Law:** this section outlines the guidance and procedures applicable to this police operation and the findings of the Association of Chief Police Officers (ACPO) advisor instructed by the IPCC to assess whether the police operation was conducted in accordance with the guidance and procedures. It also outlines the legal framework in relation to use of force by police officers; and
- **Chapter 10 – Analysis, Findings & Recommendations:** this section includes an analysis of all the evidence presented in Chapters 1 to 8. It weighs up the evidence and explains the IPCC assessment of it. It also includes the findings based upon the analysis and answers the questions of Mr Duggan's family and the complaints of Ms Douaihy and Mrs Pamela Duggan. The chapter ends with the IPCC's provisional recommendations.

36. In **Chapters 1 to 8** of the report, the approach adopted is to provide a cogent summary, in narrative form with quotation of the evidence that the investigation has obtained as necessary. Where an account of a witness is described or quoted in these chapters, it is in no way intended to suggest that the IPCC has accepted that particular account. Rather, the IPCC has sought to summarise and quote the relevant evidence obtained by the investigation to be fair to the source of that evidence. The analysis of the evidence, and explanations of where the IPCC has accepted or rejected evidence, is reserved for **Chapter 10 - Analysis, Findings & Recommendations**. The IPCC considers that it is preferable to

reserve its analysis until this point in the report, after all the relevant evidence has been factually set out, before weighing it up and reaching its findings. The findings are based on the evidence acquired by the IPCC's investigation, and the evidence emerging from the trials of Mr Hutchinson-Foster and the inquest in to the death of Mr Duggan.

37. Just before Chapter 1 of the report, there is a selection of useful reference material that may assist the reader in understanding the evidence and analysis that follows. These are:
- Figure 1: A close-up map of the area including Leyton and Ferry Lane;
 - Figure 2: A diagram taken from the Laser Scan survey of the scene after the shooting;
 - Figure 3: A photograph of the non-police issue firearm found in the Ferry Lane area;
 - Figure 4: A diagram illustrating the teams of the MPS involved in Operation Dibri on 4 August 2011; and
 - Figure 5: An explanation of the legal basis for the IPCC's investigation.

Useful reference material

Figure 1: A close-up map of the area including Leyton (Burchell Road / Vicarage Road) and Ferry Lane

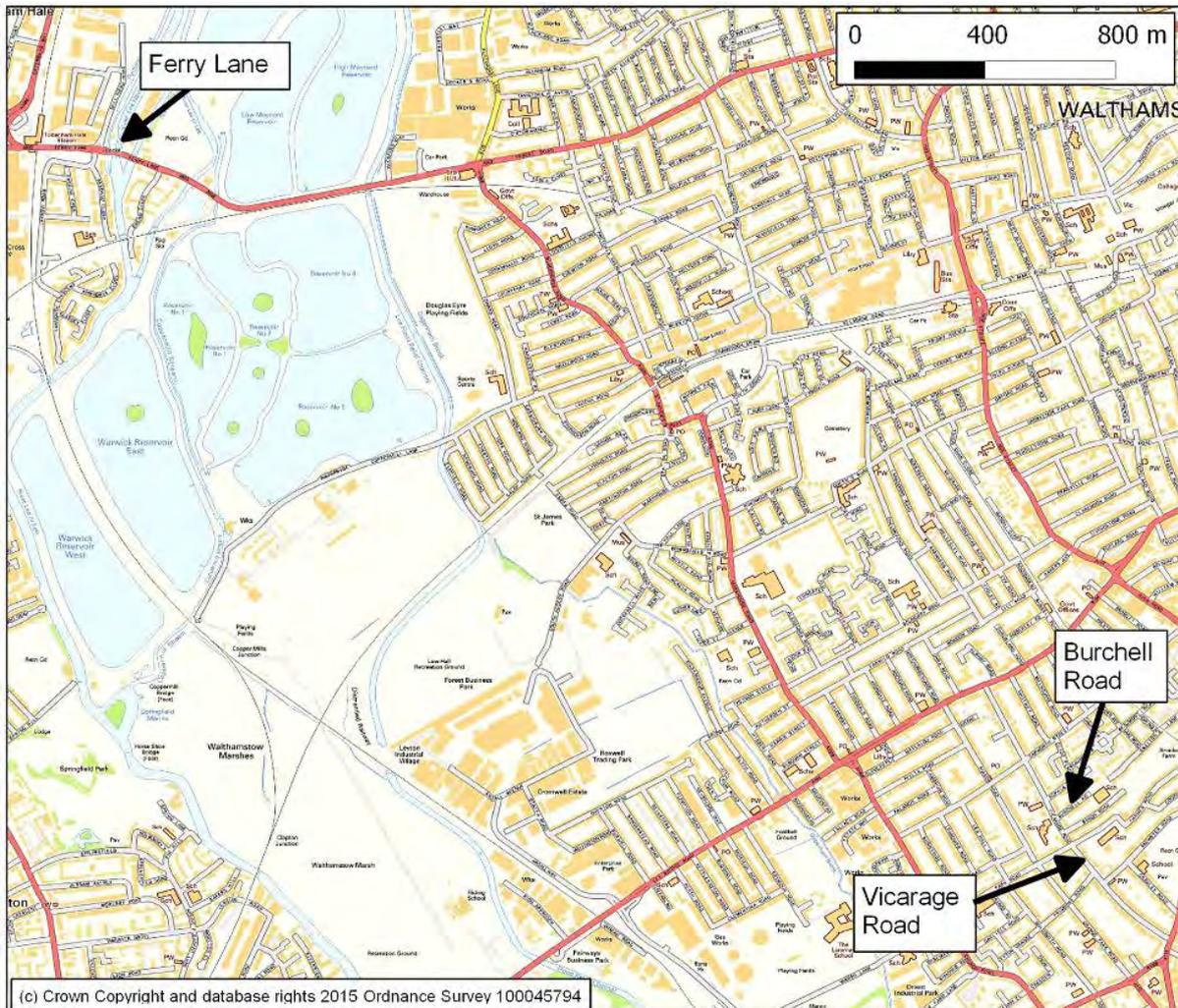


Figure 2: A diagram taken from the Laser Scan survey of the scene after the shooting

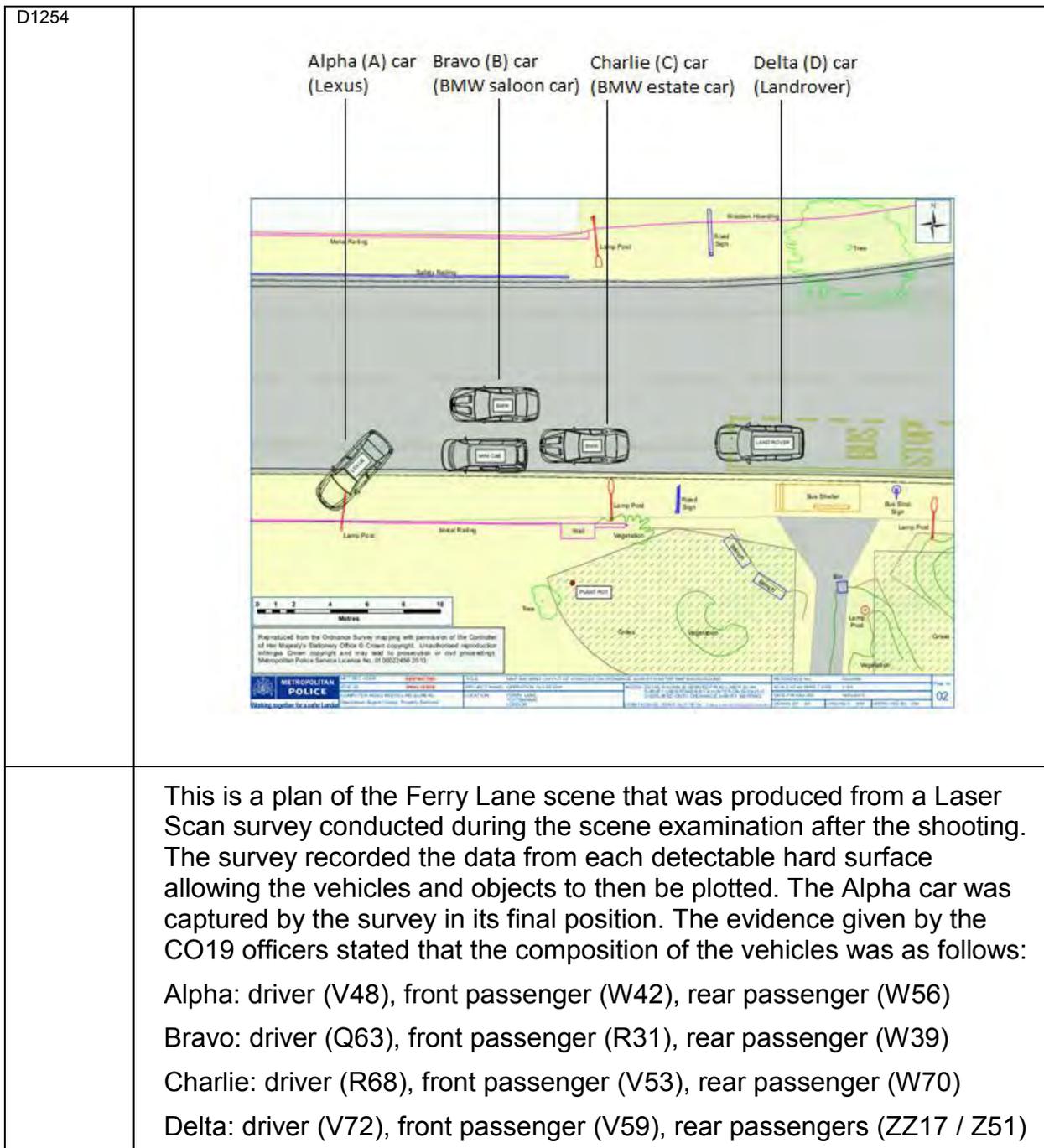


Figure 3: A photograph of the non-police issue firearm found in the Ferry Lane area



Photograph extracted from album of photographs taken by Wayne Rankin (Forensic Practitioner Photographer MPS) at the Ferry Lane scene between 20:17 and 01:00 on 4/5 August 2011 (IPCC exhibit X89)

Figure 4: A diagram illustrating the teams of the MPS involved in Operation Dibri on 4 August 2011

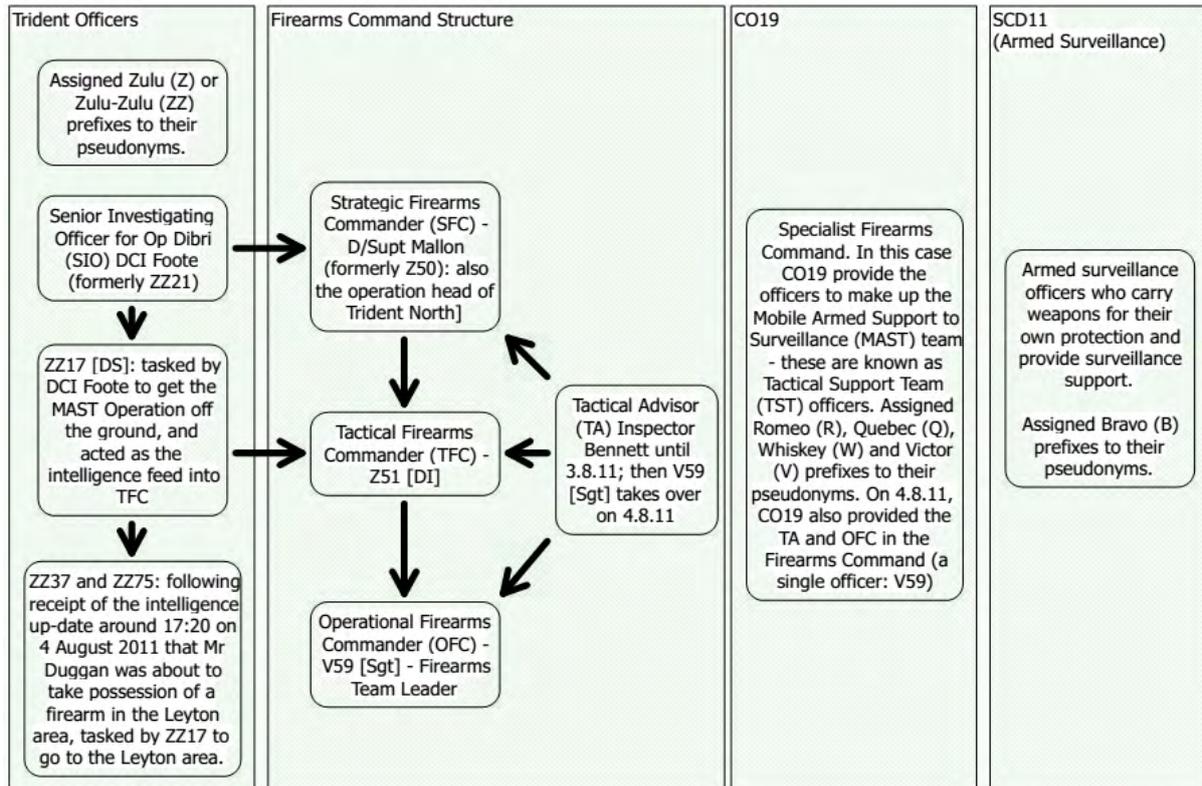


Figure 5: An explanation of the legal basis for the IPCC's investigation

The Death or Serious Injury Investigation

The police shooting of Mr Duggan was originally referred to the IPCC by the MPS on the 4 August 2011 as a 'Death or Serious Injury' matter (a DSI). A DSI matter is defined in statute¹ as covering a number of different factual circumstances, but in relation to the circumstances of the shooting of Mr Duggan, it amounted to a DSI by virtue of the fact that at the time of his death, Mr Duggan had contact with the police and the contact caused his death.²

Police forces are obliged by statute to refer DSI matters to the IPCC and the IPCC is obliged to determine whether it is necessary for a DSI matter to be investigated and if so, what form the investigation should take.³ The IPCC has four forms of investigation to choose from: an investigation by the police on its own behalf (a local investigation); an investigation by the police supervised by the IPCC (a supervised investigation); an investigation under the management of the IPCC (a managed investigation); an investigation by the IPCC (an independent investigation).⁴

In determining the form of investigation, the IPCC must take into account the seriousness and public interest⁵ and as a public authority for the purposes of the Human Rights Act 1998, must act compatibly with Convention (ECHR) obligations,⁶ including the obligation on the UK state to independently investigate arguable breaches of Article 2 of the Convention (the right not to be deprived of life intentionally unless it results from the use of force which is no more than absolutely necessary in one of three specific circumstances, including in defence of any person from unlawful violence).

In the circumstances of this case, the IPCC decided to instigate an independent investigation. This means that the IPCC designated an IPCC investigator (in this case Deputy Senior Investigator Colin Sparrow) to conduct the investigation into the circumstances of the death.⁷ It is the IPCC's practice to also appoint an individual

¹ s.12 Police Reform Act 2002 (PRA)

² s.12(2A) and (2C) of PRA

³ Para 14C, 14D, 15(1) and 15(2) of schedule 3 PRA

⁴ Para 15(4) of schedule 3 PRA

⁵ Para 15(3) of schedule 3 PRA

⁶ Section 6 of the HRA

⁷ Para 19(2)(a) of schedule 3 PRA

Commissioner (in this case Deputy Chair Rachel Cerfontyne) to have oversight of the investigation. The oversight Commissioner provides independent oversight of the investigation as part of securing and maintaining public confidence in the police complaints system. They act in the public interest and where required as the public face of the investigation. The oversight Commissioner must also satisfy themselves that the terms of reference have been adequately addressed by the investigation report. Following this stage, the report will be submitted to Deputy Chair Sarah Green to take the necessary next steps (as set out below). These next steps / decisions will be taken by Deputy Chair Green to ensure that the decisions are made by a Commissioner who is able to look at the case with a fresh pair of eyes.

The Terms of Reference of the DSI investigation (outlined in paragraph 5 above) were drawn appropriately widely and obliged the IPCC investigator to consider throughout the investigation whether there were any indications of criminality.⁸ Throughout the DSI investigation the IPCC has continued to review the conduct of the officers involved to determine whether there were any indications of misconduct or criminal conduct. Apart from ZZ46 (see below), all of the officers involved have been treated as witnesses by the investigation.

The Complaints

As outlined above, during the course of the DSI investigation Ms Douaihy and Mrs Pamela Duggan made specific complaints through their solicitors about particular issues concerning the incident; in particular that the principal officer, V53, did not fire shots in the belief that Mr Duggan was pointing a firearm at him and did not use lawful force. These complaints were recorded by the MPS and referred to the IPCC to consider whether and how these complaints should be investigated. The IPCC decided to investigate these complaints as part of the on-going IPCC investigation into the incident (they touched upon a number of factual issues that were already being investigated in any event).

In addition, as set out above, one term of reference from the investigation in to complaints made by the minicab driver was incorporated in to this investigation. The main legal consequence of these complaints being made is that the IPCC investigation concerning the use of force and the other options available to police to apprehend Mr Duggan at any earlier stage in effect converted into a 'complaint investigation' (from a DSI investigation).⁹ At the end of a complaint investigation

⁸ As envisaged by para 21A of schedule 3 PRA

⁹ The wording of section 12(2) of PRA suggests that the DSI investigation does not continue in the same form (...means any circumstances (other than those which are or have been the subject of a complaint or which amount to a conduct matter)...). This wording suggests that when a complaint is

Deputy Chair Green must make a decision¹⁰ as to whether there are indications of criminality and whether circumstances are such that it is appropriate to send the investigation report (and supporting material) to the DPP¹¹ for her to decide whether she wishes to take any action.¹² This decision must be made even if the IPCC investigator did not during the course of his investigation, assess that there were these indications of criminality.

In relation to Ms Douaihy and Mrs Pamela Duggan's complaint, this concerns the lawfulness of police officer conduct and there is a statutory obligation to complete a report on such complaints (paragraph 22(1)(a) and 22(5) of Schedule 3, PRA 2002). However, although a report should address a complaint, summarise the evidence and assess the weight of the evidence, the report should not purport to reach a concluded determination that there has been criminal behaviour or civil unlawfulness (i.e. a tort or other conduct giving rise to civil liability). Reaching concluded determinations on these issues is for the criminal and civil courts. However, where necessary to address a complaint which has been made about the lawfulness of police officer conduct, the report can include the Investigator's view as to whether (depending on the resolution of subsidiary findings of fact) conduct was unlawful. Therefore, in complaint investigations that have not become subject to special requirements,¹³ an Investigator:

- can decide whether to uphold, or not to uphold, a complaint, providing that the report makes clear that no final determination is being reached on lawfulness (or misconduct); and
- can indicate, where necessary, why, on the basis of the evidence collated during the investigation, the investigation did not become subject to special requirements.¹⁴

made, the allegations made under the complaint are investigated as a complaint investigation and not as part of the on-going DSI investigation

¹⁰ A decision reserved for an IPCC Commissioner by virtue of the IPCC's Scheme of Delegation

¹¹ Para 23(2)(2A) and (2B) of schedule 3 PRA

¹² Para 23(3) of schedule 3 PRA

¹³ 'Special requirements' means when an investigator, during the course of a complaint investigation, assesses that there is an indication that a person whose conduct the investigation relates may have committed a criminal offence or behaved in a manner which would justify the bringing of disciplinary proceedings (paragraph 19B of schedule 3 PRA).

¹⁴ See R (on the application of the Chief Constable of the West Yorkshire Police v Independent Police Complaints Commission [2014] EWCA Civ 1367.

An Indication of Misconduct

At the inquest, an issue arose in relation to ZZ46, a Detective Constable within Trident, and the research that she conducted on 2 August 2011 to identify Mr Hutchinson-Foster. It was suggested during questioning to her at the inquest that she could have done more to identify the address where the firearm was being stored. The planning of operation Dibri continued to be investigated as part of the wider DSI investigation and therefore, after the inquest, DSI Sparrow made a 'conduct matter' submission to Deputy Chair Cerfontyne that was accepted (further to paragraph 21A of schedule 3 PRA). The 'conduct matter' submission was that there was an indication that ZZ46 may have behaved in a manner justifying the bringing of disciplinary proceedings and, as a result, DSI Sparrow served a misconduct notice on ZZ46. The notice was for 'misconduct' and not 'gross misconduct' because DSI Sparrow assessed that if the allegation was proved it would not justify dismissal. Thereafter, the IPCC investigation has investigated ZZ46's conduct as an indication of misconduct and has reached conclusions in relation to this issue in Appendix A to this report.

The Available Determinations

In light of the legal basis for the IPCC investigation, the determinations available to the investigation are as follows:

- To reach subsidiary findings of fact (Chapter 10, findings 1 to 24);
 - To address the terms of reference for the DSI investigation;
 - To address the complaints;
 - To address indication of misconduct;
- To decide whether to uphold the complaints or not (Chapter 10) (albeit final determinations on lawfulness are a matter for the courts);
- To decide whether there is a case to answer for misconduct in relation to ZZ46 (Appendix A);
- To provide sufficient information to allow Deputy Chair Green to decide whether to refer the report to the DPP (Chapters 1-10);
- To provide provisional recommendations to allow the Deputy Chairs to decide whether to make formal recommendations further to paragraph 28A of Schedule 3 of the Police Reform Act 2002 (Chapter 10).

Chapter 1 – Operation Dibri - January 2009 to May 2011

Background to Operation Dibri

S165B
D940
S2A

38. The IPCC was informed by the MPS that Operation Dibri was an intelligence led operation undertaken by the SCD8 Trident North-West proactive team and that it began in January 2009 in response to what Trident assessed to be rising tensions between north London organised criminal networks.

S165B
D940
S2A

39. Within the MPS Serious Crime Directorate (SCD), SCD8 was commonly known as Trident, and was initially formed in 1998 to investigate all fatal and non-fatal shootings within black communities in London. Trident later evolved to take on non-fatal shootings within all communities.

40. Trident officers developed the intelligence and carried out the investigative aspects of Operation Dibri, however, at times the operation drew on the resources of other commands within the MPS, including SCD11 for covert armed surveillance officers and CO19 for authorised firearms officers. Operation Dibri was also continually receiving intelligence updates from SOCA. In August 2011, SOCA was collating intelligence on the activities of the Tottenham Man Dem (TMD) crime gang and a number of individuals in that gang, including Mark Duggan, and was disseminating this intelligence onwards to the MPS.

41. The officers involved in the operation were assigned pseudonyms by the MPS from the outset to maintain their anonymity. The reader will see officers identified with a letter followed by a number, e.g. W99 (n.b. W99 does not exist in this context – it is only used as an example). During this operation:

- Trident (SCD8) officers were assigned Zulu (Z) or Zulu-Zulu (ZZ) prefixes;
- CO19 armed officers were assigned Romeo (R), Quebec (Q), Whisky (W) and Victor (V) prefixes;
- SCD11 covert armed surveillance officers were assigned Bravo (B) prefixes; and
- SOCA officers handling the intelligence were referred to with an Alpha (A) prefix.

42. The pseudonyms (as opposed to names) have continued to be used in this report for officers who were granted anonymity at the inquest into the death of Mr Duggan. Other officers have been referred to by name.
- S165
S165A
S165B
D940
43. In relation to Operation Dibri, the IPCC investigation has reviewed underlying intelligence material (principally concerning the intelligence picture relating to Mr Duggan), received a briefing on the background to the operation and obtained statements from numerous police officers involved in the co-ordination of the operation, including:
- D/Supt Fiona Mallon, a Detective Superintendent from Trident (who became the Strategic Firearms Commander for the operation on 4 August 2011);
 - Detective Chief Inspector Foote, the Senior Investigating Officer (SIO) for Operation Dibri at Trident;
 - ZZ17, a Detective Sergeant who ran the day-to-day team of Operation Dibri, and received and assessed intelligence being received from SOCA; and
 - A10, a case officer working for SOCA who provided intelligence to ZZ17.
- S2A
44. D/Supt Mallon stated that Operation Dibri focused on a particular organised criminal network (OCN) known as *“Tottenham Man Dem”* (TMD) who were involved in *“serious organised criminality”* including the supply of class A drugs and *“possession and use of illegally held firearms to enforce their criminality.”*
45. In D/Supt Mallon’s statement dated 11 August 2011, she referred to previous intelligence indicating that TMD gang members had discharged firearms causing death and serious injury and in her view they presented a threat to public safety within the communities in which they operated.
- S2A
46. D/Supt Mallon’s statement provided background in relation to how the MPS evaluated the harm posed by OCNs. The MPS uses a *“Criminal Networks Matrix”* which assesses each OCN for the volume and type of crime committed; and each network’s capacity and capability to cause harm. The TMD consistently ranked within the top five of the most harmful OCNs operating within the MPS district. The statement records that TMD had been assessed on the MPS Gang Related Tracking System which tracks *“visible gang violence on the streets”*. The statement indicated that this tracking system recorded 26 incidents of *“serious gang related violence*

(shootings, rape, stabbings and wounding amounting to grievous bodily harm)” relating to TMD gang members (as either perpetrators or victims) since April 2008.

S165B

47. DCI Foote stated that he joined Trident North-West in 2010 and assumed responsibility for shooting investigations and the proactive team. He became the SIO for Operation Dibri, met with D/Supt Mallon and conducted a review of the operation. The purpose of the review was for DCI Foote to satisfy himself that the operation met his objectives and operational plan. He stated that he received a briefing on the operation from members of the Trident proactive team and recorded the review in his policy log on 3 February 2010.

S165B

48. DCI Foote stated the operation’s objective was *“to arrest and/or disrupt the senior members of the OCN [TMD] concerned in the supply and distribution of class A drugs and the use and supply of firearms”*.

S165B

49. DCI Foote’s operational plan was to proactively target the subjects, gathering intelligence on their lifestyles to ascertain their level of criminality and associates, safe-houses and other individuals involved in the supply of illegal drugs and firearms and to gather evidence to arrest and prosecute, and to seize and confiscate assets.

S165B

50. DCI Foote recorded that in January 2009 an initial list of identified members of TMD was created which included Mr Duggan. DCI Foote indicated that although Mr Duggan was on the initial list he was not considered a priority at that time and, based on the intelligence picture, other members were prioritised. However, he stated that Mr Duggan later came to prominence in January 2011, when intelligence, which has been accessed by the IPCC, indicated Mr Duggan had access to and had used firearms.

51. DCI Foote gave evidence to the inquest on 23 to 25 September 2013. He described his role on Trident as the most challenging type of role he had faced during a 29 year career in the police, because it required working with the intelligence available in a given situation. He is trained as a Tactical Firearms Commander (TFC).

52. As SIO, DCI Foote was, he said, responsible for setting the aims and objectives of Trident, and had an overarching responsibility for the long-term operation. He also had responsibilities in relation to the reactive investigations that were occurring across London. He had therefore gained experience of operations other than Operation Dibri during his time working in Trident. He gave the inquest the

background to Operation Dibri and said that Operation Dibri had been implemented before he had been deployed to Trident. He understood that there were around 100 subjects that, through research, were part of Operation Dibri, and about 48 of these were members of the TMD. He said that these 48 were considered the most violent people not only in London, but across Europe, because of the importation of drugs and their close links to Turkish criminal organisations.

53. DCI Foote told the inquest that a gun being found in a sock, in order to prevent fingerprints and DNA being found on the firearm, is known to Trident as a ruse used quite frequently by OCNs.

Mr Duggan's significant previous contact with the police

- S165
D152
54. The Police National Computer (PNC) and other MPS systems hold details of Mr Duggan's arrests and convictions.
- S165
D152
55. Mr Duggan had two convictions for possession of Class B drugs (Cannabis) in 2000 and for handling stolen goods in 2007.
- D152
56. Mr Duggan had warning signals on his PNC entry, one of which was for being an "escaper". The PNC Manual states that the "escaper" signal is intended to indicate that the subject may attempt to escape from custody. The Manual advises that evidence of previous escape attempts along with details of those attempts should be recorded. Mr Duggan's PNC record referred to the evidence of previous escapes with the following entries: "*ran from the police*" (July 2000) and, "*told OIC [Officer in Case] he had planned to escape from hospital guard*" (March 2008).
- S165
57. Mr Duggan had been arrested and interviewed for a number of offences including:
- in May 2004, in connection with the murder of Mr Gavin Smith;
 - in May 2006, for the attempted murder of Mr [REDACTED]; and
 - in July 2007, when one round of live ammunition was found in a car in which he was a passenger.
- D424
S165
58. On 19 March 2007, Mr Duggan attended the A&E department of North Middlesex Hospital with a gunshot wound to his right foot. The detail is recorded in an intelligence report. The Duty Inspector for Enfield Borough recorded that he attended and spoke with Mr Duggan. Mr Duggan informed the Duty Inspector that he had been

in the “*Rec, Lordship Lane, N17*” when he was approached by three men who asked him if his name was “*Joshua*”. Mr Duggan had replied “*no*” and he was then shot. The report stated that Mr Duggan refused to give details of the weapon used during the incident nor would he provide other material such as clothing, his mobile phone, or submit to any firearms discharge residue and DNA swabs.

D424

59. The report stated that Mr Duggan signed the Inspector’s Evidence and Action Book that he did not want any further assistance from the police. The report recorded that officers attended the “*Rec*” (a large park) but could find no obvious sign of a shooting. The report indicates that Mr Duggan was also spoken to by Trident officers the following day. The report recorded that Mr Duggan indicated that he thought the shooting was a case of mistaken identity. The report stated that several appointments were made with Mr Duggan to take a full statement however, on 27 March 2007, he informed officers that he did not wish to give a statement. The report indicated that the investigation was closed unless “*fresh evidence*” came to light.

S165
D424

60. In March 2008, Mr Duggan was one of fourteen people arrested while driving a vehicle in a convoy of five cars, stopped by armed police as part of a pre-planned Trident led firearms operation. The driver of the lead vehicle was found to be in possession of a loaded firearm wrapped in a sock, tucked into the waistband of his jeans. No relevant fingerprints, DNA or other forensic evidence was recovered from the gun, the ammunition or the sock. All fourteen people were arrested for conspiracy to possess firearms, but only the driver of the lead vehicle was charged with possession of a firearm and pleaded guilty. The other thirteen (including Mr Duggan) were not charged with any offences.

Mr Duggan’s intelligence profile through to May 2011

ACPO
Guidance on
the National
Briefing
Model 2006
p32

61. The ACPO Guidance on the National Briefing Model (2006) defined intelligence as information that has been subject to a defined evaluation process in order to assist with police decision making. It defined information as referring to all forms of information obtained, recorded or processed by the police, including personal data and intelligence.

Code of
Practice on
the
Management
of Police
Information p

62. The Home Office Code of Practice on the Management of Police Information (July 2005) stated that police forces have a duty to obtain and use a wide variety of information (including personal

3

information), in order to discharge their responsibilities effectively.

ACPO /
NPIA
Guidance on
the
Management
of police
Information
2nd Ed 2010
p121

63. The standard police methodology for evaluating intelligence was referred to as the 5x5x5 recording and evaluation process. The ACPO / NPIA Guidance on the Management of Police Information (2010) stated that “...5x5x5 is a tool which allows the Police Service to manage information which has risk attached to it...it is the standard format for managing the evaluation, the source and the provenance of the information and the manner in which it should be handled and disseminated.”

ACPO /
NPIA
Guidance on
the
Management
of Police
Information
2nd Ed 2010
121-130

64. The three areas of intelligence assessment are: source evaluation, information / intelligence evaluation and handling code. The code definitions are as follows:

CODE DEFINITIONS					
Source Evaluation	A	B	C	D	E
	Always Reliable	Mostly Reliable	Sometimes Reliable	Unreliable	Untested Source
Information/ Intelligence Evaluation	1	2	3	4	5
	Known to be true without reservation	Known personally to the source but not to the person reporting	Not known personally to the source but corroborated	Cannot be judged	Suspected to be false
Handling Code	1	2	3	4	5
	Default: Permits dissemination within the UK Police Force AND to other law enforcement agencies as specified	Permits dissemination to UK non prosecuting parties	Permits dissemination to (non EU) foreign law enforcement agencies. Conditions apply	Permits dissemination within originating agency only: specify reasons and internal recipient(s). Review period must be set	Permits dissemination but receiving agency to observe conditions as specified

65. This evaluation method has been included in this report to make clear that intelligence is not necessarily fact. It can originate from sources of varying reliability and the information itself can vary in reliability.

S165

66. The variation in reliability was recognised by DCI Foote (the Operation Dibri SIO) who stated,

“...In general, sources of intelligence range from the extremely reliable through to untested or even malicious, and individual pieces of intelligence similarly range from things that are known to be true without reservation through to those which cannot be judged or are even believed to be false. The nature of intelligence means that it has not normally been subject to the sort of scrutiny faced by evidence in a trial at court.”

S165

67. In relation to sources of intelligence DCI Foote recorded that,
“...Police receive intelligence about crime from a variety of sources some of which is sensitive. Police have a duty of care to protect the sources of their intelligence. As well as not revealing the sources directly, this often means taking care not to reveal the precise nature of the intelligence held as this could indirectly reveal the source of the intelligence. Were police not to protect their sources of intelligence, this could have serious repercussions. These could include alerting criminals to methods used by police to gather intelligence, making it more difficult to obtain intelligence in future, and ultimately endangering the lives of those who assist police by providing information.”

S165

68. In relation to Mr Duggan, DCI Foote recorded in his statement that,
“...However, there are a variety of means through which experienced police officers can test the reliability and veracity of criminal intelligence. Given the volume of consistent intelligence held about Mark DUGGAN, from a variety of intelligence sources, over such a long period of time, I found it to paint a compelling picture of a young man involved in organised crime.”

S165
S165B
D424

69. In his statement, DCI Foote summarised, *“...some of the more recent and more relevant intelligence held by the Metropolitan Police....”* in relation to Mr Duggan as follows:

- *“In 2006 intelligence indicated that Mark DUGGAN and his associates were involved in the supply of firearms between Manchester and London.”;*
- *“In April 2010, police received intelligence regarding a gang dispute which had occurred at a bar called Ekubanz in Tottenham. Various individuals were named as having produced firearms and fired shots. Mark DUGGAN was named as one of these.”;*
- *“In July 2010, police received intelligence that shots had been fired at a pub in Tottenham by an associate of Mark DUGGAN. Intelligence indicated that the gun used belonged to Mark DUGGAN. (On 6th July 2010 a 9mm bullet casing was found in the garage area next to the British Queen Public House, N.17 which has been forensically examined with no connections detected).”;*
- *“In September 2010 police received anonymous information that Mark DUGGAN was walking around with a shotgun.”;*
- *“Intelligence was received that Mark DUGGAN shot another*

male in the leg at a party held on Christmas Day 2010. This shooting was never reported to police by the victim. Without a victim or any evidence, Mark DUGGAN was never arrested in relation to this allegation.”; and

- *“In January 2011, intelligence was received that Mark DUGGAN was taking guns into dances and that he had someone to transport these guns on his behalf. This intelligence and criminal profile formed part of the decision making to seek authority for Mark Duggan to be subject of surveillance under RIPA 2000.”*

S165B

70. Following the reference to the January 2011 intelligence, DCI Foote stated,

“...There were issues around tackling men with guns in nightclubs and unlicensed venues which led to a review over a period of months and a plan of a proactive response was implemented involving the deployment of armed officers and unarmed covert officers to respond to such intelligence.”

S165

71. DCI Foote continued,

“In February 2011, intelligence was received that Mark DUGGAN had attended a dance in Tottenham and that at the end of the night, in the car park of the venue, he fired a volley of shots into the air from a handgun. He did this openly in front of a lot of people.”

72. In his evidence to the inquest given from 23 to 25 September 2013, DCI Foote explained that, in January 2010, when he was briefed as to the purpose of Operation Dibri, Mr Duggan was one of many subjects, but he was not top of the priority list. He was within the 48 subjects of particular interest, although the prioritisation of targets depended on the intelligence that was available at the time.

73. DCI Foote told the inquest how the 5x5x5 evaluation model works, as described above, and noted that a single source of intelligence makes it *“a little bit untested”*. He then told the inquest about the intelligence that he had set out in his statement, as described above.

23.9.13,
p.20, line 8

74. DCI Foote was asked at the inquest about the **‘Risk Assessment and Risk Management’ form of 26 May 2011**. He said that he would have been aware of it when it was circulation in May – June 2011. He explained that this was a form completed in electronic format that went alongside the review or renewal of the directed surveillance. Even though authority had been given for putting people on surveillance, this has to be monitored through monthly renewal periods in addition to the authority being renewed on a

three-monthly basis, and a risk assessment would be done with each application. The form contained a fair analysis of what was believed in May 2011 about Mr Duggan, one of the subjects, and the risk assessment it contained, which was based on the intelligence, was accurate, DCI Foote said.

75. Where the Risk Assessment form indicated that there was a high probability of risks occurring, and gave the impact of risks occurring as serious, this was, DCI Foote said, a reflection of the subject's propensity to use firearms and the risks they pose not only to the public but also to officers, whether armed or unarmed. Notwithstanding this, DCI Foote confirmed that the evaluation of risk on the form was such that, if Mr Duggan was seen driving in such a way that it was right to stop him, he would be stopped by unarmed officers, as it would depend on the intelligence available at the time – if there was no intelligence suggesting that Mr Duggan was in possession of a firearm, then that sort of tactic could be used.
76. DCI Foote said that, as part of a firearms operation, the risk assessment was continually reviewed and updated when necessary and each activity in the operation was separately risk assessed as required. DCI Foote said that whilst getting a successful prosecution was important, more important again was getting guns off the streets.

Chapter 2 – Operation Dibri Planning and Deployment - June 2011 onwards

June 2011

S165B

77. DCI Foote stated that on 6 June 2011 intelligence suggested Mr Duggan was becoming prominent in relation to illegal drugs and

firearms. He confirmed this in his evidence at the inquest.

S9F

78. ZZ17 was a Detective Sergeant on the Trident North-West Team and working to DCI Foote. ZZ17 stated that his job was to receive and assess the intelligence being provided and to co-ordinate the day to day response to that intelligence. ZZ17 made reference in his statement to intelligence during June 2011 that suggested to him that there was an increase in gang-related tension and TMD members and associates were attending nightclubs and parties either in possession of firearms or with firearms available with associates nearby.

12.09.13

79. Specifically in relation to early June 2011, the SOCA case officer A10 also stated,

“In early June 2011 I received credible intelligence that Mark Duggan was actively seeking to distribute controlled drugs and firearms, however the intelligence was not sufficient to identify if Mark Duggan had firearms under his direct control or where they were stored. On 7 June 2011 I received credible intelligence that Mark Duggan was storing a quantity of Class A controlled drugs at the home address of [REDACTED].”

S9F

80. ZZ17 said that he was in regular discussion with DCI Foote about this intelligence and was asked by DCI Foote to consider the option of running a pre-planned surveillance operation with *“mobile armed support to surveillance”* (a MASTS operation) over a number of days in response to this intelligence. ZZ17 stated that because the intelligence concerned nightclubs and parties, any surveillance operation would need to run late into the night and should cover the later part of the week including Friday and Saturday nights.

S9F

81. ZZ17 stated that to run this type of armed surveillance operation into the weekend and involving officers from various MPS departments has resource and overtime implications. He stated that unless there is some *“immediate urgency around time-critical intelligence”* it was better to plan ahead allowing departments to put resources in place (giving them sufficient notice to cancel rest days and change shift patterns without incurring additional organisational costs). ZZ17 stated that he wanted to establish a provisional plan with all necessary resources in place to present to the SIO for a decision closer to the time, depending on prevailing intelligence.

D1144

82. SCD11 (the MPS unit that supplies teams of armed surveillance officers) deployment request sheets (referred to as ‘bid lists’) include an entry dated 15 June 2011 detailing ZZ17 requesting *“...an armed team for lifestyle with MAST support. No specific intel*

but they are looking to target people who are routinely going clubbing with firearms...” The dates listed on 15 June were from 3 August to 6 August 2011 with the operation to run from 6pm to 2am on each date. There was no specific reference to Mr Duggan noted in this bid list entry.

83. With regards to the intelligence being gathered by SOCA in late June 2011, A10 stated,

“On 20 June 2011 I received credible intelligence that Mark Duggan had been offered for sale two firearms, a Glock and a Berretta by an associate, and that Mark Duggan also had under his control a firearm that he was seeking to sell on behalf of an unidentified party. This firearm was being stored on his behalf by a third party. This intelligence indicated that Mark Duggan had then brokered the onward sale of the Glock and Berretta to an unidentified party who wished to purchase the firearms. The intelligence indicated that the associate who had offered them to Mark Duggan was not able to deliver them to him until 22 June 2011. There was not sufficient intelligence to identify the associate who had offered the firearms to Mark Duggan or to identify where any of the three firearms was being stored.”

84. On 22 June 2011, an armed operation was conducted in response to the urgent intelligence that Mr Duggan might be taking possession of a firearm.

D980

85. Z51 and ZZ17 briefed the CO19 and SCD11 officers at the 22 June briefing and also at the briefing for the operation on 3 August 2011. At the 22 June briefing, ZZ17 indicated that the subject of the operation that day was Mr Duggan, he circulated pictures of Mr Duggan to the attendees via the briefing sheet and stated,

“...there is intelligence to suggest that Duggan and his associates are likely to be taking possession of a couple of firearms later on today, there’s no specific venue for that at this stage, if we get any further obviously we’ll give it to you.”

D285

86. It is understood from the ACPO Manual of Guidance on the Management, Command and Deployment of Armed Officers 2010 (the ACPO MOG 2010) – as set out at page 420 of this report - that there are three defined functions within a police firearms command structure during any armed operation:

- the Strategic Firearms Commander (SFC) - they determine the strategic objectives of the operation, set any tactical parameters and retain strategic oversight and overall command

responsibility;

- the Tactical Firearms Commander (TFC) - they develop, command and coordinate the overall tactical response in accordance with the strategic objectives;
- Tactical advice is provided to the SFC and TFC by a Tactical Advisor (TA); and
- the Operational Firearms Commander (OFC) - they command a group of officers carrying out the responsibilities of the tactical plan.

D980
D307

87. Some of the MPS officers involved in the 22 June 2011 deployment were involved in the later 3 and 4 August 2011 deployment in the same capacities, including:

- D/Supt Mallon as the Strategic Firearms Commander;
- Z51 as the Tactical Firearms Commander; and
- ZZ17 as the Trident officer tasked by DCI Foote (the SIO) with considering the operational option of surveillance with MASTS support as the intelligence picture developed.

However, it should be noted the CO19 officers attending the 22 June briefing were a different team to the CO19 officers who were involved in the operation on 4 August 2011, the day that Mr Duggan was shot.

88. An armed operation of this nature uses a command traffic light system. “*State green*” refers to the gathering intelligence stage; “*state amber*” relates to the stage during which sufficient information has been received by the TFC and the arrest of a subject is now required; “*state red*” denotes the strike phase when a decision has been made to intercept the subject and an arrest is imminent.

D980
D976
D977

89. The operation on the 22 June 2011 did not move beyond the “*state green*” phase and was discontinued as according to the SFC she received the following information, “...*update from TFC [redacted] – intelligence suggests subject not going to be involved in criminal activity tonight. Operation stood down.*”

90. ZZ17 was questioned at the inquest about the timing of the intelligence he received on 22 June. He stated that he made no record of the time and that it was not normal practice to record the time. ZZ17 said that he considered the intelligence from SOCA to be reliable at the time he received it, but that the people the

intelligence was about were not always as reliable.

91. DCI Foote explained in his evidence at the inquest that, in around mid June 2011, he was involved in making the decision to put together a subsidiary operation for four days in August, focussing on six people who were thought to be members of TMD, including Mr Duggan. He explained that the decision was informed by the evolving intelligence picture around Mr Duggan.
92. DCI Foote explained that it would simply not have been possible to have a 24 hour proactive team ready to be deployed at a moment's notice.
93. DCI Foote told the inquest that his role within the particular proactive operation planned between 3 and 6 August 2011 was to ensure that there were sufficient resources and he would have been in receipt of some of the intelligence. He said that although Operation Dibri was the focus of the proactive team at that time, there was intelligence coming in around a number of subjects, and the direction of the actual operation was really to focus around dismantling those in the TMD.

20 July 2011

94. In his statement dated 12 September 2013, A10 stated,
“Throughout late June and July 2011 I continued to receive intelligence on Mark Duggan’s involvement in the distribution of firearms, ammunition and drugs. The intelligence, much of which was non specific or historic, indicated that Mark Duggan had access to numerous firearms but did not provide sufficient detail to identify where these firearms were being stored. This intelligence was disseminated onto the Operation Dibri team.”
95. On 20 July 2011, an armed surveillance operation took place with the aim of obtaining *“lifestyle intelligence”* in relation to Mr Duggan and his associates. The application for authority for the deployment of armed officers made reference to *“lifestyle intelligence”* in the following way, *“...to use armed surveillance officers from SCD11 to carry out “lifestyle” surveillance on Mark DUGGAN and his criminal associates in order to build up intelligence and in particular to identify his associates and their addresses, where it is believed firearms and drugs may be stored.”*
96. The IPCC investigation has reviewed the Tactical Firearms Commander’s policy file and decision log for the 20 July 2011

D982
D973

D982

armed deployment. The TFC makes an entry timed at 3.37pm on 19 July 2011 making reference to the background to Operation Dibri and Mr Duggan, including:

“There is a wealth of historic and current reliable intelligence suggesting that DUGGAN has ready access to firearms, is actively involved in armed criminality and the supply of controlled drugs.

For example: YRRT00282394 – 19/07/2011 – graded E41 – “Intelligence suggests that Mark DUGGAN has possession of a Beretta handgun. He used to keep this at his girlfriend’s address. His girlfriend is called [redacted] [I have discussed this intelligence with DS XXXX. I am personally satisfied that enquiries support and corroborate this belief].

It is our intention on 20 July 2011 to use armed surveillance officers from SCD11 to carry out “lifestyle” surveillance on Mark DUGGAN and his criminal associates and their addresses, where it is believed firearms and drugs may be stored.”

D982

97. The entry goes on to request authority to deploy SCD11 surveillance officers, armed for their own protection owing to the historic and current involvement of Mr Duggan and his associates with violence and gun related crime. The entry emphasises that the aim of the deployment was to obtain “*lifestyle intelligence*” in relation to Mr Duggan and his associates (i.e. no intention to arrest the suspect) and that if criminal activity was witnessed a decision would be made by the Tactical Firearms Commander as to whether an arrest was necessary and, if so, the assistance of CO19 would be considered and any decision to intervene would depend upon the threat posed to any other person.

D969

D972

S165B

98. Authorisation for the operation was granted by the Strategic Firearms Commander (from CO5 and not from Trident) and SCD11 surveillance took place on 20 July 2011 with Mr Duggan being observed at two addresses. DCI Foote (the Operation Dibri SIO) recorded in his statement that “*no new intelligence was gained.*”

25 July 2011

D409

D521

99. On 25 July 2011, ZZ17 completed an application for authority to deploy armed officers (an FA1 form) and sent this by e-mail to CO19. The email stated it was in relation to “*a proposed MASTS deployments on Op Dibri next week.*”

The application provided background on Operation Dibri, a summary of intelligence concerning the TMD organised criminal

network and the following reference:

“Recent intelligence suggests an upsurge in gang related tensions and that TMD members and their associates are regularly attending nightclubs and parties in the London area and when doing so, have firearms either on their person or nearby with associates.”

D409

100. The application stated that a number of TMD members are “*flagged to this operation and subjects of authorised directed surveillance*”, including six subjects listed in the application. Mr Duggan was one of these six subjects. Mr Hutchinson-Foster, the person convicted of the transfer of a firearm to Mr Duggan on 4 August 2011, was not listed as one of the six subjects in this application.

D409

101. The application stated,
“It is our intention to carry out armed surveillance with mobile armed support on the subjects to Operation Dibri and their criminal associates in order to gain sufficient intelligence / evidence against them to allow for CO19 to deploy an intervention.”

D409

102. The application also made reference to firearms search warrants having been obtained for, *“numerous addresses frequented or controlled by the subjects and, should intelligence develop, authority may be sought for CO19 officers to execute one or more of these warrants.”*

31 July 2011

103. In his statement dated 6 September 2013, the SOCA intelligence officer, A10, stated,

“On 31 July 2011 I received credible intelligence that Mark Duggan wished to collect a firearm from a male associate. This intelligence indicated that the male might be called ‘Kevin’ but there was insufficient intelligence to establish the males identity, where the firearm was being stored or where it was going to be collected”.

104. In his statement dated 12 September 2013, A10 reiterated,
“I received intelligence on 31 July 2011 indicating that Mark Duggan wished to collect a firearm from a male associate.”

In this statement A10 also stated,

“On each occasion that I received intelligence I passed it on to an MPS officer on Operation Dibri. Given the passage of time I do not recall to which officer I passed this intelligence.”

105. ZZ17 gave evidence to the inquest on 30 September and 1 October 2013. ZZ17 told the inquest that:
- He was the sole link to SOCA in this operation so the intelligence from A10 must have been provided to him. He said he was not working though on 31 July, it was a Saturday so he received this intelligence probably on Monday 1 August or perhaps 2 August 2011;
 - He wished to avoid any leakage of the information to ensure the safeguarding of anyone who may have provided the intelligence;
 - He also said it was important to have separation between the intelligence and those actively involved in the operation;
 - He was allowed to record the intelligence in a book supplied by SOCA but at the end of the operation he had to give the book back to SOCA. He has no other record of the intelligence;
 - It is not normal practice to record the time each piece of intelligence was received;
 - ZZ17 said that, while between 31 July and 4 August 2011, there was a general background of intelligence of which he was aware, all of the particular intelligence for this operation was coming from SOCA;
 - He considered the intelligence to be reliable but that he took into account the fact that the people the intelligence was about may not be; and
 - ZZ17 said he would then task his officers to conduct research on the intelligence he received, such as by making enquiries on databases available to the police.

1 August 2011

106. In his statement dated 12 September 2013, A10 stated,
“On 1 August 2011 I received further intelligence that the male associate holding this firearm stored it at the premises of an unidentified female and, due to the female’s absence at work each day, he would not be able to gain entry to the premises to retrieve the firearm until she returned from work some time mid to late evening.”
107. ZZ17 told the inquest that he received this intelligence from A10 on 1 August 2011 but that he could not say at what time.

1.10.13,
p.165

108. On 1 October 2013, A10 gave oral evidence to the inquest. A10 stated that he was aware that Mr Duggan was seeking to collect a firearm from a male associate who may have control of more than one firearm.

S165B
S1A
D794

109. DCI Foote records in his policy log and makes reference in his statement, to having a meeting with ZZ17 and Z51 (the Tactical Firearms Commander on 4 August 2011) on 1 August 2011. The policy log includes 'Decision 18' which was for an *"Extended MASTS operation"* where his rationale for this decision was recorded as follows,

"Meeting with [redacted] held re developing intelligence. Intel suggested subject 96 [Mr Duggan] became more active re drugs supply and firearms possession and supply. In light of the intelligence picture I have decided on having an extended MAST operation for this week with the weekend to cover firearms possession when attending nightclubs. Operation to cover late turn periods as usual to allow for fast time response to developing intel..."

S165B

110. DCI Foote recorded in his statement that he also agreed to firearms search warrants being obtained for a number of addresses *"frequented or controlled by the subjects as a contingency should the intelligence develop."*

S1A

111. In relation to 1 August, Z51 recorded in his statement, *"I received a form FA1 (application for authority for the deployment of armed officers) from ZZ17. I received this application and completed a form FA2A (TFC's policy file and document log)."*

112. During his evidence to the inquest, given on 23 to 25 September 2013, DCI Foote was asked in some detail about the FA1 dated 1 August 2011. The key points arising from DCI Foote's evidence about the FA1 were:

- The FA1 was essentially the application to an SFC asking for authority for a firearms team, based on intelligence. He confirmed that the FA1 in this case was completed by ZZ17, although he was familiar with it. He confirmed that ZZ17's role was the intelligence officer, one of the most important roles in a proactive operation, and he had responsibility for collating all the intelligence;
- DCI Foote agreed that the FA1 had been drafted on 25 July 2011, on which day he had himself been off work, but he had spoken to ZZ17 and told him to have it ready for his return on 1

August;

- In this case, the application for Authorised Firearms Officers (AFOs) was based on the intelligence that suggested that Mr Duggan and others had ready access to firearms and that they were kept at certain places;
- As SIO, his operational aims and objectives were set out on the form for the purposes of this operation in particular, having been thought through specifically in relation to this operation. They were: (1) to minimise risk; (2) to maximise safety; (3) to recover firearms; (4) to secure evidence; and (5) to ensure public confidence;
- The content of the form in relation to what it said about the TMD and the recent intelligence was, as DCI Foote understood it, accurate. In particular, the reason why it was decided in June 2011 to have the operation in August 2011 was that the recent intelligence had suggested *“an upsurge in gang related tensions and that TMD members and their associates were regularly attending nightclubs and parties in the London area and when doing so have firearms either on their person or nearby with their associates.”* DCI Foote said that, at the time the FA1 was completed, there was historical intelligence about the subjects attending nightclubs and parties and having ready access to firearms. The FA1 listed a number of TMD members who were flagged to the operation, which meant they were a subject of it. From the moment of the completion of the FA1, the intelligence picture in relation to Mr Duggan was still that, out of the six subjects of the operation, he seemed the most likely to take possession of a firearm. The intelligence picture had not changed, and DCI Foote emphasised that it was very much a case of seeing how the intelligence developed and for something specific to become actionable; and
- Following the preparation of the FA1 by ZZ17, DCI Foote then had a meeting on 1 August which allowed for consolidation and for DCI Foote to confirm that the operation would go ahead, commencing on 3 August. He said that he kept a decision log, which he kept under lock and key in his office as it was sensitive, although he did not record details of sensitive intelligence, which he was prevented from recording by law. In that log, he had recorded on 1 August, *“Meeting with ZZ17 held re developing intelligence. Intelligence suggested that subject 96 [Mr Duggan] becoming more active re drugs supply and firearms possession and supply. In light of the intelligence picture, I have decided on having an extended MASTS*

23.9.13,
p.44, line 22
to p.45, line
1

23.9.13,
p.56, lines 9
to 24

operation for this week into the weekend to cover firearms possession when attending nightclubs. Operation to cover late term periods. As usual, to allow for fast time response to develop intelligence. In addition, discussed direction of Operation Dibri and future subjects. Discussed issues with DSU Mallon and agreed a meeting with MIB.” MIB is the Metropolitan Police Service Intelligence Bureau. DCI Foote told the inquest that this was the decision to have the four-day operation, subsidiary to Operation Dibri, in August based on the intelligence picture which he had in June. This was not based on any intelligence that came in on 1 August.

113. DCI Foote explained to the inquest that there were, for each subject of the operation, a number of search warrants in place (these are discussed further below at pages 55 and 56), so that if they became aware that a weapon was being stored at one of the particular addresses covered by the warrant, they could execute it straight away. As at 1 August 2011, search warrants were yet to be obtained, DCI Foote agreed that the FA1 would have been more accurate if it had said that search warrants were to be obtained.

D420

114. The FA2A (Tactical Firearms Commander’s Policy File and Decision Log) had a number of sections requiring completion by the Tactical Firearms Commander. The form required the TFC to detail their ‘Threat Assessment’ and in particular to identify individuals / groups at risk *“from the identified threat....before identifying the level of risk to each identified individual or group.”* The form advised the TFC to be, *“...specific and not generic”*. Z51 identified the following groups and assessed the level of risk against a *“potential point of conflict”* and provided a rationale:

- ‘Public in the vicinity of the subjects’ - low risk;
- ‘Police – surveillance officers armed’ - medium risk;
- ‘Police CO19 armed’ - high risk;
- ‘Police unarmed’ - low risk;
- ‘Subjects’ - medium risk.

Z51 grouped all 6 subjects together (he did not separate them out and assess them individually). This report deals with this issue below in Chapter 9 where it records the ACPO advisor’s findings in relation to the armed operation’s strategic plan.

D420

115. Z51 recorded his *“Working Strategy”* in the FA2A (Tactical Firearms Commander’s Policy File and Decision Log). The form required the Tactical Firearms Commander to record their working strategy,

“Based on the Threat and Risk assessment’ and that the recommendation to the Strategic Firearms Commander should be in “hierarchical order”. The form recorded the recommendation as follows:

- “1. Minimise risk to public.*
- 2. Maximise safety of police officers.*
- 3. Neutralise threat posed by subjects identified.*
- 4. Recover firearm or other lethal weapon.*
- 5. Secure and preserve evidence.”*

S1A

116. Upon completion of the FA2A (Tactical Firearms Commander’s Policy File and Decision Log), Z51 stated that he, *“...forwarded the FA2A to the on call CO19 tactics advisor.”*

D450

117. The CO19 tactical adviser, Inspector Bennett, recorded his tactical advice on form FA5, which was dated 1 August 2011.

D450

118. The form stated that the ‘Details of Tactical Advice’ are based on *“...the current intelligence, information, and working strategy of the operation. This includes any operational objectives and strategic parameters set.”*

D450

119. The form details, under the heading ‘CO19 intention’, the following:

- “To covertly deploy firearms officers in order to arrest subject(s) on the direction of the Tactical Firearms Commander by way of armed interception on foot, in an identified vehicle or in premises.*
- To provide armed support to surveillance and respond to any life threatening compromise.*
- To provide a contingency to respond to any life-threatening event including a threat to a member of the public this may require direct – armed intervention.”*

D450

120. In addition, the form provides information under the following headings: *“Resources”; “Recommended use of armed resources”; “Tactical Deployment Options”; “Tactical Options & Contingencies”; “Vehicle Stops”; “Armed Pedestrian Stops”; “Containment & Call-out”; “Armed support to surveillance officers”; “Less Lethal Options”; “Specialist Munitions”; “Incidental Contact by Police Vehicles”; and, “Conclusion”.*

D450

121. Under the heading *“Vehicle Stops”*, three options were detailed. Option 2 is outlined below because it was the tactic adopted by the

CO19 officers on 4 August 2011.

“Option 2 Stop

Intelligence suggests that the subject or occupants of a vehicle may be armed, and one or more of the below factor(s) exist

The anticipated non-compliant actions of a suspect once stopped, where it is believed danger to life may result of these actions

The anticipated likelihood of an attempted escape by the suspect, where it is believed this may present a danger to life

The inability to isolate a suspect from the public by containing the vehicle at a distance, thereby causing danger to life.

Three CO19 Covert Armed Response Vehicles will contain the subject vehicle and rapidly contain and dominate the occupants, utilising armed cover and verbal commands (police powers under section 47(4) Firearms Act will be used). This rapid and aggressive action is a deliberate tactic used to surprise, dominate and psychologically overpower a potentially non compliant suspect, thereby reducing that suspect’s ability to carry out any hostile actions, thus attempting to maintain an acceptable balance of their own and the officer’s right to life. If the vehicle attempts to drive off or fails to completely stop, to protect officers and the public it may be necessary to attempt to disable the vehicle by using Hatton rounds to deflate its tyres.”

D450

122. Inspector Bennett concluded his tactical advice with the following:

“My recommendation is to conduct the operation with armed SCD11 Branch officers doing the surveillance supported by armed CO19 Branch officers providing response contingencies to the Tactical Firearms Commander should the need arise.

This option enables all the objectives of the operation to be met whilst fully catering for the threat/ risk assessment around this operation.

These options will provide the Tactical Firearms Commander with the flexibility necessary for this type of operation. It is proportionate to the threat faced and follows best practice. SCD11 and CO19 work and train regularly together and is my recommendation for this operation.”

D420

123. Z51 recorded in the FA2A (Tactical Firearms Commander’s Policy File and Decision Log) that the tactical advice, *“meets my threat assessment, complies with my working strategy.”* However, the entry also recorded that there is always a risk to *“public, police and*

subjects when attempting to arrest armed individuals...".

S1A

124. According to his statement, Z51, *"...received the tactical advice and agreed and accepted the tactical options as they met my threat assessment, complied with my working strategy and the tactics were human rights compliant."*

D409
D420
D450

125. Z51 signed the FA2A at 3.30pm on 1 August 2011. He then forwarded the FA1 (application for authority for the deployment of armed officers), FA2A (Tactical Firearms Commander's Policy File and Decision Log) and the FA5 (authorised firearms operation tactical advice document) to D/Supt Mallon, the Strategic Firearms Commander.

S2A

126. D/Supt Mallon recorded in her statement that she spoke with the TFC on 1 August 2011 in relation to the armed operation and that she then received by e-mail the FA2A and FA5 the following day at 9:58am on 2 August 2011.

2 August 2011

S2A

127. D/Supt Mallon made reference in her statement to meeting with DCI Foote (the SIO) at 12 noon on 2 August 2011 for *"...a general review meeting on all operations, investigations, staff and finance."* D/Supt Mallon stated that, *"...During this meeting Z51 joined us and we discussed the direction of Operation DIBRI."*

S2A

128. In particular, she stated that she asked DCI Foote to *"organise a meeting with intelligence officers to further discuss Operation DIBRI."* D/Supt Mallon stated that she wanted this meeting to take place the following morning on 3 August 2011. D/Supt Mallon said that she also:

- asked Z51 to go through the operational plan and application for the firearms authority with her; and
- asked Z51 to explain the intelligence that supported the need for such an operation and the objectives of the proposed operation.

129. D/Supt Mallon stated that she wished to ascertain information in relation to the intelligence picture about the subjects named in the application (such as confirmation as to whether specific cars, houses or locations had been identified in respect of each subject). She stated,

"The focus of the operation was six individually named persons, all members of the TMD organised criminal network. Mark DUGGAN 29 years (born 15/09/81) was one of these six subjects. The

intelligence supporting the requirement for the deployment of armed support to this planned operation was from a reliable and sensitive source. I was satisfied the intelligence gave strong indication that these OCN members and their associates were regularly attending nightclubs and parties in the London area and when doing so, had firearms in their possession or ready access to firearms.”

130. D/Supt Mallon stated that the deployment of the firearms and surveillance officers was scheduled for 6pm to 2am on each day from 3 to 6 August 2011 because *“these were the likely time periods experience had shown us that the subjects would be in possession of firearms. However outside of these tours of duty there was continuous intelligence support and the operational teams could be drawn on at any time should intelligence dictate.”* D/Supt Mallon indicated in her statement that she needed to review the FA2A, the FA5 and the FA1 and asked that the latter be sent through to her. She received the FA1 at 2:17pm on 2 August 2011.
131. D/Supt Mallon stated that she reviewed these documents and spoke with Inspector Bennett (the CO19 Tactical Advisor) about the operation’s tactical parameters. D/Supt Mallon’s statement recorded that she was satisfied that a threat assessment had been duly completed as required. D/Supt Mallon completed the FA3A (the Strategic Firearms Command Log for Protracted Operations). Under the heading *“Strategy, Powers and Policy - Criteria for the Deployment of Armed Officers”*, the document records, *“Based on the intelligence, information and threat assessment I am satisfied that the criteria IS met for the deployment of armed officers, as I have reason to suppose that officers may have to protect themselves or others from the following subjects”* [the subjects are listed, including Mr Duggan].
132. The Log then records a risk assessment of “medium risk” and notes the “working strategy” in priority order to be:
- 1) *Minimise risk to the public*
 - 2) *Maximise safety of police officers - armed and unarmed*
 - 3) *Neutralise threat posed by subjects identified*
 - 4) *Recover firearm or other lethal weapon*
 - 5) *Secure & preserve evidence.*
133. Under the heading ‘Strategic Commanders Authority’, the FA3A Log records that D/Supt Mallon authorised the tactical plan and contingencies at 3:20pm on 2 August 2011. In her statement D/Supt Mallon describes this as authorising the armed deployment

– “I was satisfied that the proposed police action was proportionate to the threat and that the action was capable of achieving the strategic aims of the operation as set in the working strategy.”

134. In her evidence to the inquest on 25 and 26 September 2013, D/Supt Mallon confirmed that she was an experienced and fully trained SFC. She agreed that, on 2 August 2011, her understanding was that the operation being proposed was in relation to intelligence about a number of people, and there was nothing specific about Mr Duggan and a gun apart from what was contained in the FA1. D/Supt Mallon agreed that if there had been some specific intelligence about Mr Duggan’s intent in the forthcoming days, she would have expected some sort of gist of that to be included in the FA1. D/Supt Mallon said that, at the time of authorising the operation at 3.20pm on 2 August, she did not know about Mr Kevin Hutchinson-Foster, only the name “Kev” or “Kevin” had been referred to. She stated it was not until 3 August that she was aware of intelligence that Mr Duggan intended to pick up a gun from Mr Kevin Hutchinson-Foster.
135. In terms of the risks to be considered in completing one of these forms, D/Supt Mallon stated at the inquest that the risk to the subject had to be taken into account. D/Supt Mallon confirmed that anyone who takes possession of an illegally held firearm is automatically at high risk, because they could discharge a firearm accidentally, they could run into a road during a police operation and injure or kill themselves and because if they point a firearm at police, there is a likely chance that they will get shot. D/Supt said that the risk to the subject is always considered and that her understanding of the phrase, “*neutralise the risk of the subject*” was that it was about making the threat safe to all, including the subject himself, the intended victim, and anyone else who may be harmed as part of the threat.
136. D/Supt Mallon maintained that the risk marking of “*medium*” on the FA1 was a realistic assessment. She explained that she would have expected the subject to be “*high*” risk, but given the high degree of training that the CO19 officers have received, their resources and the intelligence available at the time, this mitigated the risk to “*medium*” at the point of contact with the police. D/Supt Mallon stated, even if she had been aware that Mr Duggan was going to pick up a gun from Mr Hutchinson-Foster, she still would have considered the “*medium*” level of risk to be accurate.
137. In his oral evidence to the inquest on 30 September 2013 and 1 October 2013, ZZ17 stated that during the afternoon of 2 August

2011, he was part of a gradual process of receiving intelligence and research was being conducted. He said that he tasked ZZ46 (a Trident Detective Constable) with identifying “Kevin” as a result of the intelligence he had received from A10.

138. At the inquest on 1 October 2013, ZZ46 stated that she was tasked by ZZ17 to carry out research using MPS databases. ZZ46 worked out that “Kevin” was Mr Kevin Hutchinson-Foster. ZZ46 established that he had been released on licence from prison, however, she did not contact the Probation Service to see if they held any addresses for Mr Hutchinson-Foster.
- D1629 139. After the inquest, the IPCC served a notice of investigation on ZZ46 and asked ZZ46 why she had not pursued the probation line of enquiry. She provided a written response dated 12 March 2014. In this response, ZZ46 stated that she did not contact the probation service because this was part of a covert proactive operation and she was conscious of the risk of compromising the operation by conducting enquiries with other organisations who were “*essentially members of the public*”. She had no idea that Mr Hutchinson-Foster might have been storing a gun or wanting to pass it on to Mr Duggan. ZZ46 stated that she would not ordinarily undertake checks with outside agencies unless she was given a specific direction to do so by a supervising officer. ZZ46 acknowledged that she had said at inquest that she could have contacted the probation service herself however she said that she had not answered this question clearly. She had meant that she could have asked ZZ17 if he wanted her to contact the probation service but she did not do so because of the covert nature of the operation.
140. The IPCC contacted Ms [REDACTED] of the probation service who provided a witness statement stating that the probation services held three addresses for Mr Hutchinson-Foster. However none of them was the address of a female associate of Mr Hutchinson-Foster in the Leyton area.
141. ZZ17 stated that he would not have expected ZZ46 to have searched beyond MPS systems for information about Mr Hutchinson-Foster and he would have been displeased if ZZ46 had contacted the probation service without his authorisation. He stated that the risk of compromise would have greatly outweighed the likely benefit. ZZ17 stated that he had experience of the probation service discussing police enquiries with the subjects of investigations in good faith and yet inadvertently thwarting investigations. He felt that the probation service was unlikely to have the address in Leyton. The intelligence indicated that the property was the address of a female associate of Mr Hutchinson-

Foster to which Mr Hutchinson-Foster had limited access. He said that subjects of Trident often led chaotic lifestyles and that there was little information known about Mr Hutchinson-Foster. This meant that knowing the probation service addresses of Mr Hutchinson-Foster, other than a Leyton address, would have been of little benefit. The IPCC has considered whether ZZ46 has a case to answer for misconduct and this is set out at Appendix A.

142. In his statement dated 6 September 2013, A10 stated,
“I received further credible intelligence on 2 August 2011 that indicated that the male “Kevin” was likely to be Kevin Hutchinson Foster. There was still insufficient intelligence to identify where the firearm was being stored or when it would be collected.”

143. In his statement dated 12 September 2013, A10 stated,
“On 2 August 2011 I received intelligence that Kevin Hutchinson Foster would not be in London in the evening so Mark Duggan would not be able to meet with him to collect the firearm.”

Transcript
1.10.13,
p.167 & p.
201

144. In his oral evidence to the inquest on 1 October 2013, A10 stated that he believed it was the MPS who discovered that “Kevin” was Mr Kevin Hutchinson-Foster. A10 stated that SOCA do have a research team and access to the police national database, but that he believed that Trident were carrying out the research. He stated that his role was to pass the information to the operational team and that the operational team would conduct any enquiries.

Transcript
1.10.13,
p.172

145. A10 said that the name “*Juvanne Miller*”, which ZZ46 said she had used to assist her in identifying “Kevin”, had originated from SOCA. He stated *“that was a name that was given to Operation Trident to ZZ17, as we believed that there was a link between that individual and “Kevin”.*

Transcript
1.10.13, p.
173

146. A10 also stated that:

- he cannot recall providing an address for Mr Hutchinson-Foster to Trident;
- he did not have an address for where the gun or guns may be located;
- he did not have an address for the female associate of Mr Hutchinson-Foster.

D986
D1053
D1054
D1055

147. The IPCC has obtained copies of the search warrants DCI Foote approved, relating to three properties associated with Mr Duggan and has obtained from the Magistrates’ Court copies of the

“*informations*” provided in support of these search warrant applications. These three search warrants were obtained on 2 August 2011.

S165A

148. In his statement dated 12 September 2011, DCI Foote provided his rationale for why no search warrants were obtained and executed at this time in relation to any properties connected to Mr Hutchinson-Foster. DCI Foote stated that,

“Firstly, there was reliable and specific intelligence that indicated that although Kevin Hutchinson-Foster was in control of a firearm, it was currently being held at an address of a third party which was unknown to police. There was no intelligence as to where this address was, who the third party was, or whether this person was aware that the firearm was in their address. It was not possible to identify the location of the firearm. The only actionable intelligence available, which may lead to the recovery of this firearm, was that Mark Duggan was intent on taking possession of it. Prior to the 4th August 2011, there was no intelligence to indicate where or how this exchange was going to take place.

Secondly, in regards to obtaining search warrants for the addresses linked to Kevin HUTCHINSON-FOSTER, there was reliable and specific intelligence indicating that HUTCHINSON-FOSTER did NOT have the firearm at his address, or associated family addresses. The intelligence indicated the contrary that the firearm was with an unknown third party.

Officers could not apply for a search warrant under section 46 Firearms Act 1968 for such addresses, knowing that there was reliable intelligence indicating that no firearm was present at these addresses.

In addition this would have highlighted the fact that police were looking for the firearm, which may have hindered its recovery, subsequently putting the lives of the public and police officers at risk. This would have been in conflict to my operational objective of safely removing illegally held firearms from the streets of London.”

149. In his evidence at the inquest, DCI Foote said that, altogether, there were 12 search warrants in place. This was indicative of the fact, DCI Foote said, that the structure of the operation and its general width was premised on the basis that it was designed to deal with whoever may turn out to be the person with the gun. DCI Foote told the inquest that a search warrant had been applied for at Hendon Magistrates’ Court on 2 August 2011 for an address in Micawber Court. He agreed that the search warrant referred to current intelligence indicating that Mr Duggan was a member of the TMD

who regularly stored firearms at his girlfriend's address of Micawber Court, Windsor Terrace. DCI Foote said that this was obtained in case information became specific, and thus they would be able to search the address. He did not personally lay the information for the search warrant at the magistrates' court, but a Trident officer would have done this. DCI Foote confirmed that this is a tactic that his team used on a regular basis.

150. DCI Foote confirmed to the inquest that he met with D/Supt Mallon and Z51 on 2 August 2011 to discuss the MASTS operation planned for that week. He recorded the fact of this meeting in his decision log.
151. DCI Foote also confirmed to the inquest that he was the SIO in respect of the reactive investigation into Mr Hutchinson-Foster's involvement in the incident of 29 July 2011. DCI Foote said that, prior to 4 August 2011, he was aware of the suggestion that Mr Hutchinson-Foster would be supplying a gun to Mr Duggan. He thought that, by the close of play on 2 August 2011, it had been identified that Mr Hutchinson-Foster was the person who was going to supply a firearm to Mr Duggan. DCI Foote did not know personally of an address for Mr Hutchinson-Foster, and he did not know of anyone else having one, but he felt this was more likely to be a question that ZZ17 could answer. As to what else was known about Mr Hutchinson-Foster, DCI Foote said that they had a photograph of him and his details, they knew that he had been recently released from prison, for which he had been serving a sentence for a drugs matter. There was also some intelligence and an arrest in relation to firearms.
152. DCI Foote told the inquest that the intelligence that they had about Mr Hutchinson-Foster was that he had a firearm somewhere away from his premises. He did not have a phone number for him. He was asked about any consideration that was given to putting Mr Hutchinson-Foster under directed surveillance. DCI Foote said that this was not something he considered as, bearing in mind his experience of working at this level of crime and the finite resources available to the police, it was more important to focus on the location of the firearm (rather than where Mr Hutchinson-Foster himself was).
153. DCI Foote said that it was ZZ17 who would have been tasking someone to conduct research into Mr Hutchinson-Foster. DCI Foote said that ZZ17 was a competent, experienced detective, and he did not need to task ZZ17 to ask him to organise the research. DCI Foote agreed that, given that Mr Hutchinson-Foster had been

in prison, there would have been a file for him, but it was not for DCI Foote to conduct the research or to know the detail of the research.

154. DCI Foote was asked whether he could have done anything more to identify where the gun was. In answer to questions from the Assistant Coroner, DCI Foote said:

24.9.13,
p.87, line 25
to p.88, line
17

THE ASSISTANT CORONER: We are not concerned either with ownership but the position is you have just told the jury that we did not know where the gun was.

A. That's right.

THE ASSISTANT CORONER: Could you have done anything, looking back on it now, to have found out more than actually was found out about where that gun --

A. No, because the -- I can see where you're coming from, you're thinking why didn't we just do an operation around Kevin Hutchinson-Foster at that short - that sort of late stage in the operation. But the problem we have, and this is -- this is why Trident has developed the way we do work now, on the basis that what we have is one person who's got control of a firearm. There is no specific way of finding out where that firearm is unless the information is going to be really specific. It either comes from -- well, I cannot explain -- it's difficult to explain this.

...what I'm trying to do is make the jury understand that it's not as easy as it sounds, by putting someone under surveillance "Oh right, okay, well, the gun must be there". It doesn't work like that. How it generally works is that we have guys like this who will hide guns at other people's addresses, we call them safe houses, I think I mentioned this yesterday. What is quite common is that the safe houses tend to be girls or young people, and we've had 110 young women charged with firearm offences over the last seven years, and that's what makes it difficult to identify where they are. That person will have control over that firearm, but we will not necessarily see where that firearm is or actually know which address it is. If it's not in a house, then it could be hidden in a garden. ... So it's

not as easy as thinking, "Well, what can you do about Kevin Hutchinson-Foster". It's considered: what can we do? No, we'll stick with the intelligence. We know that Mark Duggan is going to collect a firearm and he's going to take possession of that firearm. We don't know where it is. We know that someone is going to provide it to him, and that person will either direct him into a location or pick it up from a third person or they will hand it over themselves. In this case, it happened to be Kevin Hutchinson-Foster actually handing it over. And, like I said to you yesterday, sometimes we have a runner -- or they have a runner -- that will do it for them. So it will be another person will pick it up, take it from whatever location it may be and hand it over".

3 August 2011

S2A

155. In relation to 3 August 2011, D/Supt Mallon's statement recorded that, *"At approximately 10.20am...I attended the meeting I had called with intelligence officers to discuss the intelligence position for Operation DIBRI. This meeting lasted for about one hour."*

156. D/Supt Mallon clarified at the inquest that this meeting was with managers from SOCA and that she did not meet A10 at any stage.

25.9.13,
p.172, line
23

157. D/Supt Mallon told the inquest that straight after this meeting she spoke to DCI Foote (the SIO) who informed her about the update around Mr Hutchinson-Foster. She stated that she was satisfied at this point that there was credible intelligence in relation to all six subjects of the operation. All that she knew, she said, from her conversation with DCI Foote was that *"Kevin"* had been identified as Mr Kevin Hutchinson-Foster. The end point of her understanding of the intelligence was that Mr Duggan was one of the six subjects and he was attempting to get a firearm from somebody who had now been identified as Mr Hutchinson-Foster. She said that she did not know where or when that would happen or where the firearm was being stored but that she assessed the intelligence being received as *"good"*.

158. D/Supt Mallon told the inquest that knowing that *"Kev"* was Mr Hutchinson-Foster was not a material change requiring a tactical or strategic review. She said that there was directed surveillance in

place on 3 August 2011 against six subjects, which she had reviewed on 1 August 2011 and would have been in place in any event. For further armed surveillance against Mr Hutchinson-Foster to have been put in place, it would have been necessary for there to have been an application from ZZ17, through Z51, to her to make a decision on how to deal with it. She was not asked on 3 or 4 August 2011 for an armed surveillance deployment directly on Mr Hutchinson-Foster.

26.9.13,
p.36, line 22
to p.39, line
3

159. D/Supt Mallon expressed a view that in her assessment it would have been “reckless” to make Mr Hutchinson-Foster a subject of the armed surveillance operation as in comparison to the six subjects, they had no reliable and/or credible intelligence about him. She stated that the intelligence centred around Mr Duggan, and the other listed subjects, and not Mr Hutchinson-Foster.

1.10.13,
p.42, lines 8
to 25

160. In his evidence to the inquest, ZZ17 also stated that,

“All the direct intelligence I was receiving, and likely to receive, was directly in relation to Mark Duggan. Any intelligence I was getting in relation to Hutchinson-Foster was only indirectly through the intelligence I had about Mark Duggan”.

1.10.13,
p.45, line 5

ZZ17 further stated that as he had no direct intelligence about Mr Hutchinson-Foster, he had no way of knowing if he had a gun, so in his view *“it would be fairly pointless to follow him”*. In response to questioning, ZZ17 emphasised that if he had organised for Mr Hutchinson-Foster to be followed on 3 or 4 August 2011, he would not have known where the gun was until it was in Mr Duggan’s hands as the intelligence related to Mr Duggan. Overall, ZZ17 maintained there was insufficient intelligence about Mr Hutchinson-Foster from A10 to carry out surveillance on him.

S9A

161. During 3 August 2011, ZZ17 stated that he attended the Quicksilver police patrol base in north London to participate in the briefing of officers (from CO19, SCD8 and SCD11) as part of the planned operation for armed surveillance on the six subjects later that evening. The briefing was scheduled for 6pm. Before the briefing, ZZ17 met with Z51 to provide him with an update on the available intelligence. According to ZZ17’s statement, this *“included information that Mark DUGGAN might take possession of a firearm later that evening.”* ZZ17 informed the inquest that due to the general nature of the intelligence he had not updated Z51 prior to 3 August 2011.

S1A

162. Z51 stated that he reviewed this information from ZZ17 and it did not alter the tactics that he had agreed and accepted.

D1421

163. In his statement dated 12 September 2013, A10 stated,
“On 3 August 2011 I received further intelligence that Mark Duggan still wished to collect the firearm from the male, whom I now believed to be Kevin Hutchinson Foster. There was still insufficient intelligence to identify where the firearm was being stored beyond the premises of the female associate was probably in the Leyton area. The intelligence indicated that Kevin Hutchinson Foster intended to travel out of London later that evening. I subsequently received intelligence that indicated that Mark Duggan would not be in a position to collect the firearm as he was attending a family barbeque. I disseminated all of this intelligence to ZZ17 by telephone.”

164. In his oral evidence to the inquest on 1 October 2013, A10 was questioned about when he received these two pieces of intelligence on 3 August 2011. A10 said that he thought the first part was received during the late morning or mid-afternoon. A10 said that the intelligence indicated Mr Duggan may collect the firearm around 9pm or after. A10 said the “subsequent” second piece of intelligence that day about Mr Duggan attending a family barbeque was received after 6pm or at some time later in the evening.

165. ZZ17 confirmed to the inquest that he received this intelligence from A10 on 3 August 2011. As to what ZZ17 knew before and after the briefing on 3 August 2011, ZZ17 stated that:

- He thought that he knew that Mr Duggan still wished to collect the firearm from the male that ZZ17 now believed to be named Mr Kevin Hutchinson-Foster but that there was still insufficient intelligence to identify where the firearm was being stored, beyond that it was at the premises of a female associate in Leyton, before the briefing;
- He did not know before the briefing that Mr Hutchinson-Foster intended to travel out of London later that evening and he became aware of that at some point after the briefing; and
- It was after the briefing that he became aware that Mr Duggan was not able to pick the firearm up that evening.

D408
D410

166. The briefing for the deployment that evening commenced at 6.10pm. The whole briefing was audio recorded (a copy was obtained by the IPCC) and subsequently transcribed. Z51 opened the briefing, introduced the command structure including the officer’s brief roles and responsibilities and handed over to ZZ17 to go through the “*information*” with the attendees. ZZ17 did not make

reference to Mr Duggan in much detail at the briefing on 3 August.

D408
D410

167. ZZ17 said,

“There are a large number of subjects and associates on this operation...There are I think 6 that have been put on the briefing for tonight who may become relevant for tonight or for the rest of the week...”

D408
D410
D720
D721
D722
D723
D724

168. ZZ17 referred the attendees to the briefing packs (which included the briefing document, photographs of the subjects, relevant maps, and team photo viewing log). The briefing covered five of the six subjects, including their photographs, aliases, known addresses and vehicle details. ZZ17 also made reference to Mr Duggan, *“Mark Duggan I’ll come back to in a minute because he may well become more relevant for this evening’s activity.”*

D408
D410

169. ZZ17 further stated,

“All of the subjects on here have got access to firearms. There’s nothing specific to say that any of them keep firearms at their home addresses or that they’re armed today. There is intelligence to suggest that Mark Duggan is currently in possession or control of about 3 firearms and that he is looking to take possession of a firearm perhaps this evening, he’s been trying to do it for a few days.”

D408
D410

170. ZZ17 continued,

“There’s some more photos coming round, these black and white ones which is a guy called Kevin Hutchinson-Foster. Intelligence would suggest that he’s got control of the firearms and from 9 o’clock this evening there may well be a plan for Duggan to somehow get those firearms from Hutchinson...”

D408
D410

171. ZZ17 further stated,

“...Hutchinson has got control of at least 1 firearm which he’s going to pass to Mark Duggan possibly at some point this evening. As I say there’s a lot more intelligence around and a lot more subjects and associates, I’ll try and keep it simple for now. As I say Mark Duggan is perhaps for today the most likely subject we’re going to be looking at.”

172. ZZ17 informed the inquest that the position emerging from the briefing on 3 August 2011, as far as the CO19 firearms officers were concerned, was a very general picture of six individuals, who all at various times were in possession of and using firearms and

involved in drugs, with Mr Duggan being identified as perhaps the most likely to take possession of a firearm that day.

S9A
D427

173. Following the briefing on 3 August 2011, CO19 Tactical Support Team (TST) officers remained in their vehicles at the briefing location. At 8.30pm SCD11 armed surveillance officers were deployed near to an address believed to be frequented by Mr Duggan. During the course of the evening Mr Duggan was seen to leave the address in a vehicle but was lost by the surveillance team a short while later.

S9A
D420

174. Z51 recorded in the FA2A (Tactical Firearms Commander's Policy File and Decision Log) that,

"...SCD11 armed officers were deployed but were unable to keep control of subject Duggan. No intel that any of the subjects were in possession of firearms at this time. Operation stood down at midnight..."

Officers were warned to attend a briefing the following day (4 August 2011) at 6pm.

175. At the inquest, ZZ17 was shown gists of some of the entries he had made in the book in which he recorded the intelligence. In relation to the gist for his 3 August 2011 entry which read "*Mark Duggan – social*" and "*Loss by SCD11*", he stated that this was a reasonable summary of the note he had made. It reflected him receiving intelligence that Mr Duggan, at least at some stage on 3 August 2011, was not going to be involved in criminality but was, instead, going to be involved in social activity. He said that Mr Duggan went to a family barbeque, and while SCD11 attempted to follow Mr Duggan, they lost sight of him and that the CO19 team were not deployed that evening.

176. During his evidence to the inquest from 23 to 25 September 2013, DCI Foote gave his account of the **events of 3 August 2011**. He confirmed that he had a further meeting with D/Supt Mallon and the MIB which was held to discuss the direction of the operation due to the level of investment and the longevity of the operation. DCI Foote had recorded that the MIB was strongly behind the operation, and the decision was to continue, based on five factors:

- TMD members were undoubtedly the most prominent criminals in London;
- As a consequence, this Organised Criminal Network (OCN) was high on the harm matrix across the MPS;
- Some of the top tier were within reach of being arrested for

substantive offences;

- Mr Duggan was most likely at that moment to be actively involved in firearms possession and therefore most likely to be arrested; and
- DCI Foote agreed with the MIB that the more frequent use of extended MASTS operations for late term periods into weekends would provide more opportunity for successful operations.

177. DCI Foote said that the assessment that Mr Duggan was most likely at that moment to be actively involved in firearms possession did reflect a change in the intelligence picture between 1 and 3 August 2011, as there was intelligence had come in on 2 August 2011, indicating that Mr Duggan said that he was actively looking to take possession of a firearm. DCI Foote said that this change in the intelligence picture did not cause any change in the plan.
178. DCI Foote agreed that, on 3-4 August 2011, there was no intelligence from SOCA that related to parties or nightclubs, but there was historical intelligence, he said, about this.
179. DCI Foote was questioned about what he knew about Mr Hutchinson-Foster on 3 August 2011, and what, if anything, should have been done in relation to him. DCI Foote did not recall Mr Hutchinson-Foster's name being mentioned at the meeting on 3 August 2011, but he was aware, by the close of play on 2 August 2011, that the intelligence suggested that Mr Duggan had arranged to take possession of a gun from Mr Hutchinson-Foster. He was aware, he said, that it was not going to happen on 3 August 2011, although he did not know the details. He did not record his knowledge on 2-3 August 2011 about this in his decision log.
180. DCI Foote emphasised in his evidence that, on 3 August 2011, his team did not know where the gun was. While, as a team, they would have known of intelligence before 3 August 2011 that the male associate thought to be 'Kevin', holding the firearm, stored it at the premises of an unidentified female who was absent at work during the day, it was not until 3 August 2011 that ZZ17 would have had a fuller picture. He said that Trident were not aware of the incident in which Mr Hutchinson-Foster had been involved on 29 July 2011. DCI Foote maintained that, whilst research was done around Mr Hutchinson-Foster, this did not assist in identifying where the location or address of the firearm was. DCI Foote emphasised that on 3 August 2011, in the face of credible intelligence that Mr Duggan was going to take possession of a gun,

but no specific intelligence about Mr Hutchinson-Foster, and given limited resources, DCI Foote had to focus the available resources around the credible intelligence. He said he did not therefore mount an operation or surveillance against Mr Hutchinson-Foster. He repeated that his aim was always to try and take guns off the street.

181. DCI Foote said that there was no consideration given on 3 August 2011 to the bringing forward of the briefing planned for 6pm on 4 August 2011, because the briefing was scheduled for the right time based on the intelligence that Mr Duggan was not intending to pick up the firearm until after a certain period of night. DCI Foote said that intelligence is unpredictable and his team had to respond accordingly.
182. Z51 gave evidence to the inquest on 2 October 2013. He confirmed that he was a Detective Inspector and was the Tactical Firearms Commander (TFC) for Operation Dibri. In August 2011, he said he had been in that position for approximately eight years. He qualified as a TFC in 2004. Z51 told the inquest that, by 2011, he had conducted a number of armed operations.
183. Z51 confirmed that his understanding was that the intelligence in this case could not be recorded at all due to legislation.
184. As to his **training for the role of TFC**, Z51 confirmed that he was trained for the role of TFC by the police, and he has done numerous courses over the years and kept himself up to date with development training. He said, prior to 4 August 2011, he had done his latest refresher training for TFCs in March 2011. The training occurs regularly. He explained that, whilst nationally there are lots of TFCs in the MPS (where the TFCs would be the busiest in the country, given Trident and the Flying Squad) and in different forces, not many TFCs are dealing with situations involving armed interventions or interceptions as often as he would be.
185. In respect of the **briefing on 3 August 2011**, Z51's evidence was:
 - The briefing was being held at Quicksilver police station, recorded in the briefing log as "YDQ";
 - He gave some of the briefing in which he explained that the command structure was that the Gold commander was D/Supt Mallon; he was going to be the TFC and ZZ17 was the Detective Sergeant on the operation. Z51 then handed over the briefing to ZZ17. The opening that he gave was a standard form of bringing everybody together;

- ZZ17 then explained the intelligence and then the briefing is handed over to V59 for the tactics and contingencies for the CO19 officers. The idea was that once the surveillance team had control of a target thought to be in possession of a firearm, then the CO19 officers would go in and detain that person, once Z51 had authorised an interception;
- At the request of D/Supt Mallon, Z51 mentioned in the briefing that Hatton rounds had been authorised for stopping vehicles but not entering premises – they would be used to take the tyres out on vehicles if necessary. He explained in the briefing that authorisation would need to be sought from D/Supt Mallon before entering premises;
- Z51 also covered in his briefing human rights, the legal restraints on the use of reasonable force, that a firearm was only to be fired as a last resort and that the responsibility for the use of a firearm is an individual decision. He asked for questions. Z51 said that he regarded it as very important to remind the firearms officers of their legal obligations, and this was recorded. He said it was a genuine direction, and it is the direction that he routinely gives at the end of the briefing, so that it is the last thing that officers hear before the operation commences;
- The firearms officers were separately briefed as well, with a briefing from their team leader, the Operational Firearms Commander; and
- It has been Z51's practice to give firearms warnings to the firearms officers at any briefing he carries out. Z51 explained that the warnings are more than just words and are to be taken seriously by the firearms officers.

186. On whether **surveillance could have been directed towards Mr Hutchinson-Foster rather than Mr Duggan on 3 – 4 August 2011**, Z51 said:

- On 3 August 2011, Z51 knew those parts of the intelligence that ZZ17 judged it was necessary for him to know to command the firearms operation;
- In the period 31 July to 3 August 2011, the SIO was DCI Foote, and the IO, or case officer for Operation Dibri, working for DCI Foote, was ZZ17. Z51's own position was that he had been brought in to be the TFC and, prior to 31 July 2011, he had not been involved in investigative actions for Operation Dibri;
- By 3 August, Z51 was aware of a person called Mr Hutchinson-

2.10.13,
p.80, lines 7-
8

Foster. He was aware that he had control of firearms, only becoming aware that it was more than one weapon on 3 August 2011 itself;

- Z51 accepted that research around Mr Hutchinson-Foster was possible, such as the location of the woman at whose house Mr Hutchinson-Foster stored his firearms. Z51 told the inquest that he knew research like that would have been going on because he had worked with ZZ17 before and knew him to be a very experienced and good officer, who would carry out research;
- Z51 did consider with ZZ17 the possibility of following Mr Hutchinson-Foster; this discussion was not recorded, as it didn't significantly change the operation as it was a MASTS-type operation, and there are sensitivities about what intelligence can be recorded;
- It was suggested to Z51 that if Mr Hutchinson-Foster had been watched, he would have been trailed to Leyton much earlier, but Z51's response was that they would not have known what he was doing or if those were the premises where he stored firearms; and
- Z51 stated that there would have been no advantage to following Mr Hutchinson-Foster – the intelligence was that Mr Duggan was going to take possession of a gun, he "*didn't know who was going to supply the gun to him*". Z51 emphasised that it was necessary to follow the intelligence.

187. V59 gave evidence at the inquest on 8 and 9 October 2013. He confirmed that, in August 2011, he was a Sergeant and the team leader for the firearms team involved in the stop on Ferry Lane on 4 August 2011. He had been in CO19, he said, since 2008 and he was trained as an Operational Firearms Commander and as a Tactical Advisor. He confirmed that, as team leader, he managed 12 experienced firearms officers, and he outlined the selection and training process for firearms officers, which is discussed further at page 431/2 below.

188. V59's evidence in relation to the **briefing on 3 August 2011** was as follows:

- Before the briefing on 3 August 2011, he was not aware of any of the intelligence specific to the operation;
- He acknowledged that the briefing on 3 August 2011 was more thorough than what occurred on 4 August 2011;
- Z51 handed over to him in the briefing for the method, the

background and intelligence having been covered. V59 then gave the tactical overview briefing for the joint deployment of armed surveillance and Tactical Support Team officers working on behalf of SCD8. V59 explained to the inquest that his TST was working effectively as a support service for SCD8, who were Trident – this meant that they would hand control of the scene over to Trident after any stop that took place, and it would be Trident who would make any arrests etc;

- In his section of the briefing, V59 said he had read and agreed with the contents of the written tactical advice that had been provided. He also briefed the team that eight surveillance officers would be armed. V59 confirmed to the inquest that he did not have any command role over the surveillance team;
- V59 explained during the briefing that it was CO19's intention to use the traffic light system, with which everyone was familiar, to carry out interception by way of foot deployment, armed vehicle stop or entry to premises. The exact location and method of deployment was to be decided dependent upon the prevailing circumstances. He briefed the team that the CO19 officers, who had been assigned their roles and responsibilities, would deploy in four vehicles – three Covert Armed Response Vehicles (CARVs) and one control vehicle;
- V59 assigned the call signs of Alpha, Bravo, Charlie and Control. V59 had personally given the CO19 officers a separate briefing assigning their roles and, in that briefing, he had also discussed the possibility of a subject fleeing, on foot or by vehicle. This separate briefing was not recorded;
- The briefing also addressed the question of whether a less lethal option in the form of a taser could also be carried. He told the inquest that there were five tasers amongst the team; normally one would be allocated to each driver with one additional one in this case allocated to the Bravo car;
- V59 briefed on first aid arrangements, and told the inquest that all CO19 officers had had, as a minimum, one day's training in first aid, and he had one officer in his team who had done a more extensive, two week, first aid training course; and
- Firearms warnings had been given at the briefing by the TFC.

Chapter 3 – Evidence relating to Mr Duggan’s minicab journey to Vicarage Road on 4 August 2011

Ms Precious Douaihy

S68
D262

189. In her statement dated 22 August 2011, Ms Douaihy said that on 4 August 2011 Mr Duggan was at her home in Micawber Court, near Hoxton in east London. She said she booked a minicab with Hoxton Cars on behalf of Mr Duggan at 5.10 or 5.15pm for him to be taken to Vicarage Road in Leyton and then on to Tottenham. Ms Douaihy said that he needed to pick someone up in Leyton and then visit his daughter in Tottenham.

190. Ms Douaihy said that Mr Duggan was collected by the minicab around 5.30pm. Ms Douaihy recalled he was wearing jeans, a blue top, white Nike trainers with purple and black on them and a Stone Island cream puffa jacket.

D262

191. Within 30 minutes, at 6.01pm, Ms Douaihy received a broadcast which Mr Duggan sent to many people from his BlackBerry mobile phone (Exhibit RES/4). It read, “*watch out 4 a green VW van — its Trident dey jus jammed me.*” Ms Douaihy said that she did not know what this meant.

Recording of the telephone call to book the minicab

R1B

192. A recording of the telephone call made by Ms Precious Douaihy to book a minicab for Mr Duggan was obtained from Hoxton Cars. The recording showed the minicab was booked at 5.12pm for Mr Duggan to be collected from Micawber Court, near Hoxton in east London. Ms Douaihy requested the minicab to travel to Vicarage Road in Leyton, north London.

ZZ17 and A10

S9A

193. In his statement dated 7 August 2011, ZZ17 said that during the late afternoon of Thursday 4 August 2011, he was at the Quicksilver Base conducting research and preparing for the

operational briefing due to take place at 6pm. He said that he was with a number of Trident officers but that the CO19 firearms team had not yet arrived.

194. In his statement dated 6 September 2013, A10 stated,
“Sometime time between 1710 and 1715 on 4th August 2011 I received intelligence that indicated that Mr Duggan would be imminently travelling by minicab to Vicarage Road in Leyton to collect the firearm. This was the first occasion on which I received intelligence which indicated an area where the firearm might be. I assessed the intelligence as being credible and immediately disseminated it to ZZ17 by way of a verbal briefing by telephone.”
195. In his oral evidence to the inquest on 1 October 2013, A10 reiterated that he only had knowledge of this intelligence shortly before 5.15 pm on 4 August 2011.
196. Mr Mansfield QC asked A10 if when passing the intelligence to ZZ17 he had said *“in the vicinity of Vicarage Road”* or *“Vicarage Road”*. A10 stated, *“I think it was in the vicinity”* or *“in the area”*.
197. On 7 August 2011, ZZ17 stated,
“At approximately 1720 hours I received intelligence which suggested that Mark DUGGAN was intending to take possession of a firearm in the immediate future, in the LEYTON area. The only officers available to me to respond immediately to this information were Trident officers. Given the information available to me, and the skills and experience of these Trident officers, I sent a number of Trident officers to the LEYTON area (ZZ37, ZZ75, ZZ46, ZZ50 and ZZ63). I informed Z51 (the TFC) of the new intelligence and the action I had taken, I contacted the team leaders of the surveillance team and the CO19 firearms team. I told each of them of the new intelligence and asked them to have their teams ready to deploy from the briefing location as soon as possible.”
198. ZZ17 confirmed to the inquest that A10 immediately disseminated this intelligence to him by telephone. He said that he understood the minicab was travelling to the *“Vicarage Road area in Leyton”*. ZZ17 said that he was sure he had not heard of Burchell Road at that point in time and that he was not familiar with the area of Leyton.
199. ZZ17 continued,
“A short time later, the CO19 firearms team arrived, all together. I spoke with V59, the firearms team leader and asked him to have

Transcript
1.10.13,
page 175,
line 8

Transcript
1.10.13,
page 207,
lines 10-16

S9A
S1A
S22

his team ready. I was aware that, during this time, some of the surveillance team, including the team leader, had arrived. A short time later, Z51 (the TFC) arrived at the briefing location. As I walked with Z51 I was aware that he was on the telephone to Z50, the Strategic Firearms Commander, confirming that the authority and tactics remained unchanged.

“I was aware that Z51 spoke with V59 and asked him to ensure that his team were reminded of their powers and responsibilities with regards to the use of firearms. Z51 and I went to the briefing room in order to brief the Surveillance team. Some of the team were still not present and they were not yet ready to deploy. While we were waiting for the team to be ready, I became aware that unarmed Trident support officers had sighted a minicab, registration number R343KPE, in the LEYTON area. As a result of information available to me, I believed this vehicle to contain Mark DUGGAN.”

“Z51 decided at this point that we could not wait any longer for the Surveillance team to be ready. Z51 asked the surveillance team leader to brief his team once they were in a position to deploy, to remind them of their legal powers and responsibilities regarding the use of firearms. Z51 asked the team leader to monitor the situation and to deploy as soon as possible.”

Transcript
1.10.13,
p.196, lines
17-20,
p.197, lines
11-12

200. When giving evidence to the inquest, A10 stated that shortly before 6pm he communicated with ZZ17 that Mr Duggan was in the vicinity of Vicarage Road.

201. In his statement dated 6 September 2013, A10 stated,
“Later on 4th August I received credible intelligence that Mark Duggan was in possession of the firearm and intended taking it to the Broadwater Farm Estate in Tottenham. I immediately disseminated this intelligence to ZZ17 by way of a briefing by telephone”.

Transcript,
p.197, lines
16-25,
p.198, line 1

A10 stated in evidence to the inquest that he told ZZ17 about this intelligence just after 6pm

S9A
S1A

202. In his statement of 7 August 2011, ZZ17 said that he and Z51 had got into the rear of the Firearms Control Vehicle and left as part of the CO19 convoy of four cars, shortly before 6pm. ZZ17 stated,
“Z51 asked me whether I believed that Mark DUGGAN was in the minicab and whether he had possession of a firearm. As a result of information received, I confirmed that I believed that Mark DUGGAN was in the vehicle and that I believed him to be in possession of a firearm. At approximately 1800 hours, Z51 declared state ‘Amber’, this authorised an interception take place on the

vehicle once we had caught up with the minicab and once the firearms team were satisfied that it was safe and feasible to do so. V59 relayed on the radio that we were now at state ‘Amber’.

203. ZZ17 informed the inquest that A10 had immediately disseminated the intelligence that Mr Duggan was in possession of a firearm to him and that he had updated Z51.
204. ZZ17 was asked by the Coroner if the CO19 convoy could have left any earlier than shortly before 6pm. ZZ17 said that *“it was a balance between getting all the resources in place that we would like to have and when we needed to leave”*. ZZ17 said the decision to leave the Quicksilver Base was made once they knew Mr Duggan had arrived to pick up the firearm. ZZ17 concluded, *“I think we left once it became apparent that would be the best thing to do and we were then in a position to catch up with the minicab and stop it.”*
205. ZZ17 stated that given the way the intelligence developed between 5.20pm and 6pm he could not think of any better response. Furthermore, he said that if the convoy of vehicles containing the firearms officers and the control car had arrived at Vicarage Road or Burchell Road before Mr Duggan left, he could not really comment on whether Z51, the TFC, and the firearms team would have thought that it was a suitable place to stop the minicab.
206. In his statement dated 12 September 2013, A10 stated, *“The intelligence throughout this period indicated that Mark Duggan upon collection of the firearm would store it at unidentified premises.”*
207. At the inquest, Mr Underwood QC clarified with A10 if he had any way of narrowing down the *“unidentified premises”* he had referred to. A10 stated, *“I did not know where the firearm was going to”*. He added that he *“assumed it was going to be London but it could have been anywhere”*. He stated that he thought it would be going to the Broadwater Farm Estate but that he did not know which specific part of the estate.
208. On 14 October 2013, A10 provided a third statement at the request of the Coroner to address part of his oral evidence to the inquest. Mr Underwood QC had asked A10 whether he had made a record to the effect that on 3 August 2011 he had an address for where Mr Hutchinson-Foster was storing the gun(s). A10 stated, *“The position is this. At no stage did I identify an address for the*

Transcript
1.10.13,
p.78, lines 1
– 21

Transcript
1.10.13,
p.170, lines
11-12

Transcript
1.10.13,
p.175, lines
9-16

female who was believed to be storing the firearm. The best intelligence we had was that she probably lived in the Leyton area.”

209. A10 continued,

“At 18:40 on 04.08.11, after ZZ17 had informed me that Mark Duggan had been shot, I made a short note of my actions that day...In this note I used the words ‘the same address’. By ‘address’ I meant the same unidentified location in the Leyton area as the previous day. At no stage did the intelligence identify a specific address. When asked by Mr Underwood QC if I had made a record that suggested an address, I responded ‘no’ because I did not actually have an address. I now realise that the use of the word ‘address’ might suggest a specific address, which was not the case.”

210. A10 produced a redacted version of his note (redacted words shown with ...) referred to as “MDI A10 1”. It read:

MDI A10 1
Thursday 4th August 2011
Notes made 18.40

MD is at a girlfriend's address. MD will be catching a cab over to KHF to collect the firearm. KHF is ... at the same address he was at yesterday lunchtime when he was with the female holding at least 2 firearms for KHF

MD is in the cab.

...

MD has just collected a firearm. The firearm will be taken to the Broadwater Farm Estate.

MD has the firearm.

All details above where [sic] given to ZZ17 Operation Trident North West. All recorded. The Operational team and CO19 support were due to have a briefing at 1800 and deploy. The intelligence was passed to ZZ17. This was prior to the briefing time of 1800.

Mark Duggan has access to a number of firearms. He has been involved in a number of shooting incidents at night club premises where he has discharged firearms.

At around 18.15 hrs on Thursday 4th August 2011 ZZ17 contacted me and told me shots had been fired and Mark Duggan had been shot and believed killed by armed police officers.

I had absolutely no doubt that Mark Duggan's intention today was to collect a firearm from Kevin Hutchinson Foster and take that firearm to the Broadwater Farm Estate in Tottenham to be placed at a safe address on the estate.

211. On 11 November 2013 A10 was recalled to the inquest to give evidence about whether he knew an address for Mr Hutchinson-Foster. A10 stated that:

- He did not know an address for Mr Hutchinson-Foster;
- On 1 August 2011, he had intelligence that a woman was holding a gun for Mr Hutchinson-Foster;
- On 3 August 2011, he knew that Mr Hutchinson-Foster was at the woman's address at lunchtime that day, that this woman was holding one or two firearms and that he gave this information to ZZ17;
- SOCA knew that this woman lived in the area of Lea Bridge Road on the Leyton side but he did not know a specific address; and
- On 4 August 2011, he did not know Mr Hutchinson-Foster was at the woman's address until approximately 5.10pm and that he passed this information to ZZ17 shortly after he received it.

DCI Foote

212. During his evidence to the inquest between 23 and 25 September 2013, DCI Foote gave the following evidence of note in respect of the developing intelligence picture on 4 August 2011:

- Although he was on duty, he was not himself involved at all on 4 August 2011 with the operation. As the SIO, he would not have had any part in controlling the firearms operations. He said that, once the firearms command of the SFC and TFC had been established – and once the operation was ongoing, he would not interfere in that firearms command – his deputy for the operation was ZZ17, as he was the person to whom DCI Foote had delegated the roles in relation to intelligence and day-to-day decision making;

- DCI Foote said that he was informed by ZZ51 that there was some fast-time intelligence on 4 August 2011 to which they were reacting, indicating that Mr Duggan was probably taking possession of the firearm. DCI Foote said that he did not know about intelligence coming through that the gun was on its way to storage; and
 - He disagreed with the suggestion that it would have been preferable to let the gun get to Broadwater Farm.
213. Although he was not with ZZ17 at the time of the receipt of intelligence at 5.10-5.15 on 4 August 2011, DCI Foote was asked questions about what he would have done in the circumstances. He said:
- In the circumstances where, by 5.20pm, it was known that Mr Duggan was on his way in a minicab to Vicarage Road, Leyton, he would have deployed some surveillance officers around that area. He said that he would not have expected to be asked for advice about, for instance, whether the surveillance team should track the minicab;
 - It would not have been an obvious choice to send the CO19 officers straight to Vicarage Road, as the teams were already making their way to Wood Green when the intelligence came in; and
 - At first, DCI Foote agreed, in answer to questions from Mr Mansfield QC that, if CO19 had been redirected to Burchell Road, it would have been an ideal place for an intercept blocking off roads, so as to contain the minicab with the gun in it. Later in his evidence, DCI Foote agreed that the decision about where a stop would take place would be a matter for the CO19 officers. He agreed that Burchell Road was a built up residential area, near a school. DCI Foote was not able to say whether there had ever been any intelligence about where the minicab was starting its journey from, and he said that it would not have been a realistic prospect to have the stop there. He agreed that the CO19 vehicles would have been quickly compromised in that area.

Z51

214. In his evidence to the inquest on 2 October 2013, Z51 explained the developing intelligence picture on 4 August 2011. He told the

inquest that, on 4 August 2011, he was travelling from his home towards Quicksilver when he received some intelligence from ZZ17 at about 5.25pm; this intelligence indicated to him that Mr Duggan was looking to take possession of a firearm imminently in the Leyton area. Z51 carried on to Quicksilver, approaching it from the west (the opposite direction to the CO19 officers). Z51 said that he could have gone straight to the Leyton area, but the best option for him, as the commander of the firearms operation, was to go to Quicksilver where some of the staff were already gathered. He said that he ensured that ZZ17 got the firearms officers and the surveillance team to go to Quicksilver. As he knew where Quicksilver was, and he was able to get there with his blue lights and two tones on, this was quicker than going to Leyton, which is an area that he does not know.

215. Z51 believed that he arrived at Quicksilver at about 5.40pm, within about five minutes of the CO19 officers. ZZ17 and a few SCD11 officers were also there. He said that he knew by this point that Trident officers were in the Vicarage Road area, trying to locate and identify the vehicle that Mr Duggan was in. Z51 confirmed that he waited for some while for the other SCD11 officers to attend Quicksilver; he did not consider that it would have been an option at that time to go to Leyton himself. He said that by the time he got to Quicksilver and had updated D/Supt Mallon, it was 5.45pm. He then briefed the surveillance team with ZZ17 and shortly afterwards he then received intelligence that the minicab had been spotted in the Vicarage Road area. Z51 could not be sure of the time of this but thought that he had left Quicksilver at around 5.55pm.

216. Z51 was asked to consider a range of hypothetical possibilities in answer to questions from Mr Underwood QC:

2.10.13,
p.18, line 5
to p.19, line
2

Q. I know this is hypothetical but can you consider this suggestion: if you'd had the intelligence about Mr Duggan imminently going to pick up a gun, say, half an hour earlier, would it have made any difference?

A. No, sir. It wouldn't have, no, because everybody had been rushing to get there just as they were. Like I've said, there was a tried and tested plan in place to try and deal with somebody taking possession of a firearm. I wouldn't have wanted -- you know, I needed to be there and command that situation with the firearms officers so I can't see it making any difference half an hour earlier.

Q. Would it have made any difference if you had known

where the firearm was being stored?

- A. Absolutely. If we had intelligence where the firearm was being stored we would have looked to recover that firearm.
- Q. Even though you were also getting intelligence that somebody was on their way to pick it up from there?
- A. Even though, sir -- you know, in Trident we - the priority is to take firearms off the street. Whether we have convictions with that or not, it's -- getting the firearm off the street is the priority.

217. On the suggestion that the CO19 officers could have gone directly to the vicinity of Vicarage Road and intercepted Mr Duggan there, Z51's evidence was as follows:

- Approximately a month and a half prior to giving evidence, Z51 went to Vicarage Road and drove past Burchell Road;
- Generally he is not familiar with the area;
- He agreed that the intelligence received from SOCA about Mr Duggan's intentions to pick up a gun was a very reliable source;
- He disagreed that it would have been sensible to have a rendezvous point in the vicinity of Vicarage Road; he felt the sensible thing was to have a rendezvous point at Quicksilver. He wanted everyone to come together, and this was why he asked the CO19 officers to come to Quicksilver;
- Z51 did not accept that he could have delivered a dynamic briefing on the move – as a commanding officer of the operation, he wanted to be there to brief the officers. Whilst it could be done on the radio, experience has shown Z51, he said, that he would like to do it face to face, at least with the firearms team leader;
- Z51 had asked ZZ17 to contact the CO19 officers to come to Quicksilver, but he did not know that the CO19 officers were leaving Leman Street at 5.15pm. While his vehicle had radio contact, Z51 was not in radio contact with the CO19 officers at 5.15pm;
- Z51 agreed that, if at 5.20pm, someone had been in overall charge and had said, "*Vicarage Road collection of gun*", CO19 could have gone straight across to the Vicarage Road area;
- Prior to this date, Z51 had done 20 to 30 interceptions but he has not done any since 4 August 2011 and has not been on

firearms duty. He agreed that officers are trained to conduct interceptions and that a trained officer should be prepared to be flexible;

- He was familiar with how to do containment of a house;
- Z51 agreed that an interception should take place in the safest possible place. He said that, in his experience, the safest option is in a moving vehicle, and that trying to surround someone on the street would be reckless when it is not known whether that person is armed, or there are people in the vicinity who could be taken as hostages;
- He agreed that if he had gone to the Vicarage Road area, he could have done a face to face dynamic briefing there if it was really necessary;
- Z51 may have considered the possibility of going to the Leyton area briefly, but quickly dismissed it. He agreed with exactly what ZZ17 had done, and in his opinion, the best place for everyone to be briefed was Quicksilver;
- Whilst it would have been “*lovely ... to have lots of time*”, Z51 said that he was working in a collapsing timeframe;
- He had not seen a better location for an interception than Ferry Lane in his eight years’ experience;
- A stop in the vicinity of Vicarage Road was not possible, as he did not know the place of the handover if there was to be one; whether it would be in a house or in a street; who would hand it over; how many people would be present; whether there would be public surrounding them. All of these factors meant that it would not be safe to conduct a stop in the Vicarage Road area;
- He accepted that more time, or getting to the Vicarage Road area earlier than he did, may have given him options to find a quieter location in which to position his team;
- However, there was plenty of time for the firearms officers to catch Mr Duggan up after he had left the Vicarage Road area; there were at least five minutes before they moved to “*state red*”;
- Z51 disagreed with the proposition that, had the planning been more thorough, he could have positioned the team in the Vicarage Road area much earlier on without having to play catch up and he did not accept that it would have been safer there;
- Z51 said that he didn’t think they could have done anything

2.10.13,
p.144, line 7

better than they did on the day. He said that the surveillance officers had done an excellent job in locating and identifying the taxi, and the CO19 officers did an excellent job to get in the position to put an interception in. He considered that they had picked the location for the interception as well as any location he had seen in his eight years. He said the reason that the outcome was not different was because of Mr Duggan, and the fact that he chose not to comply with the orders that he was given;

- Given that he did not know the Leyton part of London at all, at 5.20pm, he could not be sure of getting to Leyton by 6pm, and the CO19 officers would, therefore, have got there before him if he had sent them there. This would have meant that he would not have been complying with the ACPO Guidance, in particular paragraph 5.51 of the Manual, to be, as the TFC, close to the officers that he was commanding. Handing over to V59 was not an option, as V59 was not a TFC for this operation;
- Z51 considered that if he had authorised an intervention in the Vicarage Road area with him not present but trying to work out what was happening on the radio, and Mr Duggan had been shot, he would have faced many questions on why he had conducted the operation in such a risky and reckless manner;
- The unsuitable features of Burchell Road and Vicarage Road included the fact that they are residential streets; there are dead ends; although it would have been school holidays, there are schools in the area; and Vicarage Road is a one-way street and is narrow. All these factors meant it was just not a suitable area to do an interception. By contrast, at the time of the Ferry Lane stop, the minicab was under control, the street had a bus lane, so the vehicle could be passed and boxed in a safe environment. It was easy to get a vehicle in front of the minicab (as was necessary) in Ferry Lane; and
- It would have been impractical to put armed surveillance on subjects other than Mr Duggan in the context of Operation Dibri and the known intelligence on 4 August.

SCD8 Trident Surveillance Officers

S6A

218. ZZ37 was one of the five unarmed Trident surveillance officers sent by ZZ17 to the Leyton area at around 5.20pm. In his statement dated 7 August 2011 he stated,

“...Upon my arrival in the LEYTON area, I was aware that ZZ46 and ZZ75 had also arrived at that location. At this point as a result of

further information received from ZZ17 my attention was drawn to a beige coloured Toyota Lucida vehicle, the registration number was R343KPE. I noticed the vehicle contained two occupants and that in the rear window was a public carriage sticker. I relayed the registration number to other units.”

S6B

219. ZZ37 provided a separate statement on 10 February 2012 to the Crown Prosecution Service (in relation to the prosecution of Mr Hutchinson-Foster), specifically concerning his view of the movement of this minicab. He stated,

“...This vehicle passed my location and moments later I saw it turn left into BURCHELL ROAD E10 and out of my view. A few minutes later I saw the same Toyota Lucida reach the junction of BURCHELL ROAD and VICARAGE ROAD E10 and turn left. The vehicle reached the junction with PARK ROAD E10 and then turned right.”

S6A

220. In his 7 August 2011 statement, ZZ37 continued,

“Shortly afterwards I was aware that ZZ46 and ZZ75 were following the Toyota Lucida in PARK ROAD E10. I made my way to that location and followed them at a safe distance. I then saw the Toyota turn right from PARK ROAD into CHURCH ROAD E10. From CHURCH ROAD E10, the Toyota went across LEA BRIDGE ROAD E10 and into MARKHOUSE ROAD E17. At this point I was aware that firearms officers were making their way to us as further information from ZZ17 stating that Mark DUGGAN was in that minicab and was in possession of a firearm. A state amber had been called by the firearms team. As the Toyota reached the roundabout at the junction with ST JAMES STREET it turned left, past the railway station and into BLACKHORSE ROAD. ZZ46 and ZZ75 were still following the vehicle.”

221. ZZ37 gave evidence at both trials of Mr Hutchinson-Foster and to the inquest on 3 October 2013. He reiterated the evidence that he had provided in his written statements of 7 August 2011 and 10 February 2012. In response to questioning at the inquest, ZZ37 also stated:

- that he had received intelligence that Mr Duggan was on route from Shoreditch to the Leyton area to collect a firearm;
- that he did not know that the address of Mr Hutchinson-Foster’s female friend was in Burchell Road;
- that if he had known, he would have driven to a location where he could observe what was taking place in Burchell Road; and

- that it was by chance that he had parked where he had on Vicarage Road where he observed the minicab turn left into Burchell Road and reappear five minutes later.

S8A

222. In a statement dated 7 August 2011, ZZ46 another of the five unarmed Trident surveillance officers sent to the Leyton area by ZZ17 stated,

“As a result of information received, ZZ17 asked us to go to the LEYTON area of London where it was believed Mark DUGGAN was going to collect a firearm. In company with ZZ75, I headed to LEYTON and was aware that ZZ37 was also heading there.

Upon arrival in the E10 area, in response to information received from ZZ37, ZZ75 and I began to follow a bronze coloured Toyota minicab, R343KPE in PARK ROAD E10. The vehicle contained two occupants – the driver and a rear seat passenger.

We followed the minicab and I gave commentary of the vehicle's movements as it turned right into CHURCH ROAD. It crossed the junction with LEABRIDGE ROAD into MARKHOUSE ROAD and during my commentary I was aware that firearms officers were making their way to assist us and state 'Amber' had been called due to information received from ZZ17 that Mark DUGGAN was in that minicab and in possession of a firearm.”

223. On 1 October 2013 ZZ46 gave this same account during her oral evidence at the inquest. She stated that they parked in Farmer Road, just off of Vicarage Road, and listened to the radio commentary being given by ZZ37. ZZ46 stated that she heard ZZ37 say that the minicab had turned left into Burchell Road and that she noted this comment in her daybook at the time. The IPCC only became aware of this information at the inquest, the daybook having not been previously provided to the IPCC.

S11A

224. ZZ75 records in his statement of 7 August 2011,

“...Upon arrival in the LEYTON area and from information supplied by ZZ37 we began to follow a bronze coloured Toyota Lucida in PARK ROAD E10. This vehicle was a minicab with two occupants, the driver and a rear seat passenger. The registration number was R343KPE. We followed the vehicle in slow moving traffic with ZZ46 giving a commentary to other officers.”

This statement of ZZ75 was read as evidence to the inquest but he was not called to give oral evidence.

S4

225. With regards to his involvement with the minicab on 4 August 2011,

in his statement dated 4 August 2011, ZZ50 stated,

“As a result of information received from ZZ17 I made my way together with ZZ63 to the vicinity of LEA BRIDGE ROAD. Whilst in the vicinity of LEA BRIDGE ROAD I was aware that a vehicle was being followed by ZZ46 and ZZ75 who were in a vehicle together. I was also aware that ZZ37 was following behind ZZ46. I made my way and followed behind ZZ46.”

226. In his oral evidence to the inquest on 3 October 2013, ZZ50 reiterated his earlier account. In response to questioning, he said that he was sent to the Vicarage Road area by ZZ17. He stated that he did not know where Mr Duggan was travelling from or to. He stated that he and ZZ63 parked either on Melbourne Road or Whitney Road in a green Volkswagen Transporter van and received radio commentary from ZZ37. ZZ50 accepted that Mr Duggan could have seen the green van they were in at some point (perhaps accounting for Mr Duggan’s blackberry message at 6.01pm), although ZZ50 could not account how Mr Duggan may have known the van belonged to Trident.

S3

227. In his statement dated 4 August 2011, ZZ63 stated,

“I was on duty in plain clothes engaged in a covert operation in company with officer ZZ50. We were driving an unmarked police vehicle when we received information from Officer ZZ17 to attend the LEA BRIDGE ROAD area. We made our way to that location and whilst in the vicinity of LEA BRIDGE ROAD I became aware that ZZ75 and ZZ46 were following a vehicle. I also became aware that officer ZZ37 was also following the vehicle and was behind ZZ50, ZZ46. We made our way to their location and followed behind in convoy ZZ75, ZZ46 and ZZ37.”

228. ZZ63 reiterated this account when he gave evidence at the inquest on 3 October 2013. When questioned at the inquest, he stated that he did not know where Mr Duggan was travelling from or to. He stated that ZZ17 sent them to “the vicinity of the Vicarage Road area” where he then received radio commentary from ZZ37 and ZZ46.

Ms Desire Cox

229. Ms Desire Cox was the ex-girlfriend of Mr Hutchinson-Foster. On 4 August 2011 she lived in a house on Burchell Road, a road adjoining Vicarage Road in Leyton. She gave evidence at both trials concerning the transfer of the firearm, JMA/1, from Mr Hutchinson-Foster to Mr Duggan. In her oral evidence to the trials she said that

D1120
S184

she:

- Kept shoeboxes in a spare room at her house and wore shoes in a size 6, as indicated on the shoebox found within the minicab;
- Had previously bought shoes from River Island in a size 6; and
- Mr Hutchinson-Foster was present at her home on 4 August 2011 during the afternoon and Mr Hutchinson-Foster had access to the spare room.

Mr Hutchinson-Foster

230. Mr Hutchinson-Foster gave evidence at the inquest on the 8 October 2013. He recounted that he had been released from Prison on licence in April 2011. In July 2011, he was seeing a probation officer and had been allocated a room at the Nevill Road probation hostel in Stoke Newington which he may have visited during the morning or lunchtime on 4 August 2011. He stated that he did not tend to sleep at the hostel that often.
231. Mr Hutchinson-Foster said that Ms Cox did not have a job and that he saw her when it suited him. His account was that, on 4 August 2011, he arrived at her house in a hired car in the early afternoon and stayed there until about 6pm.
232. Mr Hutchinson-Foster accepted that the basis for his conviction was that he had the gun on 29 July 2011; the gun had his DNA on it; that the box had his, Ms Cox's and Mr Duggan's fingerprints on it; and that there was telephone contact between Mr Duggan and Mr Hutchinson-Foster when both were in the Vicarage Road area on 4 August 2011.
233. Mr Hutchinson-Foster's explanation for his and Mr Duggan's fingerprints being on the box is that he kept his football kit in the box and that he had handed such a box to Mr Duggan at a football match in July.
234. Mr Hutchinson-Foster's explanation for telephone calls that took place between him and Mr Duggan as Mr Duggan travelled towards his location that day, was that Mr Duggan wanted him to follow him to Tottenham to buy some cannabis and that Mr Hutchinson-Foster was telling him that he could not do so. He cannot recall any further detail about the telephone conversations.
235. The telephone calls between Mr Duggan and Mr Hutchinson-Foster are dealt with in more detail below under the heading "Mobile

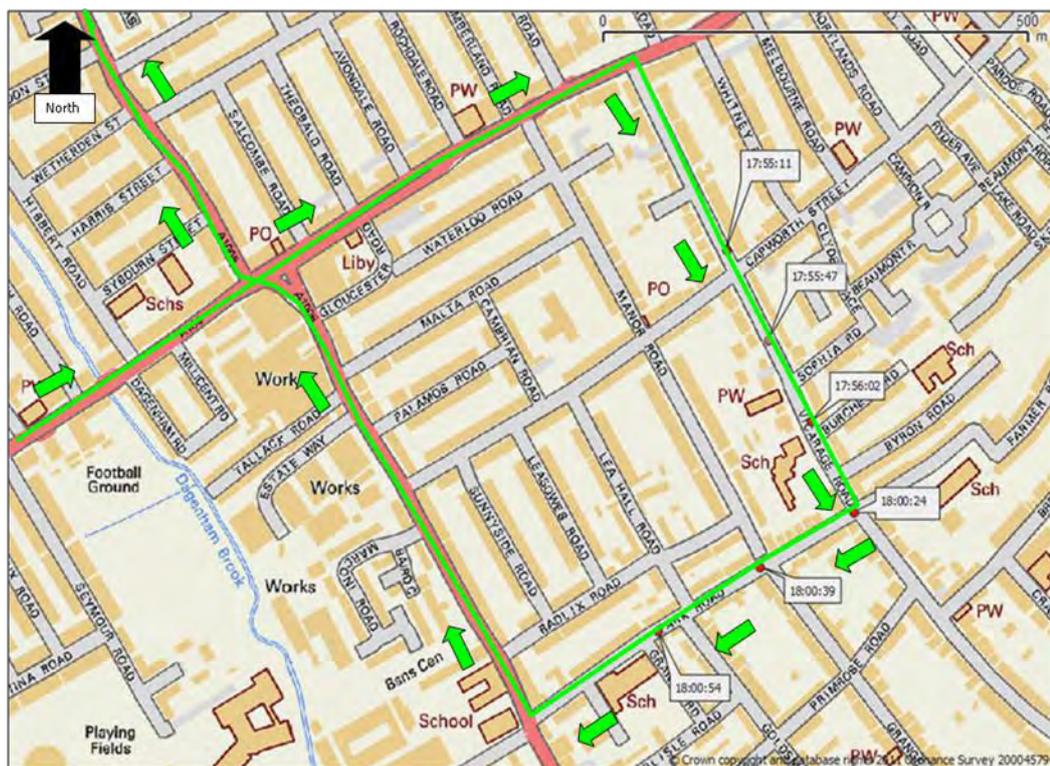
Communications Data”. The forensic and fingerprint evidence is dealt with in further detail in Chapter 8 below.

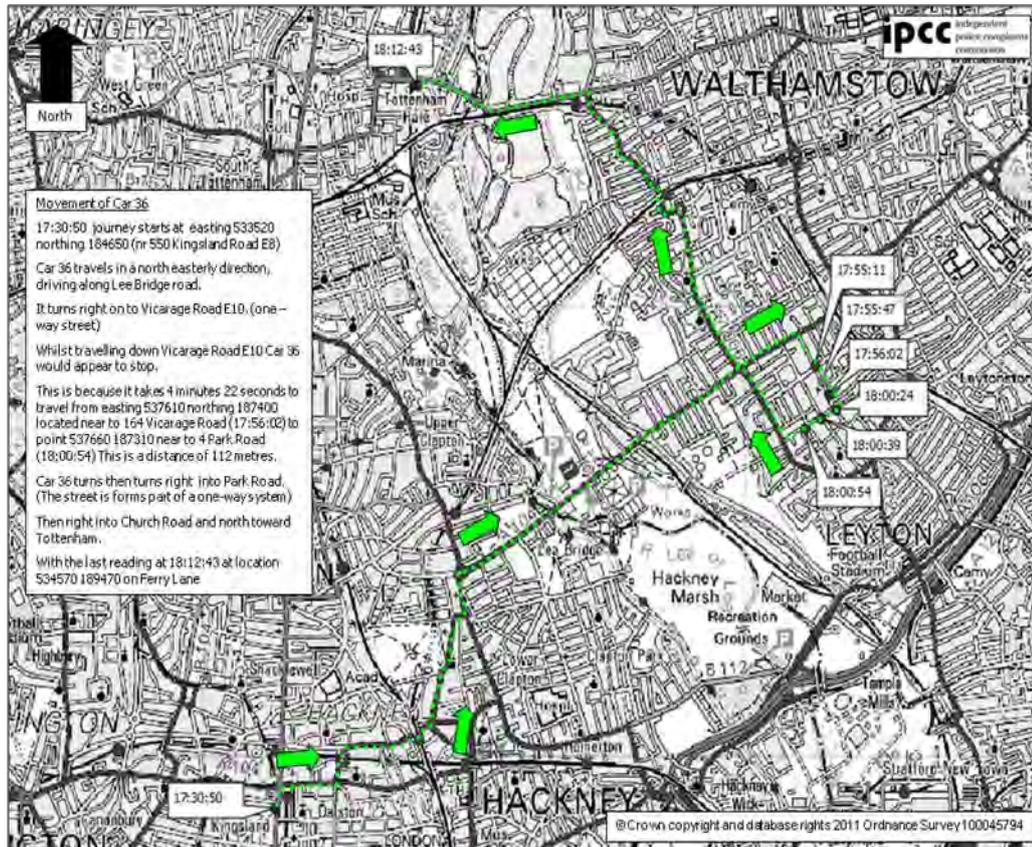
Minicab Tracking Data

S97
S136
X186
X187

236. The minicab firm also provided a download from their satellite Global Positioning System (GPS) used by the firm to view the location of their drivers. The transmissions data held relating to the movements of Car 36, the minicab containing Mr Duggan, was obtained and plotted on maps to establish the route taken (see the two maps on the pages below with the route of the minicab plotted).

237. The GPS transmissions show, after collecting Mr Duggan around 5.30pm, the minicab travelled to Vicarage Road, in Leyton. There was a GPS transmission at 5.56.02pm on Vicarage Road just before the junction with Burchell Road. The next transmission occurred at 6.00.24pm as the minicab turned right from Vicarage Road into Park Road.





Mobile Communications Data

D1098

238. A Sony Ericsson mobile phone (JMA/26), found in the jacket that Mr Duggan was wearing when he was shot, was established to have the name “Kev” saved in the contacts with the number ending xxxxxx1567. At the trials of Mr Kevin Hutchinson-Foster, he accepted that his mobile phone number ended with xxxxxx1567. He had the telephone number relating to Mr Duggan’s Ericsson, JMA/26, saved as “Marky”.
239. The mobile phone call data records showed Mr Duggan contacted Mr Hutchinson-Foster on 4 August 2011 at 4.57pm.
240. The call records showed Mr Duggan and Mr Hutchinson-Foster were then in frequent contact between 5.30pm and 6pm, and in particular telephone calls were exchanged between the two at 5.50pm, 5.55pm and 5.56pm.
241. The below table represents the call data retrieved from both of their

mobile phones, in the lead up to the shooting of Mr Duggan. Included in the table are some locations and times which have been taken from data provided by GPS transmissions from the minicab. It demonstrates the contact between Mr Duggan and Mr Hutchinson-Foster in the lead up to the transfer of JMA/1.

Date	Time	Type	Duration	From	To
04/08/2011	17:50:29	Call	00:00:41	Mr Hutchinson-Foster	Mr Duggan
04/08/2011	17:55:14	Call	00:00:23	Mr Duggan	Mr Hutchinson-Foster
17:56:02 Minicab sat nav point on Vicarage Road, E10 near junction with Burchell Road					
04/08/2011	17:56:45	Call	00:00:10	Mr Duggan	Mr Hutchinson-Foster
18:00:24 Minicab sat nav point on Vicarage Road, E10 near junction with Farmer Road					
04/08/2011	18:00:54	SMS	N/A	Mr Hutchinson-Foster	Mobile number ending 9771
04/08/2011	18:01:08	SMS	N/A	Mr Hutchinson-Foster	Mobile number ending 9771
04/08/2011	18:01:26	Call	00:00:55	Mr Hutchinson-Foster	Mobile number ending 4297
04/08/2011	18:04:05	Call	N/A	Mobile number ending 5865	Mr Duggan
04/08/2011	18:09:35	Call	N/A	Mobile number ending 2984 – Mr Marlon Duggan	Mr Duggan
18:12:43 Minicab stops in Ferry Lane, N17					

S188

242. The cell sites used by the mobile phone of Mr Duggan were also consistent with it being used as the minicab travelled to Vicarage Road and then to Ferry Lane.

S212

243. Mr Marlon Duggan, Mr Duggan's brother, was identified from the mobile phone billing as the last person who spoke to Mr Duggan between 6.09.35pm and 6.12.37pm.

244. The IPCC requested a statement from Marlon Duggan concerning

this telephone call. On 6 December 2012, in response to 18 questions put to him by the IPCC, Marlon Duggan said that he normally called Mr Duggan on a daily basis at no set time. Marlon Duggan said that this phone call was to arrange to meet Mr Duggan on the Broadwater Farm Estate that evening and that there was no other conversation about anything. Marlon Duggan said that Mr Duggan told him that he was in a cab and that he seemed in a normal mood. Marlon Duggan stated that Mr Duggan did not say anything which indicated his state of mind and he did not have any concerns for Mr Duggan. Marlon Duggan said that Mr Duggan did not mention the police or any surveillance and that Mr Duggan did not say where he had come from or whether he had stopped anywhere. He said that Mr Duggan did not mention any box or firearm and did not say if he was with anyone or not. According to Marlon Duggan, Mr Duggan ended the call because it was time to go as they had made the arrangement to meet. Marlon Duggan gave evidence at the inquest on 3 October 2013 and reiterated his account.

The minicab driver

X108-X112
D640

245. The minicab driver, who was driving Mr Duggan when he was stopped on Ferry Lane on 4 August 2011, was interviewed by the IPCC as a significant witness on 8 August 2011.

D640
D213
D361 / 362
D599
D600

246. The interview was tape recorded and conducted in Urdu by an Urdu speaking IPCC investigator in the presence of an Urdu language interpreter. Through his solicitors, the minicab driver subsequently provided statements concerning the incident, dated 13 April 2012 and 17 April 2012. Both statements were written in Urdu and translated into English; however, his statements record that he initially made the statements in Punjabi, his 'native tongue'. He confirms in his statements that he made them having had the benefit of refreshing his memory from the tape recorded interview of 8 August 2011. The minicab driver gave evidence at both criminal trials of Mr Hutchinson-Foster. His evidence is set out in full below.

S83A

247. The minicab driver worked for Hoxton Cars and drove a silver 8-seater Toyota Estima Lucida. He described his minicab as having separate compartments for the driver and passengers and that the passenger compartment had seats facing to the rear and the front (similar to a traditional London taxi). He confirmed that Hoxton Cars used a computer system to record and dispatch 'jobs', which involved the controller allocating a job by sending an electronic message to the driver's PDA (Personal Digital Assistant).

S83A

248. The driver confirmed in his 13 April 2012 statement that on the 4 August 2011 he was allocated a new job at about 4pm or 5pm via his PDA. He said that, *“The message informed me that I was to collect the customer from a small road near City Road and take the customer to Leyton. I do not now recall the name of that road.”*

S83A

249. The minicab driver continued,

“...when I arrived at the address, I called the number. I believe it was around 4 or 5 pm at this time. A lady answered the phone and I spoke to her. I said, ‘I am a taxi driver, did you call a taxi?’ She replied, ‘Yes’ and I said, ‘OK, I am outside, near the bike stand.’ She said, ‘OK, we are coming out shortly.’

“After a little while, no more than 5 minutes, a young Black guy came out. He was about 25 to 30 years of age. I had not met this man before. I do not know whether he had ever used Hoxton Cars in the past. He was 6’ tall and slim (not fat nor thin). He was wearing a jacket that was black. The jacket was padded — it was not bulky. It was not a long jacket. He was carrying a phone in his hand but nothing more. He got in to the back of my car and he took a seat in the middle facing forwards. I did not ask him his name and he did not tell me his name.

“He said, ‘First I want to go to Leyton and then to Tottenham’ or something similar. I said, ‘Alright — I will confirm with my office’ because the job had been booked to Leyton only. I contacted my cab office and said, ‘This man wants to go from Leyton to Tottenham’ and the controller told me to take him wherever he wanted to go and to charge him according to the mileage. He took his jacket off and put it on the seat. He was wearing a T shirt that might have been green in colour. He was talking in to his mobile phone. I did not listen to what he was saying and my car is quite large so I would not hear what he was saying. I distract myself from listening to customers’ telephone conversations and I do not understand much English. He was normal; he appeared to be in a normal mood. He spoke to me nicely.

“The weather was dry and bright I do not think the windows were open although the weather was nice. Only the front driver and front passenger windows open fully in that vehicle. The rear passenger windows tilt open by no more than an inch.

“On Lea Bridge Road I was stationary at traffic lights (I believe this was at the junction with Argall Way) and I noticed in my rear view mirror that Mr Duggan was looking back and that he was slouching down in his seat as if he was hiding. I noticed this because I was stationary and therefore not concentrating on the road ahead of me.

I thought that there was perhaps someone he knew behind us — it did not occur to me that he might be concerned about being followed by police.

Mr Duggan and I did not talk during this part of the journey — Mr Duggan was speaking with someone on the phone and he asked for directions from this person. Mr Duggan told this person where we had reached. He said on the phone, "I am on Vicarage Road." Mr Duggan said to me, "Okay, stop here." I stopped in Vicarage Road just past the junction with Capworth Street.

"A man came to meet the car. We did not have to wait for him to arrive. I would describe this man, as similar in appearance to Mr Duggan: Black, slim build and about the same age. He was about 6' tall. Mr Duggan did not get out. Mr Duggan opened the passenger door. Mr Duggan and the man said "hello, hi" to one another. I did not pay much attention to what they were saying. It was a brief conversation —no more than 2 to 3 minutes. Mr Duggan then took a box from this guy. The box was like a cake box. It was a cardboard box. It was a coloured box but I do not recall the colour. It was not white. It was about the same size as an A4 piece of paper but it was a cube shape. Mr Duggan placed the box on the seat in front of him. The car stopped for a short time: no more than 5 minutes.

"Mr Duggan then asked me to go to Tottenham High Road. To the best of my recollection, I continued along Vicarage Road, turned right on Park Road, right on Church Road, crossed the junction and continued along Markhouse Road, St James's Street and Blackhorse Road. I then took a left turn on Forest Road and continued to Ferry Lane. This part of the journey took about 12 to 13 minutes."

250. The minicab driver was questioned extensively at the two trials of Mr Hutchinson-Foster about the journey to Vicarage Road and the handover of a box to Mr Duggan. At both trials he reiterated the following:
- Mr Duggan was mostly on his mobile telephone in the rear of the minicab and he was sat in the centre of the three rear seats;
 - While stationary at the traffic lights on Lea Bridge Road he heard Mr Duggan on his mobile telephone saying *"I've arrived at Lea Bridge Road. I'll be there shortly"*. As far as he understood the conversations, Mr Duggan was asking someone the way and then Mr Duggan said *"Fine. Go to Vicarage Road"*;
 - He did not turn the minicab off Vicarage Road into any of the side streets. He stopped on the left hand side of Vicarage Road

near a junction. After a minute or two “a lad” arrived who had come out of a road nearby from the corner of it and he handed Mr Duggan a box. Mr Duggan placed the box on the seat in front of him; and

- He did not see Mr Duggan with a gun in his hands at any point.
251. On 14 October 2013, the minicab driver gave evidence at the inquest and reiterated the same account he had given previously.
252. The minicab driver explained that he had stopped on the left-hand side of Vicarage Road, opposite the school, when Mr Duggan was handed a box by a man. He stated that he had not turned off Vicarage Road and that he was between two black posts on the corner of Burchell Road and Vicarage Road. The Assistant Coroner specifically asked the minicab driver whether he pulled into the mouth of Burchell Road. The minicab driver stated, *“I was on Vicarage Road and -- corner of Vicarage Road and Burchell Road and I was in -- parked in such a way that the traffic could pass by.”*

Chapter 4 – Evidence relating to the shooting of Mr Duggan on 4 August 2011

253. In this chapter, the report examines the evidence concerning the stopping of the minicab, the actions after the minicab was stopped and the shooting of Mr Duggan.

The minicab driver

S83A

254. In his statements dated 13 April 2012, the minicab driver continued his account as follows:

“As we left Leyton, Mr Duggan asked me if I wanted to sell my car. He asked me this because I had posted a 'for sale' sign on the car. I said, "Yes." He asked me about the price. I said to him, "When you have made up your mind, then tell me, as I am going to sell it." He asked me why I wanted to sell the car and I explained that the public carriage office would not let me drive the car as a minicab once it was more than 10 years old and the car would be no use as a mini cab after a year. I asked him what job he did and he said, "I have two shops and I sell ladies' clothes". I told him that the car was well suited for carrying luggage for home and for family.

“By this point I was travelling along Ferry Lane in the direction of Tottenham High Road. Mr Duggan was sitting in the back facing forward at the nearside of my car. There was traffic but it was not heavy. I would describe it as normal traffic. It was now between 5 and 6pm and still light. I had just crossed the traffic light junction at Ferry Lane and Jarrow Road, when 3 cars came at high speed from behind me in a very dangerous manner. I saw the cars in my side mirror. I remember that one of the cars was black and another one of them was silver. None of the cars were marked police cars.

“The black car came at speed from behind me and came level with my car. It was driving very close to my car. This car then made a sharp swerve to the nearside which brought it in front of my car. I thought the black car was going to collide with my car. I directed my car to the nearside to avoid a collision but we still very nearly collided. I steered further to the left with great difficulty and made an emergency stop. My car was now immediately beside the nearside kerb and parallel with it. The black car came to halt in front of my car - parked diagonally and pointing towards the nearside kerb; the nearside of the black car was in front of my car.

“I stopped my car because of the actions of the driver of the black car. To the nearside of my car was a wall and metal railings. The silver car

came to a halt along side my car — on the offside.

“Men emerged from the black car in front of me. These men were not in police uniforms. About 4 men got out of the vehicle. I am sure that at least 2 of them were holding guns and it may have been that all 4 of them were holding guns. The guns were the length of my forearm (from my elbow to my hand) and had a long magazine. They were the type of gun that I have seen police officers using at the airport. The guns were black in colour. It occurred to me from the way they emerged from the car so quickly that they might be from the government or the police but I did not have time to even think about that — it was just an idea that went through my mind. As soon as the men got out of the car they raised their guns. They held the guns at chest level - parallel with the ground. Two of the officers were now on the nearside of the black car and two of them were on the offside of the black car. The men on the nearside of the black car were about 3 — 4 feet away from me.

“One of the men on the nearside got out of the rear passenger door of the black car. He shouted, "Don't move!" and he ran to the pavement. He was tall — more than 6'. He was White, clean shaven and had brown eyes. He was wearing a black jacket and pants. He was in an extreme rage — like a mad person. He was angry, crazy or mad.

“He only had to take a couple of steps to reach the pavement. I will refer to him below as 'Officer 1'. I did not hear Officer 1 or anyone else say, “Stop Police” or anything else.

“At that time, I heard the passenger door of my car open and I looked behind. I saw Mr Duggan making to run away. He was going in the opposite direction to the black car. I could not see whether he had anything in his hands - I could only see his back. He did not turn towards the officers. He did not point a hand or hands towards the men at the front of my car.

“I turned back to look towards the men who had got out of the black car. Officer 1 fired his gun. He looked very angry. I heard a burst of fire, it sounded like ‘trrrrr’. It sounded like an automatic discharge of ammunition. I think it sounded like 3 or 4 bullets being fired. It did not sound like a single shot. There was no sound of firing before or after that burst. I did not hear any sound of firing of any sort other than that single burst.

“When Officer 1 fired, I turned in the direction that the bullets went. I saw Mr Duggan going to the ground. I would estimate that the distance between Mr Duggan and Officer 1 was about 6 feet — it is possible that it could have been more but 6 feet is the best estimate I can give. Mr Duggan had only taken 2 or 3 steps by the time he was hit. He was on the pavement by the rear of the offside of my vehicle.

He had not had time to run away. I saw the impact of the bullets as I looked back. Mr Duggan had been shot in the back: to the middle right side of his back. I saw cotton coming out from his jacket. To the best of my recollection there were 3 marks — that 3 bullets hit him. Mr Duggan was wearing his jacket when he was shot.

“There were other people — I presume they were police officers — also on the pavement blocking Mr Duggan’s path and they were in the line of fire from Officer 1’s weapon. It occurred to me afterwards that Officer 1 could have hit his colleagues.

“I did not see Mr Duggan holding a gun at any point. If he had fired a gun I would have heard this. I only heard one burst of bullets. There was a wall. 5 or 6 feet in length, and railings to one side and officers to the front and the rear — there was no escape.

“Almost immediately after Mr Duggan had been shot, a police officer opened my door and took hold of my arm. I will refer to him below as officer 2. Officer 2 dragged me out of my car very forcibly and a third officer - who I shall refer to as Officer 3 - joined him. Together they dragged me to the ground and threw me on the ground face down at the rear of my car - a little behind my car. I was made to lie on the ground. Officer 3 stood with a gun pointing at me. Officer 3 said, “I will shoot if you move”.

“I was lying down on the road with my head slightly beyond the back of my car. I was on my front. My legs were pointed towards the front of my car. I was handcuffed behind my back but I do not know by whom. There were about 3 or 4 officers around me at this time. Mr Duggan was also lying just beyond the back of my car but on the nearside. He was on the footpath and I was on the road. Mr Duggan was lying in the same direction: his head was pointing towards the rear of my car and his feet towards the front of my car.

“I looked towards Mr Duggan. I could see him clearly. I looked to my right. He was 8 or 10 feet away from me. He had gone down on his front but he had been turned face up. Police officers were taking off his clothes to check his injuries. Mr Duggan’s mouth was open and he was bleeding profusely from his chest. There was a lot of blood. I realised that he was dying. His whole body was shaking. He was moving and he was in pain. 3 or 4 officers were holding him and removing his clothes.

“Officer 3 said, “Do not move your head. Do not move. Do not look there. If you move I will shoot you. I am watching you.” He threatened me again and again. This officer was standing at my head and he had a rifle. I said, “I am just a taxi driver. I am fasting. I am diabetic. Why are you doing this to me?” I remained in this position for about 10-15 minutes. Officer 1 and Officer 3 may be the same person but I am not

sure.

“After the incident I saw that the officers were wearing jackets with the word 'police' written on. This is the first time that I noticed these jackets. The officers were talking among themselves but I did not hear what they said.”

D906

255. At the trials of Mr Hutchinson-Foster, when asked about the initial stages of the stop, the minicab driver also stated:
- He could not see that the men with guns were police officers because they were dressed in plain clothes and they did not have caps on but he suspected that they were police;
 - He did not hear any sirens and described the police cars as approaching *“silently”*;
 - He heard somebody shouting *“Don't move”* and *“Stop”* but he did not hear the words *“Armed Police”*, although when asked about this he said, *“It all happened suddenly. Even if someone had, I didn't hear”*.

D906

256. At the first trial, when the minicab driver was asked what he saw when Mr Duggan got out, he stated that:
- Mr Duggan tried to run towards the rear of the minicab but that he only made it about a maximum of one or two steps before he was shot. He saw this from the driver's seat while looking back over his left shoulder; and
 - He did not see Mr Duggan's hands from any point as he got out of the vehicle to when he was shot. He could only see Mr Duggan's back. At no point did he see Mr Duggan's arm or arms being raised but he felt he would have seen this if it had happened.
257. At the second trial, the minicab driver explained that when the minicab stopped, he saw Mr Duggan getting up but that the police got out of their vehicles first and then Mr Duggan got out.
258. At the second trial, when questioned about the same point concerning how far Mr Duggan travelled after getting out of the vehicle, the minicab driver stated:
- “He jumped out, it would have been two, three steps. I don't know whether it was eight feet, or whatever.”*
259. The minicab driver was also asked in more detail about how he had been able to see Mr Duggan after he got out and he stated it was through the door which Mr Duggan had opened. He reiterated he could only see the back of Mr Duggan and stated, *“I just saw his rear*

side. What other part of his body could I have seen?”

260. At the second trial, the minicab driver was specifically asked about the number of shots that he heard. He stated:

“I think two or three shots. I could just hear one burst of fire, like drrrrr. It could have been two or three. I can't say exactly how many were fired during the time.”

D906

261. During the second trial, the minicab driver was also asked to explain why he thought Mr Duggan was shot in the back. The minicab driver explained that he saw the *“white marks and white fluff”* on the back of Mr Duggan's jacket and that this damage is the reason that he thought Mr Duggan had been shot from behind.
262. The minicab driver was unable to state whether Mr Duggan fell forwards, backwards or sideways but that he fell on the spot. He stated that when the shots were fired he looked towards the front, where he thought the shots were being fired from, and that he did not see anything else.
263. In his evidence to the inquest, the taxi driver reiterated that Mr Duggan told him to head towards Tottenham but that Mr Duggan did not mention Broadwater Farm. The taxi driver said that he was able to confirm that Mr Duggan had his jacket on when he got out of the minicab as he had seen him put it on somewhere during the journey after the stop on Vicarage Road, he stated *“I think it was Blackhorse Road or Lane where he put his jacket on.”*
264. On this occasion, when questioned about how he knew Mr Duggan was shot from behind, he stated *“I saw the officer actually fire.”* Mr Underwood QC enquired whether the minicab driver was looking forward at the time the shots were fired. The minicab driver stated *“Yes, the shot was fired from the front and I saw him hit because there was some cotton come out of his jacket.”* When asked to clarify, the minicab driver stated, *“There was only a few seconds that passed. I looked at the officer, then I looked back and I saw them. It was quite close to each other, both of the...”*
265. The taxi driver was shown the sketch plan he had drawn when interviewed by the IPCC. He said that Mr Duggan was only about two or three feet from his car when he saw the holes appear in his jacket. He said that he saw Mr Duggan fall on the floor suddenly but that he could not see the whole incident properly from where he was sitting. He said he saw that Mr Duggan fell forward after he was shot.
266. Mr Straw asked the minicab driver some further questions about what

he saw as Mr Duggan came out of the minicab. The minicab driver referred to Mr Duggan mumbling something as he opened the door but he could not make out what it was.

267. The minicab driver was asked again at the inquest about whether the police had shouted “*Armed police.*” He stated that he did hear something, but not the word “*police*” and he was not sure whether he had heard the word “*armed*” or not. He thought that he had heard something like “*hold*” or “*hold it*”, but he said that he did not remember clearly.
268. The minicab driver could not assist with how the non-police issue firearm had got to the grassed area.

CO19 officers

269. The CO19 Tactical Support Team (TST) of armed officers for the operation on 4 August 2011 was led by V59, a Sergeant, who was the Operational Firearms Commander and the Tactical Adviser to the TFC (Z51). The other CO19 TST officers were police constables, who had attended the briefing on 3 August 2011, except one officer referred to as W70.
270. All of the 11 CO19 TST officers completed short entries in Evidence and Action Books after the incident, late in the evening of 4 August 2011 and the early morning of 5 August 2011. They all completed further detailed statements on 7 August 2011.
271. The IPCC requested the CO19 TST officers to attend significant witness interviews in December 2011 to probe their written statements. The CO19 officers’ legal representatives sought clarification of the topic areas to be covered and, following receipt of these, the CO19 officers refused to be interviewed and opted to provide further generic statements about the broad topic areas. The IPCC repeated its request to interview the officers but the CO19 officers refused in a letter dated 7 February 2012 from their legal representatives. At this time, the IPCC had no option other than to provide a list of questions for each officer in order to attempt to clarify and probe their written accounts. The CO19 officers provided further statements, in response to the questions, during the course of May and June 2012.
272. The relevant extracts from the officers’ written statements are outlined below. Each officers’ account has been presented, as opposed to splitting and interweaving all the accounts chronologically. The officers have provided multiple written accounts, given oral evidence at the

inquest and a number have also given oral evidence at the two criminal trials of Mr Hutchinson-Foster. If the evidence was presented chronologically, there is a danger that the multiple accounts would be conflated and the reader would not be able to fully understand the provenance of the evidence of each officer.

V59

S22B

273. In V59's short entry in an Evidence and Action Book, completed on 5 August 2011, he stated,

“On Thursday 4th August 2011 I was on duty in plain clothes in company with other officers from TST2. I was in possession of my personal issue Glock SLP and MP5 and was posted to TJ902 control. I was deployed on Operation DIBRI a proactive SCD8 operation. I was the Operational Firearms Commander and Tactical Advisor to the Tactical Firearms Commander. At about 1715 we departed for Quicksilver Patrol Base. Whilst en route I was updated with Intelligence from SCD8. Due to this intelligence and further intelligence received over the next 30 – 40 minutes I provided tactical advice to the TFC. In response to this at 1813hrs my team carried out an interception on a bronze coloured people carrier registration R343KPE one of the occupants of this vehicle was believed to be in possession of a firearm. The vehicle stop was implemented in FERRY ROAD (FERRY LANE), N17. As the stop was carried out a male exited the nearside. As I exited my vehicle I heard a number of shots being fired and the male fell to the ground. As soon as he did this a number of officers began to administer first aid. I ensured the scene was secured and all officers were safe. First Aid continued until LAS/HEMS [London Ambulance Service/ Helicopter Emergency Medical Services] arrived. After a short time we all left the scene and returned to HD.”

S22

274. The significant extracts about the shooting from V59's statement dated 7 August 2011, are provided below:

“I am an accredited Tactical Advisor and Operational Firearms Commander. The role of Tactical Support Team is to provide mobile armed support to Surveillance teams and to provide an armed arrest capability should intelligence warrant this action.”

S22

275. *“As part of my tasking to Op DIBRI on 3 August 2011, I reviewed the Tactical Advice provided, the application for Authority for the deployment of Armed Officers (FA1) and the Tactical Firearms Commanders Policy File and Decision Log (FA2).” [V59]*

D19
S22

276. *“At 1810 hrs an Operational Briefing was provided by ZZ17 and*

Z51...I then gave the tactical methodology briefing, this covered that this was a Surveillance Operation with a mobile armed support capability. During this I explained that the Operation would utilize the traffic light system and ensured everyone deployed on the Operation was aware of this. Following my briefing the TFC; Tactical Firearms Commander gave every armed officer present the Firearms Warnings, these were provided at 1822hrs. I noted this in my Tactical Advisors Log (Book 36A) and then took responsibility for any further Tactical Advice and as the Operations Firearms Commander. At the conclusion of the briefing the CO19 team remained on standby at Quicksilver Patrol Base.” [V59]

S22

277. “I resumed to duty on Thursday 4th August at 1600hrs. At this point I briefed all officers present a full Tactical Support Team of ten Constables.... The team were posted to four vehicles; TJ902A a Silver Lexus [the Alpha car] TJ902B a BMW saloon [the Bravo car], TJ902C a black BMW Estate [the Charlie car], all of these vehicles were staffed by 3 TST trained officers.”[V59]

S22

278. “I was posted to a Blue Range Rover Discovery; TJ902 control [the Delta car] and I was posted with V72 [driver of the Delta car]For this deployment I was again the Operations Firearms Commander and was responsible for ongoing Tactical Advice for this operation, if it were to alter from that previously provided.” [V59]

S22

279. “At 1715hrs the team in the four previously specified vehicles left LEMAN STREET Police Station and made our way to Quicksilver Patrol Base where we were due to meet SCD8 officers and surveillance offices. Whilst en route to Quicksilver I received a telephone call from ZZ17 he informed me that it was believed a subject was going to the LEIGHTON [sic] area to take possession of a firearm and we were to make our way to Quicksilver as soon as possible. I relayed this to the rest of the team via our personal radio system. We then made our way to Quicksilver. Upon arrival I was met by ZZ17 who further briefed me that the subject was Mark DUGGAN and that we would receive further intelligence shortly.” [V59]

S22

280. “I further briefed the whole team with this new intelligence and put on the rest of my kit and covert body armour. I was aware that the Tactical Firearms Commander and Surveillance Officers were en route to our position. After a few minutes the TFC; Z51 arrived at Quicksilver, I spoke with him and he confirmed with me that all of the armed offices [sic] were to be aware of their individual responsibilities and firearms warning. Due to the very fluid and fast moving situation and because it was impractical at this stage to undertake a full briefing I ensured that all of my officers were aware of their individual

responsibilities and the firearms warnings.” [V59]

S22

281. *“...The time was 1745 hrs. I was aware that unarmed officers from SCD8 had already left for the LEIGHTON [sic] area as I was concerned for their safety. At this stage the SCD11 surveillance team were not ready to be deployed, I therefore suggested to Z51 that the TST team make our way to support SCD8 officers who were trying to locate the subject in the LEIGHTON [sic] area.” [V59]*

S22

282. *“The TFC agreed to this course of action and directed the TST team to do so. Therefore at 1755hrs the team left Quicksilver to support our unarmed SCD8 colleagues. Also in TJ902 control was Z51 and ZZ17, the four vehicles left in convoy and used our warning equipment to expedite our movement through traffic. After a few minutes I was updated via the personal radio system that SCD8 officers now had surveillance control of the subject. The ongoing commentary from SCD8 stated that the subject was travelling in a Bronze coloured minicab registration number R343KPE. I was concerned at this stage for the safety of our unarmed colleagues and although we were still some distance from the subject I spoke with Z51 and confirmed his intentions with regard to this vehicle.” [V59]*

S22

283. *“After a few moments he confirmed that the Operation was now at state Amber on the traffic light system. Z51 had authorised the interception of the vehicle. I relayed this decision over the radio on the main working channel so that all CO19 and SCD8 officers were aware of the situation. Our role was now to move through the surveillance and carry out the stop in the safest possible way. We continued towards LEIGHTON [sic] and en route I received further intelligence from ZZ17 that the male subject was heading towards BROADWATER FARM and that he was in possession of a firearm. The surveillance continued and our route took us into LEA BRIDGE ROAD and left into MARKHOUSE ROAD, we were still generally behind the route of the subject.” [V59]*

S22

284. *“I relayed both these pieces of recent intelligence to the CO19 team via our personal radio system. State Amber was declared at approximately 1800hrs. We continued in MARKHOUSE ROAD into BLACKHORSE ROAD, as we approached the junction with FOREST ROAD the convoy slowed and the warning equipment was turned off. We then held in heavy traffic towards a set of traffic lights at a junction ahead. The commentary from SCD8 continued and about 15 – 20 cars ahead of us I could see a gold coloured minicab, it was a people carrier and I could see a number of what I recognised to be SCD8 vehicles. Due to the specifics at this location it would not have been suitable to carry out an interception of this point, it was a busy road*

with numerous members of the public walking about and heavy traffic flow, therefore the team remained in their vehicles held in the slow moving traffic.” [V59]

S22
D19

285. *“Due to the very fast moving nature of the operation it was impractical for me to make any record of what had been occurring in my book 36A, we had been travelling at high speed, through busy London rush hour traffic, I was responsible for liaison with the TFC, liaison and communication with CO19 team, map reading and ensuring all my personal kit and weapons were ready for the interception, it would have been impractical in the circumstances to make contemporaneous notes at this stage. However, I was satisfied that the CO19 team were aware of the tactics to be utilized in stopping the vehicle. After a few moments I could see the traffic ahead moving forward, the commentary continued informing us that the lights had changed to green at the junction, when we were updated that the subject vehicle was through the lights and had turned left into FOREST ROAD we again made progress through the traffic and then also turned left onto FOREST ROAD.” [V59]*

S22

286. *“I again could see the same gold people carrier and the SCD8 vehicles, there was a dark coloured BMW X5 which was given in the surveillance commentary. We progressed down the nearside bus lane and then back out into the main carriageway still behind the subject vehicle. A bus was in the nearside bus lane as we overtook this, in front of the CO19 convoy was now two SCD8 vehicles who pulled over to the nearside and the commentary was now handed over to CO19. W42 who is the deputy team leader of the team then took over the commentary from his position as the operator and front nearside passenger in the lead vehicle; the silver Lexus call sign TJ902A. At this point W42 relayed over the commentary 'State Red.' This indicates that the interception is imminent and that he now has control over the timing for the stop. As W42 indicated that we were at the phase of the operation the dark coloured BMW X5 turned left into JARROW ROAD, we continued into FERRY LANE and the Alpha car was now directly behind the bronze people carrier. We were still in formation with all four vehicles in the respective positions, we were behind TJ902C and about two car lengths back. I could see a female cyclist on the nearside as we went through a set of traffic lights.” [V59]*

S22

287. *“I was now in possession of my MP5 which was carried on its sling, I had put on my gloves and was awaiting the interception. As we passed the junction W42 stated on the radio 'Strike, Strike, Strike' indicating the stop was being implemented. The Alpha vehicle then overtook the gold people carrier and the Bravo vehicle also moved to the offside of the road, initially despite the efforts of the Alpha vehicle*

the people carrier refused to yield however after a few moments the overtake was complete and the Alpha vehicle pinched the bronze vehicle into the kerb, the Bravo vehicle pulled alongside and the Charlie vehicle stopped directly behind the people carrier. Our role in the control vehicle was to stop behind the Charlie vehicle and create a sterile area, V72 used the warning lights and sirens and our vehicle prevented the female cyclist from getting involved in the stop. The positioning of the vehicles brought the vehicle which we had been informed contained the subject to a safe but abrupt stop.” [V59]

S22

288. *“I was aware that a second vehicle also had used its sirens and blue lights. As we stopped and as I began to get out of our vehicle I could see an IC3 male wearing a tan coloured jacket getting out of the rear nearside of the bronze people carrier, he was crouched over and was running back towards our vehicle on the pavement, he was unable to run in any other direction due to the Alpha vehicles positioning and a wall and set of railings next to the pavement. I opened the door and placed my blue high visibility police baseball cap on my head, at this point the subject was still crouched and his right hand was across his body and he appeared to be reaching for something. I turned to my left and climbed out of my vehicle due to the size of the door my view was obstructed as I moved around the door, as I looked back up towards the subject I could see numerous officers from the team converging to the subject who was still on the pavement. My view was obstructed by V53 and W70 and I could only see part of the subject at this point I heard two shots being fired and white feathers appear from the rear of the subjects back. I was about 5 metres from his position. He then doubled over towards V70, who broke his fall controlling his arms with his own and pushing him onto his back still restraining his arms as he went to the ground.” [V59]*

S22E

289. V59 declined to be interviewed for the purposes of the IPCC investigation. He was provided with 119 specific questions. V59 answered these questions in a statement dated 31 May 2012. In relation to what V59 could see of Mr Duggan and Mr Duggan’s position immediately before he was shot, V59 stated:
- “...My view of the male [Mr Duggan] was obstructed by V53 and W70, I could only see his upper left torso and head. He was on the pavement between the 'Charlie' car and the people carrier, approximately two to four metres from the people carrier, still within two to three metres of the railings. He was between two to six metres of V53 and W70.”*
290. In his evidence at the inquest on 8 and 9 October 2013, V59 explained **his role**: to act as the link between Z51 and the TST. In

practical terms, he said that he was in the control vehicle (i.e. the Delta vehicle) at the rear of the three covert armed response vehicles, and as the intelligence came in to ZZ17 and Z51, he would speak to those officers and pass that information through to his team in the three vehicles in front of them.

291. As to **the objective of a firearms officer who takes the decision to shoot**, V59 explained that the objective is to neutralise the threat posed by someone with a gun. In reality, he said, this meant that an officer who perceives an imminent threat to his life or the lives of others takes action to deal with that threat, so the threat no longer exists. V59 told the inquest that CO19 officers would always aim for the central body mass as it is extremely difficult to hit a leg, hand, arm etc. The CO19 officers were not trained or taught to hit a specific body part, but rather to hit between the bottom of the neck and the waist, i.e. the central body area where the main organs are. The reason for this is that to hit a target in that area of the body is the quickest way of neutralizing the threat posed.
292. V59 was asked about **his role in giving tactical advice on the day**. His evidence was that he was the Operational Firearms Commander, and not the Tactical Advisor. He said that Inspector Bennett was the Tactical Advisor and, in that role, Inspector Bennett provided tactical advice to the TFC and the SFC. Whilst V59 confirmed that he is an accredited Tactical Advisor (having completed the required two-week course for the accreditation), and was thus able to give tactical advice in relation to the advice that had already been given, if asked, he was not the designated Tactical Advisor on the day. V59 said that if his advice was to go beyond the tactical parameters and advice already provided by Inspector Bennett, then he would refer the TFC back to a further Tactical Advisor, who was not initially with the TFC.
293. V59 was asked by counsel acting for Mr Duggan's family whether he was in fact acting as the Tactical Advisor for the operation. He said he was not, and he did not accept that he was advising himself whilst in the control car. V59 emphasised that all CO19 supervisors are trained and accredited Tactical Advisors and that as a suitably trained OFC, he could provide additional advice during a deployment.
294. V59 explained the **weaponry carried by CO19 officers**. During an operation such as this, he explained that each team member would carry a personal issue Glock (a pistol) and his own personal issue MP5 (a carbine), which is more like a small rifle. He explained that the team also has: three G36s, a rifle-type weapon which is usually posted with the front seat passenger of each of the Alpha, Bravo and Charlie vehicles; three Benelli shortened shot guns; and Hatton guns,

loaded with Hatton rounds, used for tyre deflation. V59's vehicle also had a long shot gun, to be used in scenarios such as dealing with a dangerous dog.

295. V59's evidence was that a taser would not be of any use to the CO19 officers in the circumstances with which they were faced. Principally this was because a taser would not be proportionate to the threat posed. He explained that whilst a taser can incapacitate a subject, there are reasons why it may not, such as clothing, and where the imminent threat to life comes from a firearm, it should be met by a conventional firearm in order to deal with the threat proportionally. V59 said a taser was like a 'stun gun' and it would not be practical for the CO19 officers to carry a taser in addition to their existing weaponry.
296. On the tactic of **hard stops**, V59 highlighted that they are a key element of the TST's work. He said their objective was to isolate quickly and detain a subject within the subject vehicle, through shocking and physical and psychological dominance.
297. V59 was asked by counsel acting for Mr Duggan's family to assess the relative risks of the options of foot deployment, an armed vehicle stop or entry to premises. V59 said that the decision as to which option to use depends on the time of day and environmental factors, such as locations and premises. In principle, V59 said that the preferred interception method is generally containment and call out on a building, and the least preferred option is an interception on foot, with vehicle stops falling between these two options. V59 indicated that vehicle stops can take different forms – a mobile hard stop (as used on 4 August 2011) or a static stop. V59 did not agree that a mobile hard stop is a high risk tactic when it was conducted with suitably trained officers.
298. In terms of **the roles of the CO19 officers in their respective vehicles in a hard stop**, speaking generally rather than in relation to this particular case, V59 explained that the drivers of each of the three vehicles have to put the vehicle into position when executing a hard stop. In terms of the other members of the team:
 - In the Alpha vehicle, the front seat passenger would initially be the first person to stop, get out of the vehicle and provides firearms cover (i.e. points his firearm towards the vehicle that has just been stopped). The rear seat passenger also initially provides firearms cover and looks to fill in a role around that stop, but this team member has the additional task of being in possession of a Hatton gun in case the subject vehicle were to attempt to make off;

- In the Bravo vehicle, the front seat passenger will also provide initial firearms cover and point his weapon at the driver of the subject vehicle in order to respond to any threat posed. The rear seat passenger can have a Hatton gun as a contingency, but will be looking to exit the vehicle as soon as possible and get the occupants of the subject vehicle out;
 - In the Charlie vehicle, the front seat passenger will be looking to make his way as fast as possible to the front of the subject vehicle and remove the subject, and the rear seat passenger will be looking to help with that extraction or, if necessary, will deploy a Hatton gun to deflate tyres; and
 - Therefore it is the front seat passengers that V59 would have expected to be the first out of each vehicles and point guns into the subject vehicles. V59 emphasised that it was a fluid situation, however, and the officers are trained to be flexible in their role and respond to what is in front of them.
299. V59 said that, in the vast majority of cases, the stop will have taken place by the time he gets out of vehicle, as he is in the last of the four vehicles to stop (the Delta vehicle). V59 confirmed that the CO19 officers are all linked up by radio through one dedicated channel, although there was another channel to which everyone on the SCD8, SCD11 and CO19 teams had access.
300. On the **initial briefing given to his team** on 4 August 2011, V59 explained that he came on duty at 4.00pm in Leman Street. He gave a tactical briefing to his team, in which he went through the postings and told them it was essentially the same information as they had received previously. The officers – a team of ten in total – were allocated three per vehicle, with the tenth officer driving the control vehicle, and the team set off to Quicksilver.
301. As to the **intelligence update received on the way to and at Quicksilver**, V59's evidence was that he had received a telephone call from ZZ17 on the way to Quicksilver, updating him on the intelligence, which was to the effect that a subject was going to the Leyton area. This caused the TST to speed up. On arrival at Quicksilver, ZZ17 told V59 that the subject was Mr Duggan.
302. V59 was asked whether, at this stage, there was a choice to be made about whether to deploy to Leyton or wait for others to arrive at Quicksilver. V59's response was that his TST provided a support service, and was directed by the TFC, so he was awaiting his directions. There was no tactical advice to be given about that at that

stage. V59 said that he was waiting for Z51 to arrive at Quicksilver.

303. V59 said that, prior to Z51's arrival, the intelligence picture was incomplete. When he arrived, the intelligence was developing; V59 was aware that some Trident officers had been sent to Leyton to try and gain some surveillance control of Mr Duggan. Z51, ZZ17 and V59 discussed initially going to support the Trident officers. On Z51's instruction, V59 gave his team firearms warnings, and they then set out from Quicksilver to assist in supporting the SCD8 (Trident) officers.
304. V59 noted that, at this stage, the Trident officers had not got sight of Mr Duggan, and that on the previous evening, the surveillance officers had followed Mr Duggan and then lost him, although the CO19 officers had not been involved in the surveillance on 3 August. The CO19 officers supported the surveillance on 4 August because, V59 said, the surveillance officers were unarmed (from SCD8) and V59 felt that the TST needed be closer to the surveillance officers to respond to any threat to them; V59 advised Z51 of this accordingly.
305. As to **the further intelligence update that came through once the TST were en route to Leyton**, V59 told the inquest that the TST then received intelligence that the SCD8 surveillance officers had surveillance control. The TST were making their way from Wood Green to Leyton when, V59 said, they became aware that the surveillance team had their eyes on the minicab, at which point, the TST's objective became to support the SCD8 officers. The operation was still at "*state green*" at this stage (by reference to the traffic light system).
306. On "***state amber***" being called, V59 said that Z51 called amber, which had the effect of passing control over to the firearms team. V59 knew that intelligence being passed between ZZ17 and Z51 precipitated the decision to call "*state amber*", but he did not know, he said, what that was, although he was satisfied that it was time for "*state amber*" to be called.
307. On "***state red***" being called, W42, as the front seat passenger of the Alpha vehicle, was to call red when he had surveillance control of the vehicle himself and saw an area which he believed was the best and safest location to stop the vehicle. The first safe opportunity for this was, V59 said, Ferry Lane, as it was the first situation where the CO19 cars were directly behind the minicab. V59 noted that having vehicles amongst armed officers in a stop is very dangerous and they would avoid it.

308. V59 was questioned further about **the choice of the location of the stop**. V59 was asked whether it would have been at all possible to conduct the stop prior to Ferry Lane. He explained that Blackhorse Lane would have been a possibility but it was very busy at that time of day – rush hour – and there were 15 cars between the CO19 officers and the subject vehicle so it would have been highly dangerous. V59 said that when “*state red*” was called, the cars were in the right convoy positions directly behind the minicab and they were at Forest Road. He told the inquest that it was as good a location as he had ever seen throughout his career for a stop – there were very few members of the public around; the railings provided a natural barrier against escape and there was a large grassy area which would act as a sort of sterile area to keep any members of the public out and provide a safe backdrop were the officers to have to use their weapons (i.e. the bullet would not travel into a house or busy shopping street, for example).
309. V59 disagreed with suggestions put to him by counsel acting on behalf of Mr Duggan’s family that it would have been preferable to conduct a stop in Burchell Road or to have conducted a static stop there. Not knowing who was in Burchell Road, what vehicles could be parked there or what the traffic flow was like all meant that Ferry Lane provided a better location. He would also, he said, generally find a location near where a firearm had been transferred to be unsuitable as subjects are very aware of their surroundings.
310. As to **V59’s own role and what he saw as the stop was executed**, V59 confirmed that he was armed with his Glock and MP5. He said that he saw the Alpha car pinch across in front of the minicab, bringing it to an abrupt stop, the Bravo car pull alongside the minicab and the Charlie car driving right to the rear of it. V59’s vehicle (a Range Rover Discovery) then stopped fractionally behind the Charlie vehicle. V59 said that a lot was happening in front of him, he saw officers getting out of the cars and he was attempting to get out of his vehicle.
311. Describing **what he saw of Mr Duggan**, V59 said he saw Mr Duggan exit the minicab very rapidly and then run back towards the officers who had deployed from the Charlie car.
312. V59’s initial account to the inquest was that he leant forward to pick up his MP5, and turned to his left in order to open the car door, and as he turned to the left, he saw quite a lot of feathers coming from the rear of Mr Duggan’s jacket. V59 said that he opened his car door and then made his way towards that position. V59 thought that Mr Duggan had got a distance of about two to three metres from the minicab when V59 saw the feathers and the time that had elapsed was very short.

By the time that V59 saw the feathers flying, he could only see the top quarter of Mr Duggan, so he could not say how Mr Duggan's stance had changed.

313. In the course of his evidence, when asked to reiterate his account of what he had seen in cross examination, V59 said that, after seeing Mr Duggan exiting the minicab as if to sprint off, and running back towards the officers from the Charlie car, Mr Duggan then reached across with his right arm, down towards his waistband, and it was at this point, V59 said, that he went down to grab his MP5 and exit his vehicle. He then saw the feathers. He clarified his account in answer to questions from the Assistant Coroner as follows:

THE ASSISTANT CORONER: We've been around here a few times. Let's go through, before we go on to anything about statements and such like. You tell us, to the jury, exactly frame by frame what you can remember, all right?

- A. Okay. As the vehicle stopped, the side door was open and I saw Mr Duggan exit, very rapidly, from that side door. He was inclined forwards in a sprinting pose, as I've mentioned, and was moving rapidly towards the Charlie car. He's then reaching across his body towards his waistband area. I've lent down to collect my MP5, lifted it up and turned slightly to my left. At this stage, as I've turned to my left I can then only see the top left quarter of his body. At this point, I've heard two gunshots and then from the rear of his jacket a load of feathers appear. I then saw him be caught by W70 and be pushed backwards onto his back as I exited my vehicle. So as he's come towards the two officers from the Charlie vehicle, I'm seeing less and less of him as they're obstructing my view. Because they are between me and him.

THE ASSISTANT CORONER: What is the time between the two shots?

- A. They were in fairly quick succession.

314. Although V59 accepted that he had not mentioned seeing Mr Duggan with his right hand, down towards his waistband, in his earlier statements of 5 August 2011 or 7 August 2011, nor initially in his evidence to the inquest, he wholly rejected the suggestion that this was because of conferring with other officers. V59 said this was simply an omission by him.

315. V59 said it was obvious that Mr Duggan had been shot, after which he was going forwards until he was caught by W70 who took him to the floor. V59 said that at no stage did he see Mr Duggan come up again.
316. V59 said that he did not see a handgun go flying, and he did not hear shouting, although there were sirens in use on his vehicle.
317. V59 described **the steps taken immediately after Mr Duggan had been shot**. He was obviously aware that Mr Duggan had been shot, first from the feathers, and then from his ashen appearance when V59 reached Mr Duggan. W42 shouted that he had been shot. V59 shouted to Z51 for a medic pack from their vehicle, and to call for the London Ambulance Service and for Helicopter Emergency Services (HEMS). When Mr Duggan was on his back, V59 said that Mr Duggan was between the rear of the minicab and the front of the Charlie car and to the left of those vehicles.
318. V59 said that it was very apparent to him within about a minute at most that what had happened was that V53 had shot Mr Duggan and the round had continued through and hit W42. He did not at that stage discuss this with anyone else.
319. V59 said that he got a medic pack himself, which he placed on the pavement, and then began directing his officers in relation to specific roles. V53, V48 and R68 were carrying out first aid on Mr Duggan, there were other officers carrying out first aid on W42 and V59 was, he said, conscious of the need to seal the scene as much as possible, exclude the public and get further resources to their position, so he requested officers assist with that. V59 said that he asked one officer to take still photographs and another to video the scene. Q63 was tasked to video the administration of first aid.

W42

S23

320. W42 was a Firearms Officer and the deputy team leader of Tactical Support Team deployed on the 4 August 2011. He described this role as being “*2IC (operational in the lead Alpha vehicle)*” sitting as the front passenger of the lead CO19 car. He explained in his account that once the arrest phase of the operation is confirmed, it was his job to get the convoy of cars through the traffic and into a position where he could call “*state red*” denoting the “*strike phase of the operation*”, which involved the CO19 police cars surrounding the minicab and bringing it to a stop.

S23A

321. During the late evening on 4 August 2011, W42 wrote a short entry in

an Evidence and Action Book. He stated:

“On Thursday 4th of August 2011, I was on duty plain clothes assigned as 2IC (2nd In Charge) of TROJAN 902A on Tactical Support Team Two (TST2). On this day, I was tasked with stopping a people carrier motor vehicle Reg R343KPE, the occupant of which was believed to be in possession of a gun. I was armed with my personal issue Glock 17SLP, which was loaded and holstered and my personal issue MP5 (butt No.17), which was in condition one. The vehicle was stopped in FERRY LANE, N17. I was suddenly aware of shots being fired, one of which, hit me on my left side. I was immediately taken to the ground and tended to by my colleagues. I was taken to hospital, with no injuries as the bullet had struck my radio.”

S23

322. W42 wrote a statement on 7 August 2011 and further statements thereafter (he declined to be interviewed by the IPCC investigation). He also gave evidence at both criminal trials of Mr Hutchinson-Foster.

S23

323. The following are relevant extracts from W42's statement of 7 August 2011: *“...On Thursday 4th of August 2011 I was back on duty, employed on Operation DIBRI. I paraded at 1600 hrs at HD and kitted up my unmarked police vehicle (vehicle Alpha) a further tac-briefing from V59, stated no changes from the intel to yesterday. I again was employed in my role as 2IC (operational in the lead Alpha vehicle). I was in plain clothes and was armed with my personal issue Glock 17 SLP which was loaded and holstered.”*

S23

324. *“Whilst on route to QUICKSILVER, we received intelligence that a male subject was on route to the LEYTON area to pick up a firearm. This intelligence was given by V59 on my radio, having spoken to ZZ17.” [W42]*

S23

325. *“Once at QUICKSILVER patrol base, further intelligence was being gathered. At approx 1745, V59 asked if we were sure of our firearms warnings. I stated yes, as having had them read out the day before and on numerous other tape recorded briefings, I was happy with what the provisions of my warnings were.” [W42]*

S23

326. *“I was aware that there were unarmed colleagues on route to, so at approx 1755 we left QUICKSILVER to support these unarmed colleagues. Prior to leaving, V59 informed us that the subject on route was in fact, Mark DUGGAN, a male that was named and who's picture I had seen the day before.” [W42]*

S23

327. *“Shortly after leaving QUICKSILVER patrol base, V59 stated that the operation was now at state Amber. State Amber is the arrest stage of the operation, when there is sufficient evidence to do so, once state*

Amber is confirmed, it is then my role of 2IC to get our convoy of 4 vehicles through the traffic, where – upon I can call the state Red, which is when I am in place to conduct the strike phase of the operation.” [W42]

S23

328. *“Still remaining at Amber, it was my job to get us to LEYTON and myself & W56 done so. Whilst still on route I received intelligence that the male subject was now the rear seat passenger of a Bronze People carrier, the index was given as R343KPE. Information stated the vehicle was on route to the BROADWATER FARM ESTATE.” [W42]*

S23

329. *“At some point whilst still at state Amber, I received further intelligence that the rear seat passenger of vehicle R343KPE was in possession of a firearm.” [W42]*

S23

330. *“I continued to take the convoy up MARKHOUSE LANE towards BLACKHORSE ROAD, where I got the convoy to slow down. I could now for the first time see the Bronze coloured people carrier on the bend of BLACKHORSE ROAD, towards FERRY LANE junction. I put out over the car radio to the other cars that the car was on the right hand bend prior to the junction.” [W42]*

S23

331. *“The traffic was very congested and there was no way I was going to call the state Red at this point unless there was a compromise, due to the large number of vehicles and members of the public. Commentary was constantly given by the unarmed colleagues who were remaining to give the location of the vehicle. My lead car was several vehicles behind both the following vehicles and the subject vehicle. My job when calling the strike is to achieve the safest containment for members of the public and my team. This part of the follow would not achieve either.” [W42]*

S23

332. *“The vehicle then moved off at the traffic and turned left into FOREST ROAD, towards FERRY LANE. I got my driver to then make more progression in the traffic into FOREST ROAD, continuing behind the follow. The traffic again was very congested.” [W42]*

S23

333. *“I could see the Bronze People Carrier, again stuck in heavy traffic on FOREST ROAD, several vehicles ahead of us. As the traffic began to move again we made our way, progressing down the bus lane. A marker was put up for the vehicle, as having a dark coloured BMW X5, vehicle behind it. I identified this X5 but could still see the subject vehicle in front.” [W42]*

S23

334. *“Our vehicles rejoined the traffic from the bus lane and I now had only two of the following vehicles and the BMW X5 between me in the*

Alpha vehicle and the subject vehicle. After a short continuation of the follow, both SCD following vehicles pulled into the bus lane allowing my convoy through.” [W42]

S23

335. *“At this point, as 2IC, I called State Red, twice on the main working channel, indicating that I was now in charge of the strike phase. State red was conveyed prior to the junction of JARROW ROAD, on FERRY LANE.” [W42]*

S23

336. *“A short follow, with the member of the public's X5 in front continues, until the X5 then turns left into JARROW ROAD.” [W42]*

S23

337. *“Now having only the Bronze people carrier in front, I quickly confirmed the index as R343KPE and I quickly looked in my near-side door mirror that I had everyone in place behind us. Once happy, I told my driver, V48 to go for the stop, and on the main working channel (as we begun to overtake) I stated three clear commands of ‘Strike.’” [W42]*

S23

338. *“My driver V48 started to attempt the stopping of the vehicle, by pulling in front of the people carrier in our approved training method. This was proving difficult, but it was achieved. I remember hearing a police siren being deployed behind us as we finally positioned our vehicle in our approved Alpha position. Just prior to the overtake, I had quickly put on my gloves, I attached my MP5 carbine to my sling, and I placed my Police Firearms Officer baseball cap on.” [W42]*

S23

339. *“Just as our vehicle was coming to a stop, I had my passenger window open and I went for the door handle and deployed with feet on the ground. I immediately placed my MP5 selector lever to fire and as I turned out of the passenger seat, I brought my MP5 up to bear and aimed at the front of the vehicle.” [W42]*

S23

340. *“Seeing immediately that there was no front passenger or the driver posing any threat, I was almost immediately on the pavement, and onto the side passenger door. With my MP5 still in the aim, I immediately saw that the near side sliding door was open and I was presented with an IC3 male, who was exiting the vehicle.” [W42]*

S23

341. *“I continued to shout Armed Police, as I had done on exiting my vehicle, I was now shouting commands of 'Stand Still' and 'Show Me Your Hands'. The male had his right hand inside his jacket, as he exited, the whole time I was shouting, the male didn't even look at me, he seemed to use the open door as a pivot to aid his turn away from me, and make his escape. I continued to shout and with his back now to me, I remained in the aim.” [W42]*

- S23 342. *“Seeing other colleagues now in front of me, I shouted out twice, 'He's Reaching, He's Reaching', in context to his right hand being inside his jacket, I continued my aim and progression towards him, now passed the open door of the Bronze vehicle. I then remember hearing two gun shots.” [W42]*
- S23 343. *“At this point, I don't know how best to describe what occurred, but after one of the shots, I remember seeing the back of his jacket, seeming 'Explode'. In a split second, that seemed to go in slow motion, I saw what can be best described as feathers flying out of the back of the jacket. In a split second, my mind thought a taser had been fired and the feathers I was seeing was the inside of the taser, I believe they are called afids.” [W42]*
- S23 344. *“However in the same thought process, I then experienced and felt what I can only describe as follows. For twenty (20) years I have fought competitive at both national and county karate.” [W42]*
- S23 345. *“After the gun shot and seeing the feathers, I felt a pain in my side that felt like being kicked fully on in (the) side on my ribs, this was on my left side. It felt like a dull thud that I can only associate with having been kicked very hard at karate.” [W42]*
- S23 346. *“I dropped my aim due to the wind being knocked out of me, and I immediately knew I'd been hit. The whole time I held my aim, it was because I believe the passenger of the vehicle was in possession of a firearm.” [W42]*
- S23 347. *“I was now in what can only be described as a state of shock and unknown. The first person I knew to be by my side, was Q63, Q63 immediately said to me, 'Are you ok', I responded, 'I think I've been hit.” [W42]*
- D658
S23B 348. As part of the correspondence between the IPCC and solicitors representing the CO19 officers, about whether the CO19 officers would consent to be interviewed by the IPCC investigation, the IPCC confirmed a number of topic areas that the interviews might touch upon. As stated above, the CO19 officers did not agree to attend for interview – they provided statements in response to topic areas and specific questions. In response to the topic area *“locating the non-police issue handgun”*, W42 confirmed in a statement dated 18 January 2012 that he could *“offer no assistance”* in relation to this matter.
- S23D
D591 349. The IPCC investigation addressed 73 specific questions to W42. He

responded in a statement dated 22 May 2012.

S23D
D591

350. The IPCC asked W42 a series of questions flowing from the reference in his 7 August 2011 statement to *“...I was presented with an IC3 male, who was exiting the vehicle...”* The IPCC asked W42 to describe his first view of the man as he exited the vehicle in as much detail as possible and with reference to the extent to which the man had got out of the vehicle when he first saw him. In response, W42 stated, *“...I cannot offer anything further than in previous statements of his exit. All I can remember, was he exited the vehicle in a hurried manner and he was in full control of his movements. The position of his body was full on to me for all of a split second, enough for me to see his right hand inside his jacket.”*

S23D
D591

351. W42 was asked a series of questions flowing from his reference in his 7 August 2011 statement to *“...The male had his right hand inside his jacket as he exited...”* W42 stated, *“When I looked at the front of his body, he was wearing a dark coloured jacket, the jacket was open and it was worn as normal. His right arm was across his chest area with his right hand out of vision and tucked fully in this jacket. I couldn't see any part of his right hand. The height/location of his hand inside the jacket, I cannot be specific on, but it was approximately breast pocket height. I do not know what the male was doing with his right hand. With regards to the male's left hand or any, I have no recollection as to the movements of whereabouts of this.”*

S23D
D591

352. W42 was asked a series of questions flowing from his reference in his 7 August 2011 statement, *“...He seemed to use the open door as a pivot to aid his turn away from me, and make his escape.”* The questions asked W42 to describe the man's actions at this point, in particular *“What happened to the male's right arm as he turned away from you?”* W42 stated, *“...Now facing away from me. The male's right arm, still inside his jacket, began to move out. I saw his elbow move out...”*

S23D
D591

353. W42 was asked a series of questions flowing from his reference in his 7 August 2011 statement to, *“...I continued to shout and with his back now to me I remained in the aim...Seeing other colleagues now in front of me I shouted out twice, 'he's reaching, he's reaching', in context to his right hand being inside his jacket...”* In particular, W42 was asked to describe the position of the man's body when his back was to him, referring to the positioning of the right arm.

S23D
D591

354. W42 stated, *“As to the positioning of the male's body when his back was to me, I cannot offer anything other than is in my original statement. The series of events happened in such a quick time, I*

cannot be certain of the sequence of events, I can however state, I saw the movement of his right elbow, hence my shouts of he's reaching. I had no vision of his right hand at this point. He was however moving..."

S23D
D591

355. W42 was asked a series of questions flowing from his reference in his 7 August 2011 statement to, "...I then remember hearing two gun shots..." W42 was asked to describe where he was and where the man was when he heard the two shots. W42 stated, "*I cannot be specific in distances between myself and the male, but I would say I was level with the opened door and he was at the rear of the cab.*"

D869

356. W42 gave evidence at the first trial of Mr Hutchinson-Foster, at Snaresbrook Crown Court on 26 September 2012 and recounted his written evidence.

357. W42 gave evidence at the second trial of Mr Hutchinson-Foster on 11 January 2013. During the part of his evidence concerning when he could call "*state red*", he explained that the conditions that he was seeking to achieve were:

- all vehicles in the convoy present;
- the safest possible place for the strike to be called and initiated, so he had to make sure there were no roads that the vehicle could turn into; and
- that members of the public were not around.

P.47G-
50A

358. W42 was asked to describe Mr Duggan's movements as he got out of the minicab. He stated:

- Mr Duggan used the open door as a pivot to aid his turn away from him;
- The right-hand side of Mr Duggan's body was closest to him and the front of his body was never towards him;
- He shouted "*he's reaching, he's reaching*" because he saw Mr Duggan's right hand inside his jacket at breast pocket height;
- Once Mr Duggan's back was towards him he saw his right elbow move further out to the right-hand side from inside the jacket;
- Mr Duggan's jacket was open and undone; and
- He was in line or just past the open door of the mini cab when Mr Duggan was shot.

359. W42 gave his evidence to the inquest on 23 and 24 October 2013. In terms of his **own background and role**, he confirmed that he had

been in CO19 for six years. In the TST, he was second in command, which he explained entailed acting as the deputy team leader to the sergeant that ran the team; this required roles of administration and acting as the Alpha operator when the team conducted MASTS operations. W42 confirmed that it was his responsibility to take control of the vehicle stop once “*state amber*” had been called, and it was then his responsibility to decide when to call “*strike*”, control having been passed to him from the team leader who had in turn received it from the TFC. He agreed that there was a theoretical possibility that he could hand control back whilst at “*stage amber*” or “*stage red*”, but generally that would come from the team leader in the control vehicle, based upon further intelligence and it would be very difficult to do once “*strike*” had been called.

360. W42 was asked about **hypothetical scenarios that could arise in a MASTS operation**. He said:
- Where “*state red*” had been called and W42 was waiting to call “*strike*”, if the subject then got out of the vehicle and walked away, W42 would at that point, theoretically, still call “*strike*”;
 - W42 explained that if there was nowhere safe to conduct the stop due to parked cars on either side of the street, and the subject vehicle has been followed and come to a natural stop, then “*strike*” may be called; and
 - If nowhere safe had been found to call “*strike*” prior to Broadwater Farm, it might have come back from the control vehicle in this situation that they were going to leave the stop and the only option would have been to follow the vehicle all the way to Broadwater Farm.
361. W42 explained the **factors that he would have in mind for a safe place to conduct this sort of stop** - the main one is safety, of which there are three areas: safety of the public; safety of persons involved, including the subject, and safety of his colleagues.
362. W42 was asked about the **calling of “*strike*” on 4 August**. He said:
- First, he told his driver to go, so that that task was out of the way so that he could concentrate on getting onto the radio and alerting all the other units involved that the strike was taking place. The words he used to the driver were, when it was safe to do so, along the lines of “*Let’s do it here*”; W42 said that in terms of actual road safety, it was left to the driver to decide when actually to overtake, although when W42 put the matter into the driver’s hands, he was satisfied from his perspective that it was a “*completely*” safe place

line 21

to do the stop;

- Second, the driver having started to conduct the stop, W42 said “*strike*” over the radio;
- Third, “*strike*” having been called, the initiation of the overtake was in place. The Alpha vehicle cut in front of the minicab, and W42 had his window open and his door cracked open so that he was just keeping it closed by the handle itself. Before the Alpha vehicle came to a stop, but when he was happy that he was at a safe place that he was able to get his feet on the ground, he deployed his MP5, with his high visibility baseball cap on. W42 said that he was “*most certainly*” the first on the ground of the CO19 officers. Following a movement that he had done many times, as soon as W42 was pivoting out of his seat towards the vehicle in question, his selector lever is set to fire and his MP5 is brought up into the off-aim ready position;
- W42 explained that, generally, the first thing to do in a stop of this nature is to get a containment onto the vehicle in question, which is why it is generally the Alpha front seat passenger who is first with feet on the ground. Ordinarily the aim would be to get the containment onto the front of the subject vehicle which includes driver and front seat passenger. In this case, he said, as the subject vehicle was a minicab, his first intention was to get containment and a point of aim towards the front of the cab, which he had done, and he saw the taxi driver, who was posing no threat. He also said that he saw that the containment had been achieved, in that the taxi driver was concentrating on the front seat passenger of the Bravo vehicle; he was satisfied that there was eye contact between the taxi driver and the front seat passenger of the Bravo vehicle;
- The “*difficulty*” that he had referred to in his statement of 7 August 2011 in stopping the car was, initially, that the minicab had been driving slowly and as the Alpha car went to overtake it, it began to speed up slightly. The driver therefore came out slightly, having tried to overtake once, to avoid an accident but succeeded in overtaking it on the second attempt; and
- W42 accepted that the footage taken from the passing bus showed that there were pedestrians on the pavement, but he disagreed that the pedestrians were in the arc of fire, and he did not remember those pedestrians being on the pavement at the point at which he called “*strike*”.

23.10.13,
p.143,
line 22

363. As to **what he saw of Mr Duggan once he was on the ground**, W42 said:

- Within two to three steps, he was on the pavement and was onto the nearside of the minicab and saw Mr Duggan. To W42's recollection, Mr Duggan's passenger door was already open, and Mr Duggan was framed by the sliding door of the minicab. Initially, Mr Duggan was on the threshold of the minicab. He was not facing W42 at all, and W42 and Mr Duggan did not make eye contact. Mr Duggan looked to be facing either straight on, where the fence line was, or one sweep from where the fence line was to the rear of the minicab. W42 could not recall whether he saw the minicab door sliding open, but he saw that it was in fact open;
- Mr Duggan's right arm was side on to W42. W42 saw that Mr Duggan's right arm was tucked into his jacket – which was fully undone - with his hand completely out of view. W42 said he was concentrating on Mr Duggan's right hand and he could not recall what Mr Duggan's left hand was doing;
- W42 said that at this point, he thought Mr Duggan "*was standing as near proud as he could be, obviously with the height of the top of the door.*";
- Once W42 saw Mr Duggan on the threshold of the door, Mr Duggan then turned away immediately and made his way towards the rear of the minicab. W42 said that Mr Duggan was not moving at full pace, but in a hurried manner. W42 said that he was concentrating on Mr Duggan completely;
- W42 did not see a gun fly through the air. It was suggested to W42 that Mr Duggan had already thrown the weapon before W42 could have seen it; W42 denied this. He said that there was no way that Mr Duggan could have thrown the gun from the minicab and him not see it, because he would have had to do this while the cab was in motion, and, he said: "*I had vision on that vehicle at all times prior to and commensurate with the overtake*". He accepted that he didn't say this in earlier witness statements;
- Having deployed from his vehicle, W42 said that he identified himself as armed police and he shouted "*show me your hands*". At the point at which Mr Duggan was in the frame of the doorway, W42 did not have any other officers in his view;
- As Mr Duggan started to move away in his hurried fashion, pivoting out of the doorway and towards the rear of the minicab, W42 was then aware of officers from other vehicles also being on the pavement but he could not say from which vehicles these officers had deployed. There were officers behind Mr Duggan, and they were likely to have been from the Charlie vehicle, as that is where the officers who sit in that vehicle would have likely been

23.10.13,
p.147,
lines 6-8

24.10.13,
p. 67,
lines 10-
11

positioned. The distance between W42 and Mr Duggan when Mr Duggan started to move was approximately 20 feet, or just under a vehicle's length;

- As Mr Duggan moved away, W42 could not recall the height of Mr Duggan's movement. By this point, W42 had full vision of Mr Duggan's back. He did see Mr Duggan's right elbow move out a minimal amount, although describing that amount as a few inches would, W42 said, probably be correct. W42 said that this was enough to make him shout what he did next, which was two shouts of "*he's reaching, he's reaching*";
- After shouting this, W42 then heard two gun shots. He said that there was a definite distance between the two shots; and
- By the point when he shouted, "*he's reaching, he's reaching*", W42 was stationary. He thought that other officers would now be able to contain Mr Duggan.

364. When asked about how he had been able to observe eye contact between the minicab driver and the driver of the Bravo vehicle whilst observing the minicab so as to see that Mr Duggan did not throw the gun, W42 said, in answer to questions from Mr Thomas QC:

Q. So I just want to be clear on what you are saying. Were you concentrating on the taxi driver or were you concentrating on the side of the taxi to see whether anything could have come out?

A. I'll take it in two steps here, sir. Throughout when the overtake is taking place, I'm taking in the bigger picture, I'm taking in everything, what the vehicle was doing, if that vehicle were to attempt to make off. Obviously it didn't, we got into the approved Alpha position. Upon deploying, I'm still taking that bigger picture. It's hard to describe, sir, I mean that minicab -- you can take in the front, the driver, any passenger, and the area around you quite quickly and you can take in that great amount of information very quickly as well.

365. W42 gave the following account of **being shot himself**, confirming that by the time he was shot he had not seen a gun going through the air:

- When the two shots were fired and W42 felt the pain of having been shot, he was directly opposite the open door of the minicab;

24.10.13,
p.71, line
18 to
p.72, line
7

- W42 confirmed that he was shot and the bullet hit his radio;
 - His radio was set in a covert harness, the strap of which came over the top of the left shoulder and velcroed round the opposite right hand side. Because the radio is covert, it is designed that the harness will sit underneath the left armpit, so that if the arms are down, the radio cannot be seen;
 - In terms of clothing, W42 was wearing a skin tight neoprene sweat top, for comfort. He was then wearing his body armour and a navy blue t-shirt. The radio was underneath the t-shirt but was over his body armour;
 - After he had been shot, W42's concentration was on how badly wounded he was. W42 went to the ground exactly where he was hit, and he could not say which of the two shots hit him;
 - W42's height was about 5'7"-5'8", and the height to where he was shot was 4';
 - Q63 was the first person that came to W42's side and he came back to check on W42's welfare on a number of occasions after he had been shot;
 - He didn't see anyone going into the minicab when he was sitting by the railings, after being shot;
 - He did not say at any time that he had been shot by Mr Duggan;
 - He does not bear any ill-will to V53, who he described as a "*very, very good friend*"; and
 - Immediately after being shot, W39 assisted him to the ground. He did not know who had shot him; he received treatment at the scene and then in hospital, during which time he did not know that a gun had been found in the area.
366. In terms of the **aftermath following being shot**, W42 confirmed that he went to hospital with W56 and then back to Leman Street with him, and that they did not discuss the events of the shooting in that period. He added that he was left to his own devices in the hospital whilst W56 spoke to the hospital, dealing with a problem relating to how to book W42 in under his pseudonym, and the only interaction W42 had was with the doctors that saw him at the hospital. He knew at this time that Mr Duggan had been shot, but his recollection was that he did not know that he had died at this point.

V53

S21
D86

367. V53 was a firearms officer in the Tactical Support Team deployed on

4 August 2011. He was sitting in the front passenger seat of the Charlie car. It was V53 that fired shots at Mr Duggan.

S22

368. V53 was the only specialist firearms officer trained medic and sought to resuscitate Mr Duggan before other medics arrived.

S89
D239

369. V53 wrote his first account in his Evidence and Action Book on 4 August 2011. Before this, at the Ferry Lane scene, V53 gave a verbal account to W55 (Inspector Brian Elliott, a CO19 Inspector who attended the Ferry Lane scene shortly after the shooting incident). Inspector Elliott recorded in his statement that he asked V53 what had happened. Inspector Elliott recorded V53's response in his day-book as: *"I got out of the Charlie car. The subject got out of the rear nearside of the taxi holding a gun shaped item in a sock in his hand. He began to raise it up in my direction. I fired several shots."* V53 signed the day-book and timed the entry at 6.50pm.

D8
S21A

370. In his Evidence and Action Book dated 4 August 2011, V53 stated, *"On Thursday the 4th of August 2011, I was on duty in plain clothes employed as an Authorised Firearms Officer. I was employed on an Authorised Firearms Operation. I was tasked and authorised to carry out an Armed Vehicle Interception on a male who was suspected to be in possession of a firearm. The vehicle was stopped and I deployed from my Covert Armed Response Vehicle."* [V53]

D8
S21A

371. V53 continued, *"The subject got out of the rear nearside of the target vehicle. I shouted 'Armed Police.' He turned in my direction. My focus immediately turned to an object which I honestly believed to be a firearm. He began to raise it up and having an honest held believe that he was about to shoot me or my colleagues, I discharged a number of rounds hitting the subject. I then was involved in administering first aid until the arrival of the ambulance service."* [V53]

S21

372. V53 provided a more detailed account in his statement dated 7 August 2011. He stated the following,
"On Wednesday the 3rd of August 2011, my team including myself were tasked to provide Mobile Armed Support to Surveillance (MAST) to an Authorised Firearms Operations. I attended QUICKSILVER patrol base in TOTTENHAM to receive a main briefing. Prior to this, I received a tactical briefing at 1600hrs from V59 regarding Operation DIBRI" [V53]

S21

373. *"I am aware of Operation DIBRI. I am aware of armed stops being carried out and firearms and large amount of ammunition being recovered. I have also been informed in previous briefings of the TMD's propensity to use violence. I was also aware that the gang are*

very surveillance/police aware. Also that in the past, when covert armed officers intercepted vehicles in the past, firearms have been discovered as well as police vehicle have been rammed and escapes have been attempted and succeeded. My opinion is the gang are very good at what they are alleged to do.” [V53]

S21

374. *“During the main briefing which started at 18-10 I received my firearms warning from the Tactical Firearms Commander (TFC) Z51 and are recorded. During the briefing, I was shown a picture of a number of suspected TMD's which included a picture of Mark DUGGAN. I was informed he was disqualified from driving.” [V53]*

S21

375. *“I remained on standby at the patrol base until the operation was stood down at 0020hrs on the 4th of August 2011. I returned to my base and was not required to return until 1600 hours.” [V53]*

S21

376. *“On Thursday the 4th of August 2011 at 1600hrs, I came on duty. I received a tactical briefing from V59. No change from the previous day and my posting was the operator on a covert Armed Response Vehicle, call sign TROJAN 902C. After the tactical briefing I kitted up the C.A.R.V. [Covert Armed Response Vehicle]. On the vehicle I placed a large medic pack which includes O₂ and various dressings, tapes and other items. Also placed on the car is light method of entry equipment. I also placed my personal MAST bag which includes radio communications, covert body armour, overt plate carrier and helmet. I was posted in a black BMW estate vehicle. R68 was my driver and W70 was the vehicles navigator and Hatton gunner.” [V53]*

S21

377. *“At approximately 1715hrs, I left my base to make my way with my CO19 colleagues to QUICKSILVER patrol base. En-route to the base I received an intelligence update via my personal radio from V59 that a male who was a subject of this operation was going to LEYTON to pick up a firearm. Due to this my team used blues and twos to get to QUICKSILVER. My mindset from this information was I felt that this operation was taken shape and I felt that at some stage an armed interception would be authorised once sufficient evidence was obtained. Having worked with TRIDENT previously, I have confidence and faith in their intelligence gathering and they would not authorise an armed interception until they were confident of recovering a firearm. Failure to do so would compromise and jeopardise the operation which as mentioned was a pro-longed investigation.” [V53]*

S21

378. *“At QUICKSILVER V59 gave the team an update. It was believed that a male, Mark DUGGAN was going to take possession of a firearm. I was informed that an unarmed surveillance team were monitoring him. At QUICKSILVER, due to the fast moving developments and*

intelligence picture I received no further main briefing. This is normal when it's not practicable in the circumstances. V59 at 17.45hrs asked my team and I if we were aware of our firearms warnings. I stated I was." [V53]

S21

379. *"At approximately 17.55hrs I left the patrol base along with my team. My team were deployed in MAST formation which consists of (3) three Covert Armed Response Vehicles. These call signs were TROJAN 902 ALPHA which was a Silver Lexus which was driven by V48, operator W42 and maps/Hatton gunner W56. The second CARV, TROJAN 902 BRAVO which was a BMW saloon was driven by Q63, Operator R31 and maps, W39. I was the third vehicle, TROJAN 902 Charlie and the Control Vehicle consisted of V72 driving and V59." [V53]*

S21

380. *"At this point I was at State Green. This means conventional surveillance is to continue. As mentioned, my role was along my team was to provide armed support to the surveillance team. I had a covert ear piece on and I was aware that the team had control of the subject. My team started to make progress using blues and twos to close proximity of where the subject was. My role of Charlie operator is to monitor the communications. Other team members would be studying maps and plotting where the subject was and routes to get there." [V53]*

S21

381. *"At approximately 18.00hrs I heard V59 put out over the surveillance channel 'STATE AMBER, STATE AMBER' This means that the Tactical Firearms Commander who is in the control vehicle, which is a 4 x 4 Discovery is happy that their [sic] is enough evidence in his possession to request Armed officers to carry out an armed interception in order to detain the male. My mindset at this point was that the Tactical Firearms Commander had Intelligence to suggest that the subject, Mark DUGGAN was in unlawful possession of a firearm. As mentioned previously, from previous experience, I was in a mindset that this individual was in possession of a firearm unlawfully. My mind was also running through possible scenarios that may occur as well as focusing on my role in the upcoming operation." [V53]*

S21

382. *"...I also put on gloves and got my Blue 'Police' baseball cap in my hand." [V53]*

S21

383. *"I opened the flap on my Raid jacket which shows "POLICE" on the front and I asked W70 to unfold my rear flaps. The rear show "Metropolitan Police Specialist Firearms" on the back. En-route we discussed various plans [sic]. I said that the subject was likely to run or attempt to escape if he saw any police activity or on the*

activation/strike phase. I suspected also that violence may well be shown by the subject due to the propensity of violence shown by the TMDs. As mentioned, I have been aware of armed stops being conducted where vehicles have been rammed to escape, evidence discarded and determined escape attempts both on foot and in vehicles.” [V53]

S21

384. *“My car also discussed, as this was a mini-cab that Mark DUGGAN, was travelling in that the driver was more than likely an innocent member of the public but still be aware and treat him as an unknown risk. Also, R68 stated that once the strike/interception takes place, he would shout "Doors" which indicates that the vehicle had come to a complete stop. I also removed my seat-belt in order to give me more flexibility/speed to exit. My mindset also turned to past operations where subjects carrying firearms would use mini-cabs. This is because it draws no suspicion to them compared to driving or being in other vehicles of which the police may be aware about.” [V53]*

S21

385. *“A few minutes later, I heard a further update from V59 over my radio confirming that the subject was in the rear of the mini-cab and confirmed that he was in possession of a firearm.” [V53]*

S21
D464

386. V53 stated that just prior to hearing this update from V59, he was making an emergency telephone call to the 999 operator regarding an unrelated incident outside Clapton railway station. V53 had observed a uniformed police officer sitting on the ground outside the station holding his bleeding head. The IPCC has obtained the computer log (CAD8114 of the 4 August 2011) concerning this call. It is timed at 6:05pm. V53 stated, *“Upon hearing the further intelligence update from V59 in my earpiece confirming the subject being in possession of a firearm, I informed the operator I needed to terminate the call.” [V53]*

S21

387. He continued, *“This information again heightened my alert state and mindset. I began to again re-focus on my job in hand. I wanted to make sure that I was clearly identifiable as a police officer. I remembered back to previous police incidents of persons carrying guns in socks, firing at police and I wanted to be 100 PERCENT switched on to what I was about to do.” [V53]*

S21

388. *“My CARV's turned into BLACKHORSE ROAD. My CARV was stuck in heavy vehicular traffic. I heard commentary that the target vehicle/mini cab which was an old style gold people carrier, R343 KPE was in BLACKHORSE ROAD in front of a BMW X5. I scanned the road in front of me, saw the X5 and in front of it I clearly identified the mini-cab. It's distinctive due to its "gold" like colour and mirror in its*

back window. I was approximately 15 – 20 car lengths behind. The mini-cab was on a bend on a brow of a hill close to BLACKHORSE underground station. There was, as mentioned a lot of both vehicular and pedestrian traffic and I knew this would not be a suitable place to stop the car taking into consideration safety as the primary concern.” [V53]

S21

389. *“The traffic lights at BLACKHORSE LT station j/w FOREST ROAD changed as the traffic began to move. I did not see the traffic lights. The mini-cab continued and turned left onto FOREST ROAD towards the general direction of TOTTENHAM. The CO19 convoy of vehicles overtook some vehicles to make some natural progress. I lost sight of the mini-cab for a few seconds until my vehicle turned left on FOREST ROAD. The mini-cab was still several vehicles in front of our convoy. FOREST ROAD had a bus lane on my nearside. The convoy used the bus lane to undertake vehicles and to get closer to the mini-cab. At this point, I recall that the mini-cab was then being followed by an BMW X5, then the CO19 Alpha car.” [V53]*

S21

390. *“At this point I heard over my p/r W42 call state Red. This signified to me that the lead CO19 vehicle, the Alpha car has eyes on the mini-cab and it was under their control. It also signified to me that the interception would be called shortly once it was safe to do so. At this point my mindset was that I would have to be at the top of my game and that potentially I was putting myself into harms way. I opened the window of my door in order to aid any hearing and assist me in case my door wouldn't open. The convoy continued and was approaching FERRY LANE. The road narrowed into the start of a bridge. The X5 BMW turned left which meant the Alpha car was directly behind. I became aware of a blonde, white female was riding a pedal cycle. I was aware that the location of FERRY LANE at the start of the bridge would be in my opinion the best location to initiate the stop. The bridge, I recall is a road with one lane in each direction. On the nearside there is a footpath. Beside the footpath there is a wall/pillar which then becomes a metal railing fence. It is about 5 foot high. Behind the fence there was a grassed area.” [V53]*

S21

391. *“I then heard W42 call over the radio ‘Strike, Strike, Strike’. I looked to my left to shout to the cyclist to get away but we had over taking [sic] her and didn't. I focused on the back of the mini-cab. I placed my blue police baseball cap on and prepared to deploy from the vehicle once we had come to a stop. I saw the Alpha vehicle overtake and block the front of the min-cab. I saw the registration number was as given out as R343 KPE. The Bravo car then overtook on the offside. Initially the mini-cab did not appear to stop. I then heard two tones and the mini-cab came to a halt on the brow of the bridge next to the*

wall/pillar just before the fence line. My CARV stopped directly behind it.” [V53]

S21

392. *“As I look towards the back window of the mini-cab I see that only one person is sitting in the rear of it. The person is sitting behind the drivers seat (Rear Offside). I'm aware that the CO19 Bravo car is that side so I'm expecting officers to converse on him. However as I open my door and start to get out of my car, I see the subject move across from the offside to nearside. This immediately convinced me that this action would lead into an attempt of the subject to escape. I then saw the nearside rear door slide open. As this was happening I saw W42 come from the front nearside of the mini-cab. W42 was wearing a police baseball cap and was aiming his MP5 carbine into the vehicle. I heard W42 shout ‘Armed Police.’ The door opened and the subject, who I now know to be Mark DUGGAN got out of the vehicle at pace which to me indicated that he was about to run or fight his way out of this situation. I heard W42 shout "Stand Still Stand Still" I shouted at the same time ‘Armed Police.’ At this point I had my MP5 carbine in an off aim position with me looking over the front sights, with both my eyes open in order for me to take in completely what was occurring in front of me.” [V53]*

S21

393. *“As I've shouted ‘Armed Police’ he's turned to face me. I've perceived [sic] this as he is looking for another avenue to escape. At that time he was blocked by the mini-cab, to his front he was blocked by W42 and to the side he was blocked by a 5 foot metal railing fence. The only option or avenue of escape was behind him/towards where I was. At this point I began to think how the best option to stop him escaping. Immediately I saw him holding an object in his right hand. I immediately believed this object to be a handgun. The subject was holding the pistol grip [sic] of the gun. The shape outline, I could make out the trigger guard of it and the shape of the barrel. The size of the object was of similar size of my service issue Self loading pistol. I was aware from previous police experiences of person's carry firearms in socks. There was a black sock covering the gun. My focus then immediately shifted to what he was about to do with the gun. I saw him holding the gun in his right hand, side on to his stomach. He then began to move the gun barrel away from his body. I perceived this to be the beginning of him to raise his gun into an aimed position whereby he would open fire on me or my colleagues. I perceived this to be an imminent threat to life.” [V53]*

S21

394. *“He could have left the gun in the vehicle or thrown it when he opened the door of the mini-cab.” [V53]*

S21

395. *“I've raised my MP5 Carbine from a off aim ready to an aimed*

position. I did not have time to get a sight picture or look through the EO Tec sights on my MP5. I fired one shot aiming at his central body mass. The reason for aiming and shooting here is to neutralise the threat by immediate incapacitation, to prevent him shooting at me or my colleagues.” [V53]

- S21 396. *“I seen [sic] the round impact on his right chest. I've reassessed and saw that he was still holding the gun and that the gun was pointing towards my direction. I've fired a second shot. This appeared to impact on his right bicep. The subject then fell to the floor. I did not see where the gun went that he was carrying.” [V53]*
- S21 397. *“I've then closed the subject down. I'm satisfied that the threat is neutralised. My intention turned immediately to provide first aid to the subject I had shot.” [V53]*
- S21 398. *“Prior to closing the subject down I shouted ‘Shots fired, shots fired’ as loud as I could. I then heard W42 say ‘I'm hit, I'm hit’. I immediately thought that one of my rounds had over penetrated and strock [sic] W42. I was aware that colleagues had gone to administer first aid to the subject. I went to W42. He was standing up initially but I could see the colour of his face turn to white and his legs begin to give way. I've looked for any entry wound on W42 and satisfied myself there was no obvious penetration.” [V53]*
- S21 399. V53 described how he helped perform CPR on Mr Duggan until the arrival of the ambulance service.
- S21 400. *“During CPR, I took my MP5 carbine off and placed it on the pavement. This was placed in our control vehicle by one of my colleagues. During this period, I became aware that a firearm in a sock was discovered in the grassed area beside where I was.” [V53]*
- S21 401. *“Upon handing over to the Ambulance Service, I went and sat in the control vehicle and took control of my MP5 carbine.” [V53]*
- S21 402. *“Whilst in the control vehicle I was asked what happened by W55. I gave him a brief verbal account. I've then returned to LEMAN STREET Police Station with W70 and 2 ARV colleagues.” [V53]*
- D658
S21C 403. In response to the topic area concerning officers' movements and positions as Mr Duggan exited the mini-cab, V53 confirmed in a statement dated 18 January 2012 that, *“...I thought he was about to run. My instinct was I would have to take action to prevent his escape. I thought I had to close him down so I took a number of steps towards him. Once I saw him holding the handgun in his right hand, I stopped*

in order to get a stable shooting platform as I perceived [sic] this as an imminent [sic] threat to my life.”

D658
S21C

404. *“In relation to how Mr DUGGAN exited the mini-cab, I say he got out at pace. What my recollection is, that he jumped out as opposed to step out. My impression was that he was getting out of the mini-cab as quickly as possible. He had a spring in his step.” [V53]*

D658
S21C

405. *“In relation to the movement and actions of Mr DUGGAN after he exited, I describe this as a ‘freeze frame moment.’ I was totally focused on his hand movements so cannot be sure about his actions and movements. My perception was he was more or less face on to me with the handgun across his stomach in his right hand. I cannot say if he was moving or standing still.” [V53]*

D658
S21C

406. *“In relation to my position when shots were fired, I cannot be specific. I was on the footpath. I don't think I was forward of the front of my Covert Armed Response Vehicle at the time the first shot was fired. I do not believe that I moved when I fired the second shot.” [V53]*

D658
S21C

407. *“In relation into the position of Mr DUGGAN when shots were fired, I cannot be specific. He was on the footpath, somewhere between the mini-cab and fence.” [V53]*

D658
S21C

408. *“In relation to the movements of Mr DUGGAN as the shots impacted, the first round impacted on his right chest which caused his body to flinch to the right slightly. I cannot say what movements were caused when the second round impacted on his right bicep. Mr DUGGAN fell backwards onto the pavement. In relation to my movements and actions after the shots impacted, I cannot add any further information other than what is in my original statement dated 7th of August 2011.” [V53]*

D658
S21C

409. *“In relation to the location of the non-police issue firearm, I cannot add any further information.” [V53]*

S21D

410. In early 2012, V53 declined to attend IPCC offices to be interviewed. Therefore, in common with the other CO19 officers, V53 was provided with specific questions, 209 in total in his case, which he answered in a statement dated 22 May 2012. Relevant extracts are included below.

S21D
D1091

411. V53 was asked a series of questions to probe his reference, in his 7 August 2011 statement, to his discussions with the other CO19 officers in the Charlie car. In particular, he stated in his 7 August 2011 statement, “...En-route we discussed various plans. I said the subject

was likely to run or attempt to escape if he saw any police activity or on the activation/strike phase.” The ‘escaper’ issue was included in the 22 June 2011 briefing given by ZZ17 to CO19 officers - specifically in relation to Mr Duggan. However, the ‘escaper’ issue was not included by ZZ17 at the 3 August 2011 briefing (the briefing attended by V53). V53’s May 2012 statement refers to his understanding, gleaned from attending previous Operation Dibri briefings, that TMD members, “...*were likely to run or attempt to escape...*” There is no indication that V53 had a particular understanding in relation to Mr Duggan that he (in particular) might seek to escape if confronted by the police and there is no evidence that V53 attended the briefing on 22 June 2011. However, the ‘escaper’ issue may be relevant to V53’s assessment of what CO19 officers might have to deal with when apprehending Mr Duggan and therefore the following quote is included from V53’s May 2012 statement:

S21D

412. *“...I told my colleagues within my CARV, that the subject was likely to run because both colleagues had not been on Operation DIBRI the previous year, where over the course of several weeks my team received daily briefings where the information that DIBRI subjects were likely to run or attempt to escape was disclosed. I said the subject was likely to run or attempt to escape, as in previous Op DIBRI briefings, I was informed that members of the TMD had done so where attempts had been made by police officers to arrest or detain them. I thought it was likely that Mark DUGGAN would run or attempt escape, as he was a high ranking member of the TMD's and from my experience armed criminals do not want to get caught in possession of evidence where they can receive a long custodial sentence.” [V53]*

S21D

413. *“I do not know what the view of my colleagues was in regards to whether the subject was likely to escape. Specific to this operation, I do not believe there was any specific plan formulated other than what is part of my training which is for armed officers only to persue [sic] and contain. My recollection is that I was provided details of Mark DUGGAN's PNC record, but cannot recall now specifically what I was told. I remember he was disqualified from driving. I don't remember if the warning marker "Escaper" was mentioned. I suspected that the subject may show various levels of violence ranging from using physical violence towards me or my colleagues up to discharging firearms.” [V53]*

S21D

414. V53 made reference in his 7 August 2011 statement to, “...*previous police incidents of persons carrying guns in socks, firing at police and I wanted to be 100% switched to what I was about to do.*” V53 replied in his May 2012 statement, “...*I remembered back to a previous police*

incident of persons carrying guns in socks and firing at police. I was aware from a training course a few months before this incident of an operation in HANGER LANE, West London where a male opened fire on CO19 officers with a gun in a sock which resulted in the male being fatally wounded (Op WONDOLA May 2007, fatal shooting of Terry NICHOLAS)."

S21D

415. *"I have previous experience of persons in a mini cab in an incident where a revolver was wrapped in a sock. Also I have conducted other operations where firearms have been concealed in socks. I have not personally been fired at. At no time did I receive information that the gun Mark DUGGAN was carrying might be in a sock. My specific role as Charlie Operator was to provide firearms cover and extract occupants from the vehicle. I am also the team medic to provide first aid in the result casualties/injuries. My intention was to contain the vehicle in order to prevent the occupants from escaping, secure the occupants in the safest possible means and secure evidence." [V53]*

S21D

416. *In answering a series of questions concerning W42, V53 stated, "...Mark DUGGAN was initially facing towards W42 and the front of the mini cab when he exited it. I don't remember seeing his face at this point or where his arms were. He was in control of his movements. My perception was that Mark DUGGAN was intending to try and escape by the means he exited the mini cab. He was challenged by an armed officer who was clearly identifiable as an armed officer with baseball cap, an MP5 and giving clear verbal commands. He was clearly not complying and was attempting to escape. When he turned and faced me was the first time I recognised him as Mark DUGGAN. I had been shown a photograph of him on the previous days briefing."*

S21D

417. *V53 was asked a series of questions concerning his comment in his 18 January statement that, "...I thought I had to close him down so I took a number of steps towards him." V53 clarified, "...The pace I used I would describe as a fast walk, not running/sprinting. I took a couple of steps towards him...I don't know what distance I covered. I cannot be specific where exactly I was, but my best guess is that I was parallel with the bonnet of the Charlie CARV on the pavement."*

S21D

418. *V53 was asked a series of questions relating to his reference in his 7 August statement that, "...Immediately I saw him [Mr Duggan] holding an object in his right hand..." V53 replied, "...I have been asked within what amount of time of Mark DUGGAN turning to face me did I see him holding the gun in the sock and the answer is immediately. His jacket was open. I didn't say anything after I saw the gun, as I did not have time as I honestly believed by saying anything would give*

Mark DUGGAN time to shoot me as his action would beat my reaction. Mark DUGGAN did not speak to me and I don't remember him speaking to anyone else. I did not hear anything else."

S21D

419. *"I believe he was going to shoot me with the gun because if he wasn't going to do anything with the gun he could have discarded it, dropped it or left it in the mini-cab. By holding it and moving it into an aimed position, it was my belief, that he was going to shoot me or one of my colleagues."*

S21D

420. *V53 was asked a series of questions relating to the reference in his 7 August statement that, "...I saw him holding the gun in his right hand, side on to his stomach..." V53 replied, "...'Side on to his stomach' means my perception was that he moved the gun barrel away from his body with the barrel parallel to the floor. I believed he was beginning to raise the gun into an aimed position because the action he was doing would be the action I would to bring the gun to an aimed position from where it started from. When I fired my first shot, Mark DUGGAN had not reached an aimed position. By this I mean aiming the gun at me. I believe he was moving the gun to aim at me. When I fired my second shot, the gun was pointing in my direction. He had not taken an aim by outstretching his arms looking down the barrel and sights, but he was pointing the barrel at me."*

S21D

421. *V53 was asked a series of questions concerning his second shot, "...I cannot be precise about the amount of time which occurred between my first and second shot. My best guess I would say would be a second or slightly less. I cannot be specific as to the amount of time between my second shot and DUGGAN falling, but my best guess would be a second or two. I don't know who the closest officer was when DUGGAN fell. I don't know if anyone made physical contact with him prior to him falling on the floor or during falling on the floor. I did not see where the gun he was carrying went. At this time I did not think what had happened to the gun. My focus was on trying to preserve Mark DUGGAN's life. I believe I was performing first aid on Mark DUGGAN when I heard an officer say that they had found the gun."*

S21D

422. *V53 was asked a series of questions concerning administering first aid and moving Mr Duggan's body, "...W70 and V48 had commenced first aid when I took over. The position of DUGGAN on the pavement had not been moved from where he fell until HEMS arrived and moved him. I moved his body during first aid, by moving him onto his side in order to look for an exit wound. This was dressed and he was moved back to his original position."*

S21D

423. V53 was asked a series of questions concerning his awareness that a firearm in a sock had been discovered, “...I became aware that the gun in a sock was recovered during me doing CPR on Mark DUGGAN. I was not aware that the gun had been found until after I commenced first aid. One of my team, I can't recall who, said the gun had been found in the grass. I did not see the gun on the grass. I did not look at it following the first aid. I don't know what distance DUGGAN was from the gun which was recovered.”

D869

424. V53 gave evidence at the first trial of Mr Hutchinson-Foster on 26 September 2012 at Snaresbrook Crown Court. During evidence-in-chief the following exchange took place between Prosecution Counsel (Mr Brown QC) (Q.) and V53 (A.):

p.44B-F

A. I started to deploy from my vehicle.
Q. You started to get out of the passenger side?
A. Yes.
Q. Front?
A. Yes.
Q. Go on. What happened? What did you see and what happened, please?
A. However, as I begin to open my door of my covert armed response vehicle and start to get out, I see the subject who is on the rear back seat of the mini cab move across from offside to nearside where I can describe it at a pace.

p.44B-F

A. As I said, the subject moved across the back seat at speed, so he is moving from his right to his left. This convinced me that the occupant of that vehicle was looking to escape because you have the Bravo car that side and I thought he's seen the police that side, he is looking to get out of that vehicle as soon as possible and attempt an escape.

Q. Pause there, please. What happened? What did you see and what happened, please?

A. I then saw the nearside rear door slide open of the mini cab. As this was happening I saw one of my colleagues, Whisky 42, come from the front nearside of the mini cab.

p.45B-C

A. Excuse me. I heard Whisky 42 shout: “armed police”. The door opened and the subject, who I now know to be Mark Duggan, got out of that

vehicle at pace.

p. 45D-F A. As Mark Duggan got out of the mini cab I heard my colleague Whisky 42 shout: "stand still, stand still".

Q. And you?

A. At the same time I've shouted: "armed police".

p. 46C-H A. As I said, Mark Duggan got out of the vehicle at pace. I describe this as he had a spring in his step, which to me indicated that he was about to run or possibly fight his way out of the situation he has found himself.

Q. Pause there. Go on.

A. At this point I had my MP 5 Carbine, which is a submachine gun, in an off aim position which is up on your shoulder, down like this.

Q. Pointing downwards?

A. Pointing downwards. Basically I had both my eyes open and basically scanned what was happening in front of me and take all the information and everything that is happening, and so I am in an off aim situation.

D869

425. The evidence continued:

p. 47A-52A MR BROWN: Go on?

A. As I have shouted "armed police" Mark Duggan has turned to face me. I perceive this as he is looking for another avenue to escape.

Q. Pause there, please. Go on.

A. At that time, Mark Duggan was blocked by the mini cab.

Q. In the road you mean?

A. Yes. So he is blocked by the mini cab. To his front he was blocked by my colleague: Whisky 42. To the side he is blocked by a 5-foot metal railing fence, and the only avenue of escape for him would have been behind him or towards where I was standing.

Q. Pause there, please. What did you see, please?

A. As he's turned to face me, immediately I saw him holding an object in his right hand. The subject was holding a handgun. Mark Duggan is holding a handgun in his right hand. He is holding the pistol grip of the gun. I could make out the shape and outline of the gun. I could make out the trigger guard.

THE JUDGE: Not too fast.

A. Sorry, my Lord.

THE JUDGE: I could make out the shape?

A. Yes, the outline of the gun, as if it was an L shape.

I could make out the trigger guard on the barrel, and as I said he is holding the pistol grip or the handle of the gun. The size of the object he was carrying, the size was of similar size to the side arm, the hand gun I do carry operationally.

Q. Yes. Go on?

A. I was aware of previous police incidents of where criminals carry handguns in socks, and there was a black sock covering the gun that Mark Duggan was carrying in his right hand.

Q. When you first saw his right hand where was it?

A. It was side on to his stomach.

Q. And you are holding your right hand across the centre, if I am describing it correctly, the centre of your stomach?

A. Yes.

Q. What happened?

A. The only way I can describe this is, if I may, my Lord, I apologise in advance and to the jury as well, I can only describe this moment in my head as an "oh fuck moment", he's got a gun and he's going to use it on me. So I saw him holding the gun in his right hand, side on to his stomach. He then began to move the gun barrel away from his body. I perceived this to be the beginning of him to raise the gun into an aim position whereby he would shoot me or shoot one of my colleagues.

Q. So what happened?

A. As I said, I had an honest held belief that Mark Duggan was going to shoot me or shoot one of my colleagues. Therefore, I brought my MP 5 up into an aim position. I didn't have time to guess. I saw a picture, so I used a term in firearms we call a rapidly acquired sight picture, so it is happening so quick in front of you that you just bring the gun up to an aim, and because I had an honestly held belief that he was about to shoot me or one of my colleagues, I fired one round which impacted on his right chest.

Q. Did you see the gun that he had been holding?

A. The gun was still in his hand when I fired. As I said, the round impacted on his right chest. The reason why we aim for the chest area, we call it the central body mass. So when we fire we are firing to shoot to stop. We are not looking to shoot to kill or any of this stuff that you hear in the news and bits and pieces. The reason why we shoot it is to shoot to stop and to get immediate incapacitation or rapid incapacitation and by aiming at the central body mass is where all the vital organs are to hopefully achieve immediate incapacitation and neutralise the threat, but the gun was still in Mark Duggan's hand.

Q. So what happened?
A. As I said, I have seen the round impact on his right chest. He's done like a flinching movement. So it's impacted on him, which has caused his body to move to the right slightly. I have reassessed and the gun that he is carrying is pointed in my direction now, so when it's impacted and he has brought the gun round and the barrel ---

THE JUDGE: A bit fast.

A. Sorry, my Lord.

THE JUDGE: He brought the gun round?

A. Yes.

THE JUDGE: Yes. Carry on?

A. He is still holding the gun and the gun is pointing towards my direction.

MR BROWN: Go on.

A. Again, for the reasons previously, because the gun was now pointing in my direction, again, I am thinking: he's going to shoot me or one of my colleagues and I fired a second round from my MP 5.

Q. Were you able to tell whether that hit him and if so where?

A. This has hit him on his right bicep.

Q. You are pointing to the upper part above your elbow and below your shoulder on the right side?

A. Yes.

Q. Go on.

A. As I said, this appeared to impact on his right bicep. Mark Duggan then fell to the floor.

Q. What did you do?

A. I then closed the subject down. I am satisfied that the threat is neutralised or in plain English I suppose that he's not carrying a gun any more and there is no one is posing a threat any more and my attention to immediately provide first aid.

D869

426. V53 was cross examined by the Defence Counsel (Mr Denney QC – referred to as Mr Day in the transcript). The following are relevant extracts from the transcript (Mr Denney (Q.) and V53 (A.)):

p.56D-
61F

MR DAY: Because, as you have told us, you could see not just the shape of the object, you could make out the outline, the trigger guard and the barrel. You do not need to read from your statement. That is just an answer you gave my learned friend.

A. Yes. That's right. I do apologise. Yes, my Lord. Yes.

Q. If that is right, absolutely no doubt in your mind at any stage that this was a firearm?

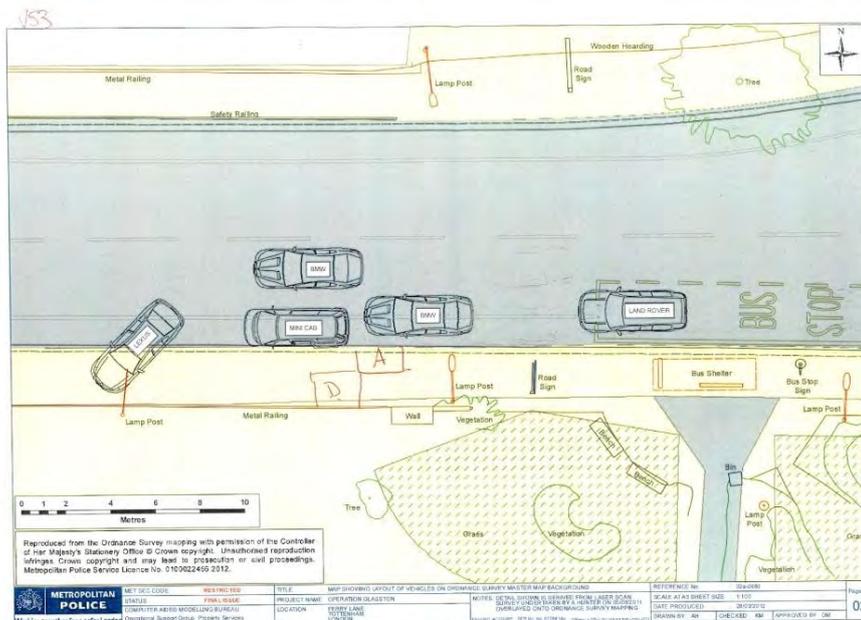
A. Absolutely no doubt, my Lord. No doubt whatsoever.

- Q. Again, just so I have this clear: at the time you fired the first shot, you say that the gun was being held by Mr Duggan close to his stomach or abdomen and pointing in the way that I am pointing now?
- A. I would suggest that the barrel was more sort of parallel with the floor.
- Q. Parallel with the floor?
- A. There or thereabouts.
- Q. But you could see the barrel could you at that stage?
- A. No. I say the gun was in a sock but I could make out the shape and outline of it.
- Q. Were you able to see the end of the barrel?
- A. No.
- Q. Were you able to see that where the gun stopped being a gun ---
- A. Sorry, I do apologise. I seen the whole gun, but I couldn't see the -- I think you are trying to say did I see the front of the barrel.
- Q. Yes. What I am really asking is was any part of the gun disguised by anything at that point?
- A. No. I have seen the whole gun.
- Q. Yes. Again, I just want to make sure I have got this key evidence right. At the time you fired the first shot, that is where the gun was?
- A. No. He began to move it away from his stomach as into an aim position when I fired the first shot.
- Q. Please show the jury where Mr Duggan was holding the gun when you fired the first shot.
- A. The gun was side on to his body and as he has began to move it away from his body, I hope that -- sorry -- he is moving it away from his body.
- THE JUDGE: By all means stand up.
- MR DAY: I am not sure you should actually.
- THE JUDGE: You would have to get down to do that.
- MR DAY: Do stand there and would my Lord forgive me if I came round to see it?
- THE JUDGE: As long as you do not obscure the jury's view.
- A. So it was side on to his body and he has began to move, gone away from his body with the gun parallel to the floor.
- MR DAY: Thank you. Just to describe that for those who cannot see: you are indicating that the gun was moving in a horizontal plane?
- A. Yes.
- Q. Away from his body?
- A. Yes.
- Q. And thus moving in an arc which would, if continued, take it to a position where it was pointing at you?
- A. Yes.
- Q. By the time of the first shot it had not got that far?

- A. No, it had not. He has moved it away from his body, but not in the position where he is actually in an aim position. The gun is starting to move towards me, and the reason why I believe that is if I was holding a gun like this, if I were to shoot you, no disrespect, that is how, that is the action I would do to bring the gun into a position ---
- Q. That may very well be right, officer. We are a little more interested to know what he did. You say that is what he did?
- A. Yes, I do. Yes.
- Q. Very good. Then, again, there are those who have not seen the demonstration you made earlier. By the time of the second shot am I right to understand that your evidence is that his forearm was pointing out from his body, pretty much straight ahead of him?
- A. Yes.
- Q. The gun was pointing, as far as you could tell, directly towards you?
- A. In my direction, yes.
- Q. As a result of the first shot you have described Mr Duggan flinching to his right to some degree?
- A. Yes, I do. Yes.
- Q. What happened after the second shot?
- A. The second shot impacted on his right arm.
- Q. Yes, and what happened then to Mr Duggan?
- A. And then Mr Duggan fell to the floor and I didn't see where the gun went.
- Q. You did not see where the gun went?
- A. No.
- Q. Just so we are clear: it is daylight?
- A. Yes, it is. Yes.
- Q. You have an unobstructed view?
- A. Yes, I do, yes.
- Q. You are standing on the pavement?
- A. Yes.
- Q. Am I right in understanding that you have a colleague close by you?
- A. To be honest with you the only way I can describe this is a freeze frame moment where I am just totally focused on Mark Duggan's hands and what the gun is doing. I can't say I was aware of where people were. This tactic that we do is a tried and tested tactic. We train for this all the time, so I would have been aware that colleagues would have been around, but I can't tell you specifically where they were.
- Q. The answer is: at that moment I don't know ---
- A. I don't know.
- Q. Yes. Fine, but he was not obstructing your view?
- A. No, he wasn't. I do apologise. If that is what you are

- getting at: no, he wasn't obstructing my view.
- Q. All right. So there is not now nor has there ever been any doubt in your mind but that what you saw in whole was a handgun?
- A. Absolutely, 100 per cent, Mark Duggan was carrying a hand gun.
427. During further cross examination, V53 was asked to mark on a plan where he was positioned when he first shot Mr Duggan and where Mr Duggan was positioned when he received the shot. V53 marked his own approximate position with the letter 'A' and Mr Duggan's approximate position as letter 'D', see below.

D869
D842



D869

428. During cross examination V53 was also asked about what happened to the non-police issue firearm:

p.86F-87C

- Q. You have described in a really understandable way Mr Duggan stood with the gun out. Correct?
- A. Yes.
- Q. You have told us you do not know what happened to the gun?
- A. No.

Q. Could you tell us what happened to Mr Duggan's hands, please?

A. I can't remember, to be honest with you. It happened so quickly that after I had fired the second shot in the blink of an eye I don't know where the gun went. The main thing for me: the gun isn't in his hand and he's fallen to the ground. So I can't tell you where the gun went after I fired the second shot.

S21H
D1002
D658

429. Following the first trial, the IPCC investigation probed V53's evidence concerning the order of shots fired. V53 had been clear in both his statements and trial evidence, that he thought the first bullet appeared to strike Mr Duggan on his chest and the second bullet appeared to strike Mr Duggan on his right bicep. The relevance of the order of shots is dealt with in Chapter 10.

S21H
D1040
D1022

430. On 26 November 2012 V53 attended the IPCC London office. He was interviewed (audio recorded) as a significant witness and was questioned specifically about the order of shots. V53 declined to answer the questions during the interview but indicated that he would provide the investigation with a written statement as soon as he could.

S21H

431. V53 provided a statement dated 28 November 2012 in which he said, *"...My perception at the time I wrote my statement was that my first shot impacted on the chest and the second impacted on the arm. What I wrote was based upon where I believed my point of aim was on Mr Duggan's central body mass / upper torso, the position Mark Duggan was in at the time I fired and the reaction of Mark Duggan's body to being struck by the rounds.*

When I wrote my statement I was aware from administering first aid, of the bullet wounds on Mark Duggan's chest and arm and the fact that one of my two rounds had over penetrated and struck my colleague.

In order to assist the IPCC investigation I have thought about this a great deal. I have made a number of statements and I have given evidence about this in the Crown Court and am to give evidence again at the re-trial of Mr Kevin Hutchinson-Foster. I did not see the rounds I fired actually penetrate Mark Duggan's body, so I cannot say with 100% certainty that my first round impacted on his chest and my second round on his arm. I was focussing on the threat that I perceived [sic] which was Mark Duggan producing a gun and not on where the rounds impacted on his body...

I realised that Mark Duggan was producing a gun and I cannot say with 100% certainty precisely what happened thereafter. What I have

said in my statements and in evidence at the Crown Court is my best recollection of events.”

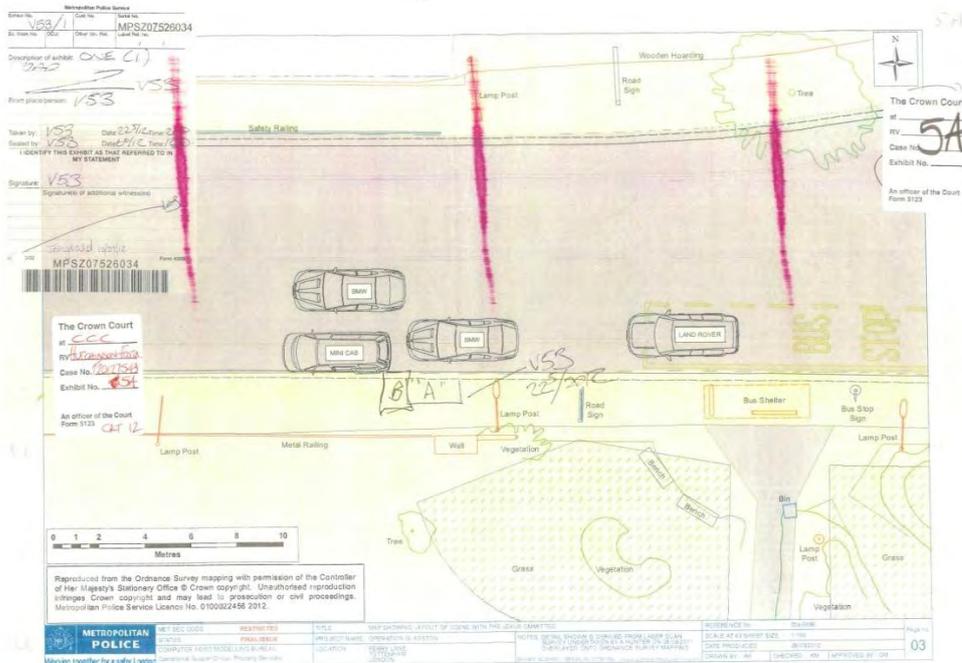
D1030

432. As alluded to by V53 in his 28 November statement, he gave evidence at the re-trial of Mr Hutchinson-Foster (on 10 January 2013). His evidence covered many of the same issues that were covered in the first trial and therefore, more limited extracts of relevant evidence have been reproduced below. In particular, evidence has been included that: builds upon previous evidence; is new evidence; or, is evidence which is inconsistent with evidence V53 has previously given.

X281
D1098
Page
26F-28D

433. In the re-trial, V53 was provided with a copy of the plan he had marked up further to the series of written questions from the IPCC. In his statement of 22 May 2012, V53 confirmed that he had marked on the plan with the letter 'A', where he was positioned when Mr Duggan got out of the minicab. V53 exhibited this plan to a further statement in June 2012. This plan, as annotated during the re-trial, is shown below:

434. (Note: Box B was added by Defence Counsel.)



D1030

435. In response to questions from Prosecution Counsel (A.), V53 (Q.) gave evidence concerning seeing Mr Duggan carrying a handgun in his right hand:

p. 31B-32D

- A. My focus then immediately shifted to what he was about to do with that gun. I saw him holding the gun in his right hand, side on to his stomach.
- Q. Just pausing there. You are demonstrating, so everybody knows what you are demonstrating. If I may describe it, your forearm is across your stomach from right to left?
- A. Yes, so it's side on to his stomach.
- Q. You are using your right arm?
- A. Yes.
- Q. It is horizontal with the ground?
- A. It is indeed, parallel with the floor, yes.
- Q. Go on.
- A. As I said, the gun is side on to his stomach and then he began to move the gun barrel away from his

body, so in this motion.

Q. You are moving your hand away from your body forwards?

A. Forwards, yes. So I hope everyone can see this. I don't know if can stand up or --

Q. Yes, you can. If necessary go down on to a step there, just make sure everybody can see what you are doing.

A. Okay, so the gun is side on to his stomach and he began to move it away, move the barrel away from him sort of towards my direction. So he's moved it a couple of inches away, but in the motion -- in the nicest possible way, if I was to -- I don't mean this disrespectfully, if I was to shoot you now, if I had the gun like this, the action I would do would be moving it towards you. So he started that motion, which I perceived he was about to move it into an aim position where he would open fire on us.

D1030

436. When answering further questions from Prosecution Counsel (Q.), V53 (A.) described shooting Mr Duggan in the following manner:

p.34D-
38B

A. So it's happening in front of me so quick, I -- a term we use in firearms is I've rapidly acquired a sight picture which basically means I bring the gun up to an aim or just point and maybe just look through one sight, but as quick as I could I fired one round towards Mark Duggan because I had an honest-held belief that Mark Duggan was going to shoot me or one of my colleagues.

MR BROWN: (pause) Go on.

A. I fired one shot, aiming at the centre of body mass which is the upper torso. The reason why we aim for the upper torso, or in firearms terms we call it the central body mass, is because this is where all your vital organs are. So when we shoot, we shoot to stop. We are looking for immediate or rapid incapacitation. So we're not looking to shoot to kill or any of this nonsense that you see on TV or in Hollywood where we shoot arms and legs, that's TV stuff, that's Hollywood stuff. When we shoot we shoot to stop and we aim for the central body mass, so we're looking for rapid incapacitation of the subject.

Q. That is what you did?

A. Yes. As I said, I fired one round and I've seen

the round impact on his right chest.

Q. Go on.

A. When the round impacted on his chest he's done a flinching movement to the right.

Q. His body? You are --

A. Yes, his body.

Q. -- describing and showing your body moving to the right.

A. Yes, yes. I've reassessed and I saw that he is now still holding the gun and now the gun was pointing towards my direction, so the round has impacted on his chest and then he's brought the gun around -- do you want me to stand?

Q. Yes.

A. The round has impacted on his chest which has caused him to flinch to the right, and at the same time his arm has come out and now the gun is -- can everybody see that? Sorry everybody. But now the gun is now pointing in my direction.

Q. What did you do?

A. Again, because the gun is now pointing in my direction, I had an honest hell belief that Mark Duggan is going to shoot me or shoot one of my colleagues. So because of that I fired a second round.

Q. Did you see where it hit him?

A. It appeared to impact on his right bicep, so he's moved around and the round seems to impact on his right bicep, so below the shoulder but above his arm.

Q. Above the elbow?

A. Yes.

Q. How far away were you from him during these moments?

A. I can't be precise. My best estimate would be probably approximately five metres away.

Q. Then, using the plan if you can, either approximately or exactly, where was he?

A. Approximately, I think he was -- he'd be parallel with the minicab but closer to the fence line.

Q. On the pavement?

A. Yes, on the pavement. So there's the minicab, he'd be sort of parallel to the rear of the minicab, but on the footpath.

Q. If I may describe it, you tell me if I am inaccurate. You are using a square similar to the

A square we have?

A. Yes, I am, yes.

Q. But parallel, so to speak, with the open sliding door?

A. Yes, as I say, I can't be exact but, yes, I would estimate he was somewhere in that area.

JUDGE RADFORD: I think he said the rear of the minicab.

MR BROWN: Did you say the rear of --

A. No, sorry. Sort of the rear -- no, not past the minicab, I do apologise, but sort of where the door is and sort of behind the door, if that makes sense.

Q. What happened to him?

A. As I said, after the second shot the gun is gone somewhere, I haven't seen where the gun has gone then. But I'm quite happy that the threat is -- and I don't want to use police terms, but the threat is neutralised. In the nicest possible way, no one is pointing a gun at me anymore so the threat is neutralised at that moment in time. So I then closed him down to sort of try and arrest him but other things happened.

D1030

437. In response to questioning from prosecution Counsel (Q.) concerning where the gun went, V53 (A.) said:

p.41F-H

Q. Had you seen it, the gun and the sock, I mean, after it had been in Mark Duggan's hand? Did you know what had happened to it?

A. No, after -- as I said, after I fired the second shot, I didn't see where the gun went. You know, in the blink of an eye, one second it was there, the next second it was gone. So after I'd fired a second shot, I didn't actually see where the gun went.

D1030

438. During cross examination from defence Counsel (Mr Denney: Q.), V53 (A.) gave evidence concerning where Mr Duggan was positioned during the incident:

p.57G-61G

A. As I said, W42 shouted, "Armed police". He's also shouted, "Stand still. Stand still" and at that point, I shouted at the same time, "Armed police".

Q. What did Mr Duggan do?

A. At this point -- oh, sorry, apologise. As I've shouted, "Armed police", Mr Duggan has turned to face me. I can't tell you if he's turned left or turned right, but he's turned to face me.

- Q. Does Mr Duggan come towards you?
- A. The only way I can describe this, my Lord, is a "freeze frame" moment. It's like when you pause your Sky Plus or your TV recorder so the world sort of in my head stopped. I was totally focused on what was in Mark Duggan's hand. So I don't know whether he was moving or not because in my head it was like a "freeze frame" moment.
- Q. Well, help us if you can. You are a very modest distance away from him, are you not?
- A. Yes, I'm around -- approximately 5 metres away.
- Q. We will look at that in a minute. Is he getting closer to you?
- A. As I said to you, I can't help you with that. The world stopped once I've seen the gun and, as I said, the only way I can describe this is a "freeze frame" moment. If he was moving, I don't know, because once I've seen the gun, the world stopped in my eyes.
- Q. Well, you would have noticed if he had run towards you, would you not?
- A. As I said, I can't help you. All I remember is he's got out of the vehicle at pace and he's turned to face me. So I don't know if he ran or not. It's my recollection that maybe he didn't but, as I said, I can't remember.
- Q. All right. Where was he when you first shot him?
- A. As I said, I can't be precise. But again, I suppose if you look at the map --
- Q. Certainly.
- A. My estimate would be he was still somewhere parallel with -- between the door of the minicab and the rear of his minicab, closer to the fence line but still on the footpath.
- Q. So closer to you than the door, but further away from you than the rear end of the minicab. Is that what you are saying?
- A. Again, I can't be precise with this. Again, my recollection is he was somewhere in the vicinity of where the door was open to the rear of the minicab and somewhere in closer to the metal railing.
- Q. All right. But we have a scale of the plan so we can see the sort of distance you are talking about and it is not even 4 metres, is it, if you are right?
- A. As I said, my Lord, I can't be exact. As I said, I

- would say it's approximately 5 metres. But as I've said to you and I've said in all the statements, I can't be exact.
- Q. But what you can help us with is this: he was not closer to you than the rear end of the minicab, was he?
- A. Again, I can't help you with that.
- Q. Can you not?
- A. No. As I said, if you ask me, "Was he beyond the minicab?" -- sorry, maybe I've got this question -- well, you're just trying to ask me -- if you maybe -
- Q. Well, I am going to ask you again.
- A. Yeah, sorry.
- Q. Do you see where you have put an "A"?
- A. Yes.
- Q. What I am suggesting is he cannot have been between the "A" and the rear of the minicab, that small space, can he?
- A. Sorry, can you -- I do apologise for this, sir. I might be having a bit of a thick moment here. Can you just describe or maybe just show me on the map what you're trying to say?
- Q. Yes. Would you look at this? I have marked a "B" on my copy so that you are under no illusion of the area that I am indicating. (handed)
- A. Thank you. Okay. My recollection is he was more parallel with the minicab. I don't think he was beyond that point. Again, I can't be exact because it happened so quick. So my recollection is he was somewhere parallel with -- he was still in line with the minicab. But again, I can't be 100 per cent sure.
- Q. But let us be clear: if he was in that area (and we will show my Lord and the jury in just a moment), you would be a yard from it, if that?
- A. Again, I don't -- I can't say to be honest with you.
- Q. Well, may you have been a yard from him when you shot him then?
- A. No, I was definitely more than -- I would say he was probably less than 5 metres away, is my recollection.
- Q. All right. Well, perhaps my Lord and the jury could just see the map so they know what we are talking about.

- D1030
- A. Yes. (handed)
439. Defence counsel (Q.) addressed further questions to V53 concerning the shooting incident:
- p.66E-72A
- Q. Thank you. Let us go, please, to the shooting itself.
- A. Yes.
- Q. You are, as I have understood it, facing along the pavement in a general direction of where Mr Duggan and the minicab are.
- A. Yes.
- Q. As you look, Mr Duggan is slightly nearer to the railings, or fence, than you are --
- A. Yes.
- Q. -- and therefore is slightly to your left.
- A. Yes.
- Q. When he turns around, your evidence, if I am wrong, is that the gun is already visible in his hand, covered by a sock albeit.
- A. Yes. I see he's turning to face me. As I said, I can't recall if he has turned left or right, but he's done a pivot, a 180 or whatever you want to call it. So as he's faced me, when the gun is in his hand, I could see it all.
- Q. It is a little difficult for people in the public gallery because of the set up of this court, but you are indicating with your hand a finger motion of a gun, adjacent to the left side of your abdomen.
- A. It would be, if I may stand up so you can see, it's side-on to his stomach. The barrel is parallel to the floor, so, in this position.
- Q. Yes. You have told us, have you not, that you were in no doubt, you were 100 per cent sure, that was a handgun?
- A. Absolutely. 100 per cent sure. As I said to you, I could see the shape, the outline of it. I could make out the trigger guard, the barrel. I've been aware and have been involved in operations where criminals carry guns in socks. I've been also aware of where criminals have actually fired at armed police officers carrying guns in socks, and the size of the object he was carrying was of similar size to the gun, the handgun I carry operationally. So I was 100 per cent convinced that he was carrying a handgun. So, yes.

- Q. The next movement that he made was that the arm, his forearm, began to swing round to the right as he would look?
- A. Yes. As I say, he would -- the gun was like this and he began to move the barrel, still parallel to the floor, but he began to move it away from his body in my general direction.
- Q. Yes. What you are indicating is that his forearm is in motion, but his upper arm remains pretty much by his side.
- A. Yeah, that's my recollection.
- Q. Yes.
- A. Yes.
- Q. He is not reaching out like this? I am indicating my whole arm stretched out.
- A. No, he hadn't reached an aim position. He -- as I said to you earlier on, it was my perception that he was starting to move his hand away --
- Q. Yes.
- A. -- where he would bring it into an aim position, but he was starting to move it, as I would, again as I said earlier on, to an aim position. So, yes, he began to move it away.
- Q. Your evidence is that you perceived an immediate threat?
- A. Yes, it was my honest-held belief that he was about to shoot me or one of my colleagues because of that action.
- Q. He is pretty much facing towards you?
- A. Yes. (pause)
- Q. So you aim, as it were, slightly to your left and forwards, and shoot at that moment(?).
- A. Yes, as I said, because I had an honest-held belief that he was going to shoot me. As I explained earlier on, I brought the weapon up to a rapidly acquired sight picture and I fired a discharge one round.
- Q. You saw it impact on his chest?
- A. Yes, on his right chest.
- Q. You then indicated a flinch to his right.
- A. That's correct. Yes. The round has appeared impact on his chest and he's done a -- it marked on him as on like a flinching movement, sort of. I --
- Q. You are indicting, if I may help --
- A. Yeah.
- Q. -- that his right shoulder went further away from

- you?
- A. Again, I can't be precise. What I recall is, he's done that kind of movement.
- Q. That is what you are indicating, for the purpose of those who cannot see?
- A. Yes. Yes, I do. Yes. Yes. Sorry.
- Q. So now, he has his left chest pointing towards you, if I can describe it like that? Is that fair?
- A. Yeah -- um -- yeah, I presume so. Yes.
- Q. The gun is still in his hand?
- A. Absolutely. Yes.
- Q. You saw it?
- A. Absolutely.
- Q. And was he in that position that you have just described when you fired the second shot?
- A. As I said, when I fired the second shot, or the first shot has impacted on his chest, so the first shot was when the gun was moved away from his body. The round has impacted on him, which has caused his body to move to the right slightly, and the gun, or the barrel of the gun, has moved towards my general direction, so --
- Q. Stop there in that position, if you would. Was that the position that you are showing the jury, that Mark Duggan was in when you fired the second shot?
- A. When I fired the second shot, yes.
- Q. Yes. Right arm -- just stay there for a moment if you would.
- A. Sorry.
- Q. Right arm close to his side, forearm pointing outwards and pretty much forwards?
- A. Yes. Again, I can't say what his left arm was doing --
- Q. No.
- A. -- because I was totally focused on what's going to cause me arm, so that's what I'm saying.
- Q. But slightly flinched to his right?
- A. Yes.
- Q. Yes. Thank you.
- A. Thank you. (pause)
- Q. Yes. And he fired the second round as you told us, and what effect did that have on Mr Duggan?
- A. As I said, the round appeared to impact on his right arm or his bicep, and what I remember, he fell to the floor.

Q. Which way did he fall? Forwards, backwards or sideways?

A. Uh, my recollection he fell backwards from what I can recall.

D1030

440. Defence Counsel (Q.) questioned V53 (A.) about Mr Duggan's hands:

p.72D-
73F

MR DENNEY: Do you have any memory of his hands going to his chest?

A. I can't remember to be honest. It's obviously happened so quickly.

Q. I anticipate, if one has a gun pointed at you, one would tend to focus on the gun. Would that be fair?

A. Yes, obviously, in -- the way I describe this moment is, like as I said earlier on, it's a freeze-frame moment. When -- I was totally focused on his hands and what's in his hands, because that's what's going to cause me harm and cause my colleagues harm. So after I fired the second shot, as I say, in the blink of an eye, one second the gun was there; when I looked again, it was gone. So, I don't know where the gun went, but yes, my focus would be on the gun which is, would cause me harm or cause my colleagues harm.

Q. You did not look away, did you?

A. No, I was looking straight ahead.

Q. If what you are saying is right, what happened to the gun?

A. As I said to you, it happened so quickly that I didn't actually see where the gun went after I fired the second shot, which has impacted on him. The main thing for me was, the gun isn't in his hands anymore, as in, it's not going to cause me harm.

Q. Hang on. If it is in a position where he might pick it up, it is still dangerous, is it not?

A. As far as I was concerned, the threat was neutralised, as in Mark Duggan was wounded now, but yes, you're still worrying, "Where has that gun gone?" because, yeah, as you say, he could be on the floor and pick it up again.

441. V53 gave evidence to the inquest on 15 October 2013.

442. Dealing first with his **background and training**, V53 told the inquest that he joined the MPS in 1997. He said that he spent four years on the beat, responding to 999 calls, before in 2001 joining the Territorial

Support Group, which is a level 1 public order unit. He said that he spent four years there, providing football aid; a response to disorder; chemical and biological response and carrying out unarmed rapid entries. It was during that time, he said, that he became a firearms officer, as he also did counter terrorism drills.

443. V53 confirmed that he had not been in the police prior to 1997. He said that he had some firearms training in the Territorial Army, but that he had not had to use a firearm prior to joining the police.
444. V53 described the process by which he had become a basic firearms officer. He said he had to apply and pass a medical and physical test, and then in 2003 he had to do a two-week initial firearms course.
445. V53 told the inquest that in 2005 he applied for CO19. He was taught how to use a Glock self-loading pistol, a MP5 carbine, tasers and make baton assessments, and then he completed a seven weeks armed response vehicle course. He explained that the first two weeks of that course was firearms training, involving guns and other weaponry, and then there was a further three weeks with tactics; how to deal with armed criminals in vehicles, on foot or in premises. The sixth and seventh week covered how to execute warrants or search buildings for armed criminals. Overall, he said, there is approximately a 50% pass rate for this course.
446. V53 said that in the course of the initial seven weeks training, he was given training in what he called a *“shoot / no shoot scenario”*. He said that there were two ways that the *“shoot / no shoot scenario”* could be done in training, and in both ways, the training was done on a screen with a video playing, and a scenario player in front, where the trainee would have to decide whether to shoot or not shoot. The sorts of scenarios that could be used, he said, were walking through a school, seeing bodies on the floor, then going into a room where the gunman is, and deciding if he poses a threat and whether to shoot him or not. These scenarios were probably used, he said, to weed people out, as *“one of the most important things is your threat assessment ... you need to justify every shot that you fire and you need to have – you need to be tactically sound and you need to make good judgment calls in split second scenarios”*.
447. Having completed the seven week training course, V53 said that he then started carrying firearms on the street, and he explained that for four years, he was on the uniform side of CO19’s business, which is in armed response vehicles. After that time, he said, he applied to specialise further within the department, and applied to become a Tactical Support Team (TST) Officer, which involved further training.

He said that this was a two-day assessment on current skills, and then, for those who pass, there was a further seven-week course, which dealt with covert carriage of firearms. V53 explained that most of the work on the TST is covert, for which plain clothes are worn. He gave the example of being taught to carry out covert reconnaissance on premises, planning, briefing and executing warrants and being trained in Mobile Armed Support to Surveillance (MASTS).

448. In terms of the “*shoot / no shoot*” part of the training, V53 said that he is continually re-assessed on this. He received training for one week in every six weeks. He said that he is also a firearms instructor and knows that if something is done wrongly during training, this may lead to loss of the licence to carry firearms.
449. V53 told the inquest that he is also a medic, and has been on a firearms medics course lasting two weeks, the first week of which is an outside qualification in first aid at work, and the second week is “*environmental training*”, where a make up artist will assist in creating a simulation of wounds from firearms and gunshots for the trainees to deal with whilst being assessed by medical professionals, paramedics and a consultant from the air ambulance. V53 explained that there is also an assessment process for this.
450. V53 was asked what training he had received in respect of subjects who are expected to run. V53 said that in the main tactical briefing, which is separate from the overview briefing, one of the deployment contingencies is to deal with escapers, for whom the contingency is to chase and detain, not shooting unless there was a threat presented.
451. V53 was asked about his previous experiences. He said that he had been involved in about 50 mobile armed support operations where they had carried out interceptions. He said that numerous firearms had been recovered, no-one had previously died and that no shots had been fired during these.
452. V53 said that his team had experience of dealing with minicabs in this kind of scenario, as they were often used by gangs in London to detract attention. He said that, for the majority of the time, the minicab driver will be an innocent member of the public – in this case, with no intelligence on the minicab driver, he had to be treated as an unknown risk.
453. In terms of **previous briefings and his experiences of the TMD**, V53 explained that he had previously had some dealings with the TMD, in that about 18 months prior to August 2011, he had been working on Operation Dibri, and a gun transaction took place, where a

15.10.13,
p.8, line
23

female took possession of a Glock self-loading pistol and 150 rounds of ammunition. V53 explained that his team carried out a hard stop, recovered a firearm and the ammunition and she was arrested, and a hard stop was carried out on the supplier, who was also arrested; then, a couple of months later, a further hard stop was carried out on another man who was also involved.

454. V53 explained that the firearms team did not leave Quicksilver on 3 August 2011. He explained his understanding from the briefing was that CO19 were to provide mobile armed support to the surveillance being carried out. He stated, *“So we, as a firearms team, are providing an armed arrest capability, such -- sufficiency of evidence come about where we would carry out an armed interception.”*

455. V53 was specifically asked about his briefing about the TMD by Mr Underwood QC:

15.10.13,
p.26, line
11 to
p.29, line
3

Q. In terms of TMD, had you any knowledge or experience of them ever threatening or shooting at an officer?

A. I received briefings the previous year to do with TMD and during that previous operation where I described, we received daily briefings that the TMD had been involved in numerous fatal and non-fatal shootings, kidnappings, the supply of class A drugs within London, and they had been involved in stops where they've actually made determined attempts to escape, discarded firearms, they had been very surveillance-aware, and so on.

Q. Would this be fair: the knowledge you had from those briefings were that this committed gang -- and I do not say one way or the other whether Mr Duggan was a member of the gang, we appreciate what the intelligence says.

A. Indeed, sir.

Q. So your assumption was that the intelligence was accurate, I take it?

A. I do, sir, yes.

Q. On the basis of that intelligence, your expectation would be then that these people would make determined efforts to escape --

A. I think there would be a strong possibility, yes.

Q. -- and to distance themselves from firearms?

A. Not necessarily distance themselves, maybe to actually -- obviously I believe they would attempt, maybe, escape but escape -- they may use firearms in an attempt to escape as well.

- Q. You have no experience or briefing of that, had you -- or had you?
- A. Not at that time, from what I recall.
- Q. Had you any briefing or experience of TMD members threatening an officer with a firearm?
- A. I don't remember any intelligence at that time, sir, no.

456. V53 agreed that the officers on the team talked about the TMD, as some of the team members would not have worked previously on Operation Dibri. V53 said that he would have pointed out that as the TMD were good at what they do, the team needed to be equally good to catch them.

457. V53 did not know what sort of guns the people he was expecting to deal with were likely to handle; he said that it could be anything between from a handgun, or a revolver, up to a Mac-10 submachine gun.

458. V53 had previously stated he had experience of guns being used in socks and when asked about this he stated:

15.10.13,
p. 12,
line 13 to
p.26, line
17

- A. Yes, I had, yes. I have had a number of experiences. Around six months before August, we had a briefing from some colleagues of mine who were involved in another fatal police shooting in 2007, in Hanger Lane, in west London, where my colleagues went to intercept a male who was in possession of a firearm. He actually opened fire on my colleagues and he had the gun in a sock, and the bullet literally just missed one of my friends by millimetres. It actually left, like, gun residue on his face because it went so close to him. There was an exchange of gunfire and that guy was unfortunately killed by police and he had possession of a handgun that was in a sock. A couple of months previously, again we carried out an armed interception in north London and again, a bit of a coincidence, it was on a minicab, and again the guy in that car had a gun, a revolver, wrapped up in a sock. So it seemed to be a bit of an MO, if I may say, that criminals or gangs carry firearms in socks because it doesn't leave any forensic residue. Again, if you look at it, when a bullet flies out of a gun, if it is in a sock it will stay within the sock, so you are not leaving any evidence and it's far easier to conceal in a

sock. But, yes, it's still as deadly.

Q. On that "it'll stay in the sock, you are not leaving any evidence", are you talking about the cartridge case?

A. I am, yes, I do apologise, yes.

Q. In a self-loading pistol, ordinarily the cartridge casing will eject, will it?

A. It will indeed, sir, yes.

459. V53 was then asked at length about the **events of 4 August 2011**. V53 said he recalled it went to "*state amber*" at approximately 6pm, which meant that the Tactical Firearms Commander had authorised an armed interception to take place. V53 said that this "*more or less*" conveyed to him that the subject had a gun as he had faith, gained through experience of working with Operation Trident, in their sort of intelligence gathering. He then heard, he said, a further update from V59 over his radio confirming that the subject was in the rear of the minicab and was in possession of a firearm. To make himself ready, V53 said that he pulled down the police flap on the front of his jacket, and got W70, who was in the rear of V53's vehicle, to pull down the flaps on the back of his jacket, which shows, 'Metropolitan Police Specialist Firearms', and he said that he would have put his medic leg bag on, have his blue police baseball cap in his hand and put the MP5 weapon on the sling on him, but as discreetly as possible.

460. V53 recalled that he spoke at this point to his colleagues and said that there was probably a high chance that the subject of this operation would attempt an escape; this was informed by the previous briefings V53 had had regarding Operation Dibri and TMD. The other two officers in his vehicle had not been at that briefing.

461. V53's evidence was that he heard commentary over the radio from the surveillance team that the minicab was in Blackhorse Road in front of a BMW X5; he was then able to see these vehicles in front of him. He described the minicab as "gold" in the first instance; he couldn't remember ZZ37 referring to it as a "bronze" vehicle in the information that he issued and he agreed that V59 wrote it up, in the course of a briefing on 7 August 2011, as "gold" on the flipcharts they used to assist them. V53 maintained that he would describe the minicab as gold in certain lights, and he denied that he had recorded the colour in this way because of what V59 had written on the flipcharts on 7 August 2011. Rather, he said in answer to a question from Mr Thomas QC, "gold" stuck in his mind as that was the description used in the surveillance commentary just prior to the incident on 4 August 2011.

462. V53's evidence was the execution of the hard stop had gone to plan

and he did not recall there being any delay in any one of the cars getting into position.

463. **On Mr Duggan exiting the minicab and V53 discharging two shots, V53 described what happened next (answering questions from Mr Underwood QC):**

15.10.13,
p.40, line
4 to p.41,
line 25

- A. As the strike happened, (indicates) as we're slowing down, Mark Duggan is sat behind the rear nearside of the minicab, so he is sat behind the driver. As the stop goes in, I'm looking towards and he then darts across the back seat from right to left -- I would describe at pace -- and that took, you know, my mindset at that time was he's looking to escape because of his actions. So again, as we put the hit in, he's darting across the back seat of the minicab from right to left towards the door.
- Q. While the vehicles were still moving or after?
- A. I think it was -- just came to a halt or there or thereabouts.
- Q. Then what happened?
- A. At that time, I start to get out of my vehicle, at that time I would have put a blue baseball cap on and, as I'm in the process of opening my car door or there or thereabouts, I saw W42, who came from the Alpha car. He would have been the front seat passenger, he's armed with a MP5 carbine, he has a police baseball cap on and he is shouting into the structure of the minicab where Mark Duggan still is, and he's shouting "Armed police".
- Q. Whereabouts -- looking at the plan we've got on screen, you're just getting out of your car, are you?
- A. Yes, I'm in the process of probably opening the door and getting out.
- Q. Still on the -- either in the car or on the road rather than the pavement?
- A. Yes, I cannot be precise. I would have been in the process of exiting that car, I believe.
- Q. Where was W42?
- A. I can't be precise. He would have been on the pavement before -- obviously the sliding door, I cannot be precise. He would have been on the footpath.
- Q. By the side of the minicab, though?

- A. Yes. He would have been aiming towards the minicab or the structure of the minicab.
- Q. So very close to where Mr Duggan would be coming out, if Mr Duggan came out?
- A. Yes, I would probably say so, yes. Again, I cannot give a distance but, yes, he would be very close.
- Q. What did you see then?
- A. As I start to get out as well, the minicab door opens and Mark Duggan jumped out. The way I describe this is he's jumped out at pace, you know, he has a spring in his step, and that again convinced me that he was looking to escape.

464. In answer to questions from Mr Thomas QC, V53 agreed that it was his perception that Mr Duggan was going to run.
465. V53 said that from the angle he was at, either by the car door or on the pavement or the kerb, he could see the door of the minicab sliding open. He said he then saw Mr Duggan jumping out at pace, and facing towards W42, at which time V53 was, he said, getting out of his vehicle, with his MP5 in the off-aim ready position. By reference to the plan drawn for the IPCC (see page 142), V53 said that his position was marked as 'A', and W42 would have been somewhere around the front corner of the minicab, on the pavement, though not past the sliding door, but more towards the front, where the engine block of the minicab is
466. V53 said that on exiting the vehicle, Mr Duggan turned to face W42; he thought that Mr Duggan's knees were slightly bent, but couldn't say any more as Mr Duggan's back was towards him at the time.
467. Answering questions from Mr Underwood QC, V53 described what happened next as follows:

15.10.13,
p.44, line
23 –
p.53, line
5

- Q. What did Mr Duggan do?
- A. At that time he turned to face me. I don't know if he turned left or to his right but Mr Duggan has done like a pivot movement and he's turned to face me. So at that time, if I could describe it, I'm in an off-aim position, I've got lovely peripheral vision over the top and I'm taking everything in.
- Q. Over the top of what?
- A. Over the sight. The weapon is slightly down, so I'm looking across everything so I'm trying to take everything in.
- Q. Had he actually parted from the minicab or did he

- have one foot on it or what?
- A. No he was out of the minicab.
- Q. How far out, do you think?
- A. I don't know, sir, not very far.
- Q. Okay. Then what happened?
- A. The only way I can describe it is like a freeze frame moment. You know, it's like if you've got Sky Plus or a video recorder, it's where you start pausing things, and in my head the world had stopped because as he's turned to face me, where I had lovely peripheral vision my focus turned immediately to what was in his hand.
- Q. How was he holding his hand?
- A. Again, may I stand up?
- THE ASSISTANT CORONER: Yes, please, yes.
- A. As he's turned to face me, he has an object in his right hand (indicates), Mark Duggan is carrying a handgun in his right hand. I can see the handle of the weapon, I can make out the trigger guard, I can make out the barrel and it's side-on to his body and there's a black sock covering that weapon.
- THE ASSISTANT CORONER: Can you just turn round with your hand in the position?
- A. Like this (indicates).
- MR UNDERWOOD: What you are describing is right arm close in by the chest, elbow bent, right hand across your chest -- across your stomach, really.
- THE ASSISTANT CORONER: Across your stomach, over your navel, isn't it?
- A. It is. Side-on to his stomach and the weapon is parallel to the floor.
- [...]
- Q. So the gun was being held without the finger in the trigger guard?
- A. I don't recall, I just remember he was holding it with his right hand. Again, you can make out the shape outline of it, the handle of it, the barrel, you could make out the trigger guard, not visually, but again if you image it going as a L-shape, the sock, there's like a little bit of give in it, so that's where the trigger guard would have been, and obviously the size of the object was similar size to my side arm.
- [...]
- Q. Can you help us about what his stance was then?
- A. If I recall, his knees were slightly bent

(indicates). He was not standing up straight and proud but he wasn't fully bent down as well, if that makes sense.

Q. Okay, yes. What about his relationship with you? Was he square on to you or three-quarters on or sideways on or what?

A. Again, I cannot be precise because, you know, this is happening in seconds but he was facing me, he may have been slightly to the left of me, but, again, I can't be 100 per cent precise.

Q. Broadly speaking, upright and, broadly speaking, square on to you; would that be fair?

A. Yes, sir.

Q. Moving?

A. Again, the only way I can describe this moment is the world has just stopped in my head, it's like a freeze frame moment and, again, the only thing I was focused on was the gun.

Q. Right. What did you do?

A. Again, because he was carrying it like this (indicates), again I've assessed and at that time he's not posing a threat to me. So, again, I'm hoping he's going to drop it or he's going to do something. Again, this is happening in milliseconds but then the next thing he does, he starts to move the gun away from his body (indicates).

Q. The way you are describing that is that all you're moving is your wrist; is that right?

A. Yes.

Q. So he was not flinging his arm out --

A. No.

Q. -- or flexing his elbow?

A. No, in this movement. So he's moved the weapon, the barrel, he raised the weapon (indicates), moved it a couple of inches away from his body.

[...]

MR UNDERWOOD: You used the word raised but it's not been raised up, it's being brought out.

A. I would use the word "raised" because it describes a movement in my head. So to me he's raised it.

THE ASSISTANT CORONER: He's swinging it around, out from his body, but the hand still remains on his stomach.

MR UNDERWOOD: He's, at that stage, still square on to you?

A. Yes, still square on.

- Q. What did you do then?
- A. Again because -- the only way I can describe this, there's a line in the sand now or there's a tipping point. If Mr Duggan had left the gun like this I would have hoped he would have dropped it, but because he's moved it away from his body I now have an honest held belief he's going to shoot me, because by moving away from his body he can do this (indicates) or he can do this (indicates) in a fraction of a second, whereby I had an honest held belief that he was going to shoot me.
- Q. What you have just demonstrated there is that either he could raise his arm up, so it is parallel to the ground, and aim the gun at you and shoot you or he can just swing --
- A. He could swing it like this, sir, yes.
- Q. -- the gun further round and shoot you with his elbow still crooked against his chest, yes?
- A. Indeed, sir, yes.
- Q. What then did happen?
- A. Again -- because, again, the tipping point or the line in the sand -- because he's actually moved it away from his body, I have a honest held belief he's going to shoot me. So I had my MP5 in an off-aim ready position and -- again this is happening in a split second. So again I brought my weapon up (indicates) and I've discharged one round and I'm aiming for the central body mass because I'm looking to shoot to stop, to achieve -- basically stop the threat. So I've discharged one round.
- Q. Did you see that impact on him?
- A. I did, sir, yes.
- Q. Then what happened?
- A. Again, if I may describe, sir. (Indicates) the gun is initially like this, the round has impacted Mr Duggan on his right chest and it's caused like a flinching movement.
- Q. You have described there him flinching with his right shoulder away from you?
- A. If that's -- yes (indicates).
- THE ASSISTANT CORONER: Again, it's very important the jury see firstly, but it's also quite important that I see as well.
- A. So, sir, as I say, he's moved the gun barrel away from his body a couple of inches I've discharged one round, which has impacted on his chest, which

has caused like a flinching movement, and then the gun has now moved and is now pointing towards my direction.

THE ASSISTANT CORONER: Flinching movement is the right shoulder going sharply back?

A. It is, sir, yes, from the impact of the round.

THE ASSISTANT CORONER: So whereabouts are you saying this round had impacted.

A. On his right chest.

MR UNDERWOOD: Again, can I have the gun back and I'll, with your guidance, do that so that it can be seen on the camera. (Indicates) so starting from down here somewhere (indicates), you see --

A. Yes, sir.

Q. -- a round go in around there.

A. Right chest, yes.

Q. He flinches that way away (indicates)?

A. Yes, but the gun has come out.

Q. So he has moved the gun out towards you before you fired, the round hits him up there?

A. Yes.

Q. He flinches away?

A. I wouldn't say he's flinched that much.

Q. He reacts away, right shoulder away from you and the gun is now trained more towards you.

A. It is indeed, sir, yes.

Q. Handed) Thanks very much. Then what happened?

A. Again, I've reassessed what's happening in front of me, so again -- this is happening, probably, in a second, everyone. So the round has impacted on his chest, it's now -- the gun is now pointing towards me, so again I'm thinking he's going to shoot me. So, again, because I've got an honest held belief he's going to shoot me or one of my colleagues and I have reassessed the threat and I've discharged a second round from my MP5, which appeared to impact on his right arm -- or right bicep, shall I say, sorry.

468. Mr Thomas QC questioned V53 on these same matters and V53 responded as follows:

- V53 had not seen a gun until Mr Duggan turned to face him;
- When Mr Duggan's feet hit the pavement, V53, doing the best he could to recall events, would have been in the process of opening his car door, with one of his feet on the floor, and starting to exit

the vehicle. Then V53 was out of the vehicle;

- Once out of the vehicle, Mr Duggan was initially facing W42, so facing towards the direction of the Alpha car / looking towards the brow of the hill where the tube station is;
- V53 recalled it that Mr Duggan faced W42 and stopped. Mr Duggan may have taken a couple of steps, but V53's recollection was that he saw him jump out, stop and face W42. Mr Duggan was on the pavement right by the taxi door;
- Mr Duggan did not approach W42, but pivoted around. V53 did not remember whether Mr Duggan took any steps towards him, whether he had turned to the left or to the right or whether he made any further movements, but he was certain that Mr Duggan had pivoted and V53 then had Mr Duggan at 180 degrees facing him;
- V53 did not shoot straightaway – he saw the gun at the side of Mr Duggan's body, assessed it, and it was not until Mr Duggan made an overt movement to move the gun away from his body that V53 fired; and
- V53 was absolutely sure that Mr Duggan had not gone straight towards V53 on getting out of the vehicle without facing W42.

15.10.13,
p.144,
lines 16-
23

469. V53 was asked to look at the Bruni firearm (JMA/1) and the sock (JMA/2). He confirmed that these were exactly the same as what he remembered seeing Mr Duggan with on 4 August 2011. He agreed that the Bruni was heavier than V53's service issue firearm. V53 was then asked to demonstrate the "tipping point" that he had identified by using the gun, which he did. Mr Thomas QC then suggested to V53 that this was not "*raising*" the gun, which is how V53 had described the movement in his first account given at 18.50 on 4 August 2011. As to this, V53 said:

A. Sir, I disagree. If you're picking on the word "raise", to me that's what he was doing. That's my -- these are my notes, this is the English I use to describe it. Okay, perhaps you would use a different word. To me, raise is to describe a movement so it's side on to his body (indicates) and he's gone to raise it as if he's going to bring it up to an aim position. That's how I use the word "raise".

15.10.13,
p.53, line
22 –
p.55, line
4

470. V53 was asked what happened to the gun. He stated;

A. Sir, the next time I look to reassess, the gun wasn't there. So in the course of like a split second, one

second the gun is there and the next second, when I looked and reassessed the gun is not there because I think Mr Duggan would have been falling backwards at that time.

THE ASSISTANT CORONER: You're focusing on him, you are looking at him all the time you are not looking away or blinking.

A. No.

THE ASSISTANT CORONER: Suddenly the gun disappears.

A. It did, sir, yes. Again, sir, it's happened so quick. If you imagine, this is happening in a split second, one second it was there and the next second when I looked thankfully he wasn't pointing at me.

THE ASSISTANT CORONER: What was he doing?

A. I think he was -- I can't remember exactly but he was falling backwards.

MR UNDERWOOD: Did he fall forwards first or did he fall backwards first?

A. Again, I cannot be precise because at that time I've given a big loud shout of "Shots fired, shots fired" because I wanted to let everyone know that I've actually engaged Mr Duggan and I just remember him falling backwards and officers converging on him.

Q. Is it your evidence, be clear about this, that he had the gun in his hand from the moment you saw him turn towards you?

A. Absolutely.

Q. He had that gun in his hand while you fired both shots?

A. Absolutely.

Q. But it suddenly wasn't there?

A. Yes.

15.10.13,
p.168,
lines 9 –
24

471. Mr Thomas QC asked V53 further questions about the gun:

Q. The threat here was this is an armed man who was pointing a gun at you and you had your eye on the gun?

A. Yes.

Q. Your eyes that you never took off the gun?

A. That's correct, sir, yes.

Q. So tell us what happened to the gun?

A. Again, sir, I would love to be able to say to you – sit here and say I saw the gun fly over the fence

after the second shot but I didn't. I am not going to put something down on paper that I haven't seen. I'm sure it would clear up a hell of a lot of stuff if I was able to say "Yes, I saw the gun fly through the air and it landed wherever" but I didn't see it. So I am not going to sit here, you know, nearly two years on. I wasn't going to do that at the time or in the days after and put down something that I didn't see.

472. In reply to questions from the Assistant Coroner, V53 said that the fact that Mr Duggan did not shoot W42 did not come into his calculation in making his assessment to shoot, nor did the fact that he was wearing body armour, as he could not say whether it would have protected him from a shot fired from the Bruni firearm. V53 said that he chose the MP5 over a Glock or taser, as it was more accurate and reliable than a Glock, and the taser would not have achieved immediate incapacitation in the face of a threat.

15.10.13,
p.186,
line 2 to
p.187,
line 20

473. Towards the end of V53's evidence the Assistant Coroner asked him whether his actions were absolutely necessary. V53 stated,

Again, sir, I think they were absolutely necessary in the circumstances. Again, firearms officers only do discharge their firearms when absolutely necessary, okay? A firearms officer must only discharge a firearm once they have an honest held belief that, due to the immediacy or proximity of the threat posed, the immediate discharge of firearms is absolutely necessary in the circumstances. We have to learn that word perfect when we do every course because that is the fundamental part when we discharge a firearm. If I may break that down, sir, okay, so we must have an honest held belief. We have powers to use force and I'm sure, sir, you'll probably go through the law further down the line. But, for me, I've used my common law power which allows me, if I have an honest held belief, that I can do what's called a pre-emptive strike, whereby I have an honest held belief that there's an immediate threat to me or one of my colleagues. I don't have to wait for the first punch to be thrown or the first shot to be fired. If I have an honest held belief that he is going to shoot me, I can fire first. I hope I'm explaining that okay, sir, within the common law

power, and that's the power I was using on that day. That force has to be absolutely necessary in the circumstances. When we say we're accountable, every round that we fire has to be accounted for. So again when I explained this morning, the tipping point, as it were, or the line in the sand, when Mr Duggan had the gun like this (indicates), yes, it's a threat but it wasn't an immediate threat to my life, okay, so I was hoping that he would drop it. But the tipping point is when he actually moved it away from his body (indicates) that to me is the tipping point where I have now an honest held belief that he's going to shoot me or he he's going to shoot me in that motion (indicates). So, again, I've assessed and I've discharged one round and then I've reassessed again.

474. V53 said that he knew that Mr Duggan never fired at the officers, and that this was known straight away. At the time, he said that he thought that one of his two rounds had over-penetrated and hit one of his friends and colleagues. He said that he went to W42 first and started to reassure him and remove his clothes and body armour, looking for a bullet wound in him. V53 said that he was able to satisfy himself that the round was in his radio and there was no obvious penetration in him. V53 said that W42 was about five to six inches shorter than him, his own height being 6'2". V53 said that the round had struck W42 where he had his radio, on his left-side, about halfway up his chest, around the rib cage area.
475. When describing the first aid he administered, V53 said that Mr Duggan was initially breathing and at two minutes after the shooting there were signs that he was alive. V53 gave a full account of the first aid and CPR he administered.
- 15.10.13, p.86, lines 5-19 476. V53 was questioned **about how his account fits with the scientific evidence**. Mr Underwood QC showed V53 a photograph of a replica of the jacket on a mannequin in which scientific experts had replicated the bullet holes and the wound tracks in the mannequins, using trajectory rods. V53 could not account for the angles or positions of the rods and said that he could only reiterate his recollection of what he saw. The Assistant Coroner then asked V53 about the position of his MP5 when he fired:

THE ASSISTANT CORONER:...when you fired the two shots --
A. Yes, sir.

THE ASSISTANT CORONER: -- had you moved your MP5 at all
or do you think you were very much in the same

position?

- A. No, sir, I think I was standing still because I wanted to have a stable shooting platform because, you know, you're more accurate when you stand still. So I wouldn't have moved and I don't think I would have moved the weapon because I would have kept the same central -- the same point of aim, which would have been his central body mass.

THE ASSISTANT CORONER: So the bullets are coming out of the same place?

- A. I would guess so sir, yes.

477. Mr Underwood QC asked V53 if he was satisfied the gun was in Mr Duggan's hand when he fired both shots. V53 stated;

- A. It's 804 days since this happened and I'm 100 per cent convinced he was in possession of a gun on shot one and shot two."

478. Mr Thomas QC asked V53 about the shots that he had fired, largely by reference to the likely scientific evidence to be heard at the inquest (after V53's evidence). V53 said:

- He was stationary when he fired the first shot;
- It was V53's recollection that his first round hit Mr Duggan's chest and the second hit Mr Duggan's arm, even if that was not consistent with the science;
- V53 was more or less static at the time of both shots;
- V53's gun was at the same height and level between the two shots;
- It was any movement of Mr Duggan that made the alteration in the trajectory of the bullets;
- Mr Duggan was not bent over when V53 shot him in the chest; and
- On the positioning of Mr Duggan's hand, Mr Duggan's bicep stayed in contact with his right chest and his hand moved out.

479. V53 rejected the suggestion that Mr Duggan fell forwards, and denied that he was fabricating his evidence on this point

480. After the conclusion of the inquest, the IPCC sought to question V53 further on whether, in light of the conclusion of eight of the jurors that Mr Duggan did not have a gun in his hand when he received the fatal shot, V53 may have been mistaken in his evidence when he said that Mr Duggan had a gun in his hand when he made the decision to shoot him.

481. V53 declined to be interviewed by the IPCC but he provided a short written statement on 23 July 2014. The key part of his statement said:

“The evidence that I gave at the inquest was that at the time I decided to shoot I believed Mark Duggan was holding a gun and was an imminent threat to my life and the life of colleagues. That remains my position today.”

V53 did not consider that he could usefully add anything further.

W70

S24A

482. W70 was a firearms officer in the Tactical Support Team deployed on 4 August 2011. He sat as a rear passenger in the Charlie car (the same car as V53) that was positioned directly behind the minicab when it was stopped on Ferry Lane. During the late evening on 4 August 2011, W70 wrote a short entry in an Evidence and Action Book. He stated:

“On THURSDAY 4th AUGUST 2011 I was on duty in plain clothes as an authorised Firearms Officer attached to TST2 CO19. We paraded at 1600hrs at LEMAN ST POLICE Station. I was posted as rear seat passenger in TJ902C in company with R68 who was driving and V53 who was front seat passenger. I was deployed with my personal issue Glock 17 SLP (number 520) personal issue MP5 (13) both in condition 1 and Hatton gun (E19). At approximately 1813 hrs we were tasked to stop a vehicle index R343 KPE as part of on going operation. That stop took place on FERRY LANE N17 close to Tottenham Hale station. I deployed from the vehicle and during the course of this stop a number of rounds were discharged and as a result 1 subject was hit and 1 police officer. 1st aid was given to both parties by Police, I remained at scene until returning to Lemman ST, police station to take part in PIP procedure.”

S24

483. W70 wrote a statement on 7 August 2011 and further statements thereafter. He also gave evidence at both of the criminal trials brought against Mr Hutchinson-Foster.

S24

484. Relevant extracts of W70’s statement of 7 August 2011 have been included below:

“Whilst in the vehicle R68, V53 and myself discussed our deployment around the stop highlighting the fact that the subject was likely to make a concerted effort to get away and that we would have to be mindful of this fact and make sure we responded quickly. We also discussed that whilst we couldn’t be sure the mini cab driver was

unconnected we had to mindful he could be an innocent party and would likely in this case be compliant. This was relevant to me as Hatton gunner as though I would still deploy with it I would need to consider whether it would be needed in the event the vehicle stopped compliantly.”

S24

485. *“As we pulled up my door window was open to allow me to hear. As R68 shouted "DOORS, DOORS". At 1813 hours I deployed quickly from the vehicle onto the footway immediately gaining vision onto the subject vehicle for signs of non-compliance and it trying to break out, it was completely stationary and I could see the side door was already slid open and I could see the left hand side profile of the subject emerging from the side door, a man I now know to be Mark DUGGAN 29 yrs IC3 male with short hair wearing a light tan coloured "puffa" style jacket, dark blue jeans and blue 'T' shirt. I was approx 5 metres away it was broad day light and I had a clear and un-obstructed view of the male.”*

S24

486. *“Realising I would not need the HATTON gun I slung it on it(s) sling and immediately put my hand on the pistol grip of my Glock. I was already shouting "Armed police" as I exited the Charlie vehicle. I continued to shout this as I ran towards the subject, I was at arms length behind V53 and to his right approx level with windscreen of Charlie vehicle. I saw the subject pivot out of the door as I did he was stooped over with his right hand crossed across his body with his hand inside the left hand side of his jacket towards his waistband. I continued to shout 'Armed police' "Stand Still". It appeared that his left hand was in his pocket of the jacket or holding the left hand lower zip part of the jacket around his right hand.” [W70]*

S24

487. *“It very much appeared to me that he was concealing something within his jacket in his right hand. I felt very much at risk and thought I was in danger as this male was believed to be in possession of a firearm. I already had my hand on the pistol grip of my Glock with the intention of drawing it and pointing it at the male under S.3 Criminal LAW. Following the initial stop under S47 Firearms Act. As the subject set off in a sort of half run towards me I saw him very quickly pull his right hand up and out of his jacket he was holding by the pistol grip on SLP (Self Loading Pistol). I remember thinking I was in serious trouble if I couldn't get my Glock out and get a shot of [sic] very quickly.” [W70]*

S24

488. *“I had a surge of adrenalin similar to when you have a near miss on a motorcycle as if someone suddenly pulls out in front of you. At this point I was only 3 metres or so away from the subject and almost instantaneously I heard two shots from my left which I believed came*

from V53 who was up in the aim with his MP5. I saw the subject stumble and double over and feathers exploded from his jacket. He was that close that I released my grip on my Glock and grabbed both his wrists which he was clutching to his chest, he was falling and stumbling on his knees and I pushed him onto his back. I started shouting at him 'where's the gun' he was totally unresponsive and limp but I was convinced I would find a gun either on him or under him.'" [W70]

S24

489. *"I quickly searched visually his front and then turned him on his front keeping control of his right hand and arm, mindful I had to secure the weapon I had seen before starting 1st aid. I continued to talk to him asking if he could hear me and where the gun was. At that point V48 joined me and assisted in searching for any weapon. I estimate the time from when I deployed from Charlie car to the point where I had the subject restrained on his back holding his wrists to be no longer than 2 seconds. It was then no more than a further 3 seconds until V48 joined me. Myself and V48, once we had satisfied there was no weapon on him or under him, immediately started 1st aid checking for responsiveness and breathing, he appeared to be making attempts to breath." [W70]*

S24C

490. W70 declined the IPCC's request for him to attend for interview, therefore the IPCC provided him with 91 questions to probe his account. W70 responded to these questions in a statement dated 23 May 2012. Relevant extracts are included below.

S24C

491. *"With regards to questions on page 4 of my original statement [statement of 7 August 2011] around the sentence 'highlighting the fact the subject was likely to make a concerted effort to get away and that we would have to be mindful of this fact and make sure we responded quickly'. I believe the subject was likely to make a concerted effort to get away because the male was a known gang member in possession of a firearm who if caught and convicted would go to prison. In addition v53 had been on several Op DIBRI's before and attended the briefings in which he had been informed that Op DIBRI subjects have a propensity to attempt escape and use violence." [W70]*

S24C

492. W70 was asked a series of questions concerning his reference in his 7 August 2011 statement to Mr Duggan pulling his right hand up. He stated, *"I mean by "very quickly pull his right hand up" that he pulled his right hand out away from his waist band very quickly, he did this as if drawing a weapon from a holster or waistband. I cannot add anything further around where his right hand exited his jacket. I cannot assist with what height he raised his right hand to."*

- S24C 493. W70 answered further questions about how he alleged Mr Duggan held the gun:
- “The subject appeared to be holding the gun in a conventional manner by its pistol grip. To clarify, I only saw a flash glimpse of the Pistol as it was withdrawn from waist area. I cannot be specific about which direction the muzzle was pointing, my best recollection is that his arm was moving out from his waist band area very quickly as if drawing a weapon, my perception was that he was drawing the weapon intending to fire it.”*
- S24C 494. Further questions were asked about W70’s assessment in his 7 August statement that he was in “serious trouble” if he could not draw his own firearm:
- “I did not know it was a self loading pistol, however from the information received, the way it was pulled from his waist area and where it was pulled from in conjunction with the way it was held and it's size and shape I believed it to be a self loading pistol. With regards the sentence on page 8 "I remember thinking I was in serious trouble if I couldn't get my Glock out and get a shot off very quickly", I thought I was in serious trouble because we were told the subject was in possession of a gun, he has then made a determined move from the vehicle and towards me, and as an armed criminal, he has produced, what I believed to be a hand gun in an aggressive manner in what I believe was a precursor to him shooting at me and my colleagues.”*
- S24C 495. *“My threat assessment changed very rapidly but had I been pointing a firearm at the male when I saw the weapon I believe I would have fired based on an honest held belief formed from information received about the males possession of a firearm, his actions and non compliance and the fact he produced a pistol shaped object from his waistband/jacket, I believed there was an imminent threat to the life of my colleagues and myself.” [W70]*
- S24C 496. *“With regards to questions on page 9 of my original statement around the sentence "at this point I was only 3 metres or so away from the subject and almost instantaneously I heard two shots from my left which I believe came from v53 who was up in the aim with his MP5" please see plan enclosed for location of myself and the subject at the point I heard the shots. I can confirm that the distance between myself and the subject had reduced as he had moved from his vehicle and I had moved from mine.” [W70]*
- S24D [X291 (W70/2)]
- S24C 497. W70 was also asked what amount of time occurred between W70 seeing the pistol and him hearing the shots; and, the amount of time

between the shots. He stated that, *“The amount of time which occurred between me seeing the pistol and me hearing the shots was almost instantaneous. I cannot be specific around the time that occurred between the shots.”*

S24C

498. W70 continued, *“With regards the sentence on page 9 “I saw the subject stumble and double over and feathers exploded from his jacket”, the amount of time that occurred from the two shots to me seeing the subject stumble was instantaneous.”*

S24C

499. W70 was asked a series of questions concerning his reference to catching Mr Duggan as he began to fall:

“With regards the sentence on page 8 [of his 7 August 2011 statement] he was that close that I released my grip on my glock and grabbed both of his wrists which he was clutching to his chest, he was falling and stumbling on his knees and I pushed him onto his back.” I cannot recall exactly how I ended up kneeling next to him holding his wrists as it was a very dynamic and short lived event however, as I saw it, the momentum of him running kept some forward motion but he was essentially collapsing down towards me, he was falling either on his knees or nearly on his knees, I believe I had hold of his arms as he was collapsing from kneeling onto his back. My perception is that I caught him on his way down. I believe he may have been more or less sitting on his own feet before he eventually slumped down onto his back with my assistance. I kept hold of his wrists, I ended up kneeling either over him or to the side, I believe I kept hold of his wrists until joined by v48 when I released his left arm, secured my Hatton gun and then searched him for the gun.”

S24C

500. *“I don't remember using much force as he was very limp but I was preparing to fight with a male I believed to be armed so I was firm with my movements.” [W70]*

S24C

501. *“I cannot add anything further as to who was the closest officer as I was very much focused on the subject. I can however say that v53 was closer than me when he fired shots but I moved past him as the subject was falling towards me.” [W70]*

S24C

502. W70 was asked a series of questions concerning searching for the firearm under Mr Duggan's body and the finding of the firearm:

“With regards the sentence on page 9 “I quickly searched visually his front and then turned him on his front keeping control of his right hand and arm, mindful I had to secure the weapon I had seen” I cannot recall exactly how I searched him but just kept hold of his right hand throughout the search turning him over and checking

underneath him as well as on his person. With regards the sentence on page 9 (11) "I was aware at some point during carrying out first aid, that a member of our team had found a firearm on the grass area a few metres the other side of the metal railings" I cannot recall exactly how I was made aware as I was focused on first aid, I only remember Someone came and told us (people carrying out first aid) that a gun was on the grass. I could see the grass area that was referred to and I could see the officer that stood sentry over the weapon."

S24C

503. *"I did not view the firearm on the grass, I saw its position but by the time I had finished 1st aid it was covered by something. But as I did not see it I cannot confirm if this was the same firearm as I saw in Mr DUGGAN'S hand." [W70]*

D838

504. W70 gave evidence at the first trial of Mr Hutchinson-Foster, Snaresbrook Crown Court on 20 September 2012. W70 gave the following additional evidence:

- He estimated he was approximately five metres away from Mr Duggan when he first saw him and this distance reduced as they ran towards each other;
- W70 demonstrated how Mr Duggan pulled his right hand upwards but that the gun in his hand remained pointing down and to the left;
- He estimated he was less than five metres but more than three metres away from Mr Duggan when he was shot; and
- Mr Duggan did not fall to the ground immediately. W70 stated, *"I believe, due to the momentum of him running he had essentially collapsed under his own weight, whilst still moving forward"*.

D1030

505. W70 gave evidence for a second time on 10 January 2013 in the retrial of Mr Hutchinson-Foster. His evidence covered many of the same issues that were covered in the first trial and therefore only evidence that expanded on his previous account or was inconsistent with his previous accounts has been set out below.

D1030

506. With regards to Mr Duggan's position as he got out of the minicab, W70 stated, *"Mr Duggan came out and he was in a stooped position, very low on his legs. I would describe him as sort of ready to sprint or bolt"*.

D1030

507. Prosecution Counsel asked W70 about how quickly events took place. W70 stated, *"fractions of a second really and certainly from the point I exited my vehicle to the point where I was searching him for*

the weapon was under two seconds”.

508. Defence Counsel questioned W70 about his view of Mr Duggan’s hands and the position of Mr Duggan. W70 gave the following evidence:
- He did not know what had happened to Mr Duggan’s hands as after he saw his right hand coming out from his waistband area, the next time he was aware of his hands they were already at Mr Duggan’s chest;
 - Mr Duggan’s right hand emerged from the left hand lapel or lower lapel of his jacket near the waistband area;
 - Mr Duggan’s jacket was unzipped;
 - He saw a flash glimpse of the gun as it appeared with his right hand and elbow coming up quickly;
 - Mr Duggan’s right arm was bent at the elbow at 90 degrees so that his right hand and the gun was pointing across his body and downwards;
 - He could not say what happened to the gun next and his best guess was that he probably blinked or flinched because he did not have his own weapon drawn. He could not say where his eyes continued to look but the next thing he saw was Mr Duggan’s hands at his chest. W70 accepted that he had not referred to blinking or flinching in his statement dated 7 August 2011 but he said he was trying to account now, when asked to do so, for why he did not see what happened to the gun; and
 - His perception was that Mr Duggan was running quite close to the kerb line and that he was closer to the road than the railings.
509. W70 gave evidence to the inquest on 23 October 2013. At the time of this incident, he said, he had been a police officer for seven years and working in the Tactical Support Team for approximately five months. He had previously been on the armed response vehicles, but with the Diplomatic Protection Group. Since this incident, W70 had become a Specialist Firearms Officer, passing the training in March 2012. W70 confirmed that on 4 August 2011, he was posted as the rear seat passenger in the Charlie car. He said that he had not been involved on 3 August 2011, and on 4 August, he was given what he described as a “*brief précis*” of what the circumstances were, and he was given a copy of the FA1 containing all the information for the Senior Firearms Commander.
510. In respect of **the discussion in the Charlie vehicle on the way to**

Ferry Lane, W70 said that V53 was giving “*a brief précis of what the subjects ... were like, what the subjects might try and do around the stop.*” W70 had never been on any Dibri operations previously. This was the first vehicle stop of this nature in which he had been involved.

511. On **the execution of the stop**, W70 said that he saw the Alpha and Bravo car execute the stop. As “*doors, doors*” was called by the driver in his car, W70 said that he opened his nearside rear door, checking as he did so to see whether the minicab was giving any signs of being uncooperative. He saw the minicab come to a complete stop. It was W70’s evidence that he thought everyone had been shouting “*armed police*”.
512. On **getting out of his vehicle**, W70 could not recall whether he stepped straight out of his vehicle onto the pavement or onto the road. He said that he looked down the kerb line and could see the sliding door of the minicab already open. He saw the side profile of Mr Duggan appearing from that doorway.
513. In respect of **what W70 saw of Mr Duggan as he was getting of the minicab**, W70 said that when he first saw Mr Duggan, W70 was about five metres away from him and had a clear and unobstructed view of him. W70 said that Mr Duggan was using his left shoulder to pivot round the doorway of the minicab, i.e. his side profile was emerging, and then he started to face towards W70 and V53. W70 could not recall exactly where Mr Duggan’s feet were at this point, but W70 said he “*was very aware that he was low on his legs so at some point obviously he has come out and put his feet on the ground*”. W70 did not recall which way Mr Duggan was looking at this point. W70 said that he saw Mr Duggan’s left hand grabbing a part of his jacket, controlling his left-hand bottom lapel of the jacket. W70 could not see Mr Duggan’s right hand because that was across his waistband towards the left-hand side of his waistband. W70 said that Mr Duggan was never looking in any particular direction for more than a split second, and he did not see Mr Duggan look upwards towards W42. W70 said he was vaguely aware that there was an officer beyond Mr Duggan but he couldn’t see where W42 was. W70 did not notice at this stage whether Mr Duggan was wearing gloves.
514. On **Mr Duggan’s next movements and seeing a weapon in Mr Duggan’s possession**, W70 said that as Mr Duggan had turned to face him and V53, Mr Duggan set off in a determined, sprint-like manner. W70 said he saw Mr Duggan’s jacket come round, and Mr Duggan pulling it slightly. He said he could see Mr Duggan concealing something in his jacket – W70 did not know what that was

23.10.13,
p.12,
lines 13-
15

at first. As Mr Duggan took one or two steps, W70 saw Mr Duggan move his arm, and, he said, he saw a self-loading pistol in Mr Duggan's hand. W70 then said that he could not give any detail of the weapon, but just saw the shape of a self-loading pistol. He agreed in response to questions from Mr Underwood QC that it was "*a sort of silhouette of a self-loading pistol*". W70 said that he saw a side profile of the gun, and said that it was not pointed at W70 or in the direction from which W70 was coming. W70 said that he knew it was a self-loading pistol as such a pistol has a distinctive shape – it was an L-shape. He did not, he said, see a sock, and he could not see a muzzle or any kind of trigger mechanism. W70's evidence was that he did not see Mr Duggan raise the gun. At this stage, W70 said, the gap between W70 and Mr Duggan had narrowed from five metres to about three metres, as they were both narrowing the gap between them. W70 did not recall seeing Mr Duggan's face.

515. On the **threat assessment** that he made once he had seen the gun, W70 said that his threat assessment was that there was an imminent threat to life because Mr Duggan was drawing the weapon in order to fire it at the officers. W70 said that if, hypothetically, he had had his gun out of its holster, he would have fired.

23.10.13,
p.14, line
4

516. As to the issue of **shots being fired**, W70 said that almost instantaneously after seeing the self-loading pistol in Mr Duggan's hands, he heard two shots which he described as a "*pair of shots*" with a distinct separation between them. He did not see Mr Duggan come into an upright position after one shot. He could not recall what happened to Mr Duggan's hands, but he said he perceived that he "*started to sink low on his legs*", or collapsed downwards onto his knees. W70 said that Mr Duggan's hands, which were empty, came up to around his collar bone but he could not say which way they were facing. W70's perception was that Mr Duggan had only moved a couple of strides from the doorway of the minicab when the shots were fired. W70 said that at this stage, V53 was in his periphery, but ahead of him and to the left, although V53 was within an arm's length of W70. W70 was concentrating on Mr Duggan and was trying to focus on the gun as much as he could. He explained that he himself did not have time to react as he did not have a weapon pointing towards the minicab at the time. W70 realized that V53 was the only person who could have shot Mr Duggan as the gun fire was so close to W70's head.

23.10.13,
p.12,
lines 21-
22

517. On **W70 taking hold of Mr Duggan's hands**, W70 said that he grabbed Mr Duggan by the wrists and lowered him onto his back onto the ground, as Mr Duggan had already fallen onto his knees and was already falling towards the ground. W70 said that whilst Mr Duggan

was stumbling, he was still making ground forwards due to the momentum he had had from his sprinting start out of the minicab. W70 said that he could not recall using an arm lock to take control of Mr Duggan, although he did take both his arms. He did, however, assume that Mr Duggan still posed a threat as he did not know where the gun was. He said that Mr Duggan was not struggling and was somewhat limp. W70 agreed that his holding of Mr Duggan's arms may have appeared to others to look like an arm lock.

518. On **Mr Duggan being on the ground**, W70 said that his immediate concern was to find where the pistol had gone – he thought it could have been underneath Mr Duggan, or somewhere on Mr Duggan's person where Mr Duggan would still have been able to access it. His evidence was that he did not know what had happened to the gun, but he accepted that he did not see any jerky movements or Mr Duggan's hands or any throwing movements. W70 explained to the inquest that he searched Mr Duggan's front to see if the gun was lying on top of him or was in a pocket or similar, and then he turned Mr Duggan over to see if he was lying on top of it. W70 did not search within the pocket of the jacket, but would have been able to feel a gun through clothes. W70 was patting down the clothes on Mr Duggan to see if he could find the bulky object, which would have been the gun that he believed he had seen.
519. On the **administration of first aid**, W70 said that a point was reached in looking for the gun about Mr Duggan's person when it appeared not to be there and it was decided to start first aid. W70 carried out a primary survey, looking for the actual wounds and then starting to cut his clothes off so that they could get to skin level and look for further injuries. He then assisted in getting oxygen ready for Mr Duggan. In due course V53 took over from W70 as he was a more highly trained medic. W70 said that Mr Duggan was certainly not wearing gloves whilst the first aid was being administered.
520. After the conclusion of the inquest, the IPCC sought to question W70 further on whether, in light of the conclusion of eight of the jurors that Mr Duggan did not have a gun in his hand when he received the fatal shot, W70 may have been mistaken in his evidence when he said that Mr Duggan had a gun in his hand immediately before he heard shots fired.
521. W70 declined to be interviewed by the IPCC but he provided a short written statement on 8 August 2014. The key part of his statement provided:

"The evidence that I gave at the inquest was that immediately before I heard shots I saw Mark Duggan holding a gun and I believed that

was an imminent threat to life. That remains my position today.”

W70 did not consider that he could usefully add anything further.

R68

S30

522. R68 was a firearms officer in the Tactical Support Team deployed on the 4 August 2011. He was the driver of the Charlie car, which contained V53 and W70. He also interacted with the driver of the minicab.

S30A

523. During the late evening on 4 August 2011, R68 wrote a short entry in an Evidence and Action Book. He stated:

“On THURSDAY 4TH AUGUST 2011 I was on duty in plain clothes as an authorised firearms officer attached to TST. At 1600hrs I paraded at LEMAN ST police station and was posted driving TJ902 and in company with W70 and V53 engaged on Op DIBRI. At approximately 1813 I was engaged in an armed stop of a Gold people carrier in R343KPE in FERRY LANE, N17. During the deployment of this stop shots were fired by police which resulted in one of the occupants of the vehicle being fatally shot. I remained at the scene until dismissed by the officer in charge. I then returned to HD for the post incident procedure.”

524. R68 wrote a statement on 7 August 2011 and further statements thereafter (he declined to be interviewed by the IPCC investigation). He also gave evidence at both criminal trials involving Mr Hutchinson-Foster.

S30

525. Relevant extracts from R68’s statement of 7 August 2011 are reproduced below, mainly focussing on his account of what occurred at Ferry Lane.

S30

526. *“I quickly shouted ‘Doors, Doors’ as I stopped our vehicle and turned the engine off. I could see we were stopped on the approach to a raised section of road running up to a bridge which crossed the railway line. The footway was bordered by the road and a spike metal fence about five feet high which in turn had a large grassed area behind it that led down from the elevated road to a housing estate. As I secured the vehicle I could hear W70 and V53 deploying from my car. I opened my car door and quickly got out. As I stood up alongside my open driver’s door I saw an IC3 male getting out of the rear passenger side of the vehicle. The open rear door was a sliding door and slid open fully. He was about 30 years with short black afro hair. He was wearing dark blue jeans and brown, tan jacket. I was about 10 feet away looking at him across the bonnet of my vehicle.*

Lighting was good and I had a clear and unobstructed view of him. I could see that the male had his right hand inside the left hand side of his jacket near his waistband. This immediately alerted me to the fact that he may have a weapon. I could hear shouts of 'Stop' and 'Armed Police'." [R68]

S30

527. *"The male's left arm was by his side. He was just by the rear of the vehicle on the footway. I became aware that the male was smiling and looking in my direction. He appeared to be trying to pull an item from his waistband and had to use his left hand to assist him. This gave the appearance of a slow 'lolloping' run. I could see V53 on the footway running towards him with his MP5 up in the aim. I could see W70 behind him about an arms length behind V53. I could also see other officers moving up behind the subject. I could still hear shouts from my colleagues but am unsure of what was shouted. I quickly looked up and assessed that there were adequate officers to detain the subject and I could only see W56 at the driver's side of the vehicle. I then made the decision to deal with the driver. I did not stop moving forward as I assessed the situation. As I moved to the rear of the vehicle I heard two shots being fired. I glanced over to my left and saw V53 standing in front of the male with his MP5 up in the aim. The male was partially doubled over. I continued moving forward and raised my MP5 up to the off aim ready position and placed my selector to fire." [R68]*

S30

528. *"As I moved along the driver's side I pointed my MP5 into the vehicle and cleared the rear interior. I could not see any persons in the rear of the vehicle. As I reached the driver's door I could see W56 at the front offside corner of the vehicle. He was armed with his Hatton gun which was pointing down to the front offside tyre. He was wearing his plot cap. I shouted "Armed Police, Armed Police" and opened the driver's door. I could still hear shouts from the footway. As I opened the door I could see that the driver was an Asian male aged about 40 years wearing a shirt and tie. I shouted "Armed Police, get out the car" I pointed my MP5 at the male as he was still an unknown threat. The male raised his hands to his chest. Due to the open driver's door W56 was unable to assist me and I was alone. I was aware that shots had been fired and needed to deal with the male quickly to secure him. I was also mindful that he may still be an innocent party. I took the male's right arm with my left hand holding my MP5 in the aim with my right hand holding the pistol grip. I pulled the male from the vehicle and shouted "Get down, get down on the floor". The male fully complied and laid down face down on the floor." [R68]*

S30

529. *"I guided him to the floor and then stood back and covered him with my MP5. At this point W56 moved forward and placed the male in*

chain link handcuffs behind his back. I then placed my selector to safe and dropped my MP5 to the low part. I said to the male that he was OK and that we would move him as soon as possible. I then quickly cleared the cab and rear of the vehicle and shouted "vehicle clear". I then asked the male if he was OK or injured. He said he was fine and I sat him up and leant him against his vehicle..." [R68]

S30

530. *"At this point the male cab driver informed me that he had taken the male to Leyton where he had collected a large shoe box. I explained to him that someone would speak to him in due course..." [R68]*

S30B
S30C
S30D
D591

531. R68 declined to attend IPCC offices to be interviewed. He gave further statements dated 18 January 2012, 22 May 2012 and 6 June 2012. The 22 May 2012 statement was in response to 117 written questions put to him by the IPCC investigation.

D591
S30C

532. This list of questions included a series of questions concerning R68's reference, in his 7 August 2011 statement, to Mr Duggan appearing to pull an item from his waistband - R68 responded as follows:

"The male was on the footway to my left when his hands were in the position stated in my original statement. I am unable to confirm exactly where his hands were. When I first saw the male I could see that his right hand was inside the left hand side of his jacket near his waistband but I am unable to say where his hands were prior to this point. I can confirm that his right arm was across his body as his right hand was in the left hand side of his jacket. This was at the same height as his trousers waistband. I only saw the male for a second and cannot add any details as to where his hand had entered his jacket and am unable to confirm whether his jacket was fully open. At this point I am unable to confirm the angle that male was at or in which direction he was facing, however it is likely that he was facing forward."

S30C

533. *"In my original statement I have made reference that the male appeared to be trying to pull an item from his waistband and he had to use his left hand to assist him and that this gave him the appearance of having a slow "lolloping" run. I am unable to recall exactly how the males left arm moved. However I believe it would have had to have been bent at the elbow for his left hand to assist him in retrieving the item from his waistband. He appeared to be using his left hand to secure and pull away his waistband so he could remove the item. In summary the males actions and position of his hand gave the appearance of him trying to pull an item from the left side of his waistband with his right hand. This item being concealed in his jacket down towards the left side or in his waistband. As previously stated the male was wearing blue jeans and a brown tan*

jacket. I am also unable to clarify at what pace he was running or the size of his steps as my attention was drawn to his upper body. I can confirm that he was moving forward and I believe the male was trying to get away from the vehicle and away from officers that had deployed in front of the subject vehicle and as he was doing this I believe that he was trying to retrieve an item from his waistband. I believed this item to be a weapon. At this point I am unable to confirm if the male was looking in my direction or if his expression had changed at all.” [R68]

S30C

534. R68 was asked a number of questions concerning his reference to “clearing” the minicab:

“I have also been asked several questions regarding the clearing of the vehicle by myself after the driver had been detained. As I cleared the interior of the vehicle I had no expectations of finding anyone else inside as no information had been received regarding any other person. I could clearly see that there were no other persons in the rear of the vehicle.”

S30C

535. *“The vehicle being “cleared” means that I could not see any person inside the vehicle for the vehicle to be called as clear the officer should ascertain that there are no other persons inside the vehicle that may pose a threat. I cleared the vehicle by looking inside through the windows with my MP5 in the off aim position. This means that I was pointing my weapon into the vehicle and the weapon was up in my shoulder and I was looking over the top of my sights so that I could quickly deal with any threat should one present itself. Clearing a vehicle is always done at the earliest opportunity although it does not fall on any officer to clear the vehicle. I just happened to be the only officer available at the time to clear the vehicle of any persons. I did not enter the vehicle at any time as it was unnecessary to do so as I could clearly see through the windows. The vehicle was not searched for any firearms as our role as the firearms team is to clear the vehicle of any persons thus negating any threat that may be posed...” [R68]*

S30C

536. R68 was asked a series of questions about the non-police issue firearm. He stated, *“....At no point did I see a non police issue firearm prior to the shots being fired and I did not see the firearm as I was engaged to administering First Aid to DUGGAN on the footway. I was informed however that a non police issued firearm had been discovered close by. I did not see where this firearm was and at no time did I consider how it had ended up in this position.”*

D869

537. R68 gave evidence at the first trial of Mr Hutchinson-Foster held at Snaresbrook Crown Court on 26 September 2012. During the part of

his evidence concerning what R68 could see of Mr Duggan after he had got out of the minicab, the following exchanges took place between Prosecution Counsel (Q.) and R68 (A.):

Page
102G-
104B

- Q.Where was the man, so far as you recall at this moment?
- A. As I recall, my Lord, the male was just by the rear of the vehicle, rear of the mini cab.
- Q. Yes. What was he doing?
- A. He appeared to be trying to pull an item from his waistband, my Lord, and he was actually having to use his left hand to assist him.
- Q. Could you explain that a little more, please?
- A. Yes, my Lord. The male was moving, still moving away from the rear of the vehicle, and the position of his arms gave him a what I described as a lolloping run, more of a sort of an awkward lolloping run, my Lord.
- Q. Could you explain also, please, a little more when you said that he was using his left hand to assist him; what do you mean?
- A. He's had his right hand towards his waistband. His left hand was drawn up almost as if he was trying to secure the left hand side of his trousers, and to me it looked like he was doing that to assist him to retrieving whatever item he had in his waistband, my Lord.
- Q. Did you see officer V53 at this stage?
- A. Yes, my Lord, I did.
- Q. Whereabouts was he and what was he doing?
- A. Victor 53 was on the footway and he was running towards the male with his MP 5 up in the aim.
- Q. To what extent were you able to see events then, over on that side?
- A. From where I was standing, my Lord, I could see Whisky 70 behind him, about an arm's length behind.

D869

538. R68 (A.) was asked by Defence Counsel (Q.) about what he saw of Mr Duggan as he got out of the minicab:

Page
128A-
129G

- Q. "As I stood up alongside my open driver's door I saw and IC3 male getting out of the passenger side of the vehicle."
- THE JUDGE: I got the near passenger side.
- Q. You are quite right. "Of the near passenger side." Did you see Mr Duggan getting out of the vehicle?

- A. Mr Duggan was coming out of the -- I didn't see him coming out of the vehicle. He was coming away from the open door.
- Q. You saw him according to you a moment ago emerging from the corner of the vehicle, did you not?
- A. Yes, my Lord.
- Q. I asked you specifically whether you saw him getting out and you said no, did you not?
- A. That is correct, my Lord.
- Q. All right. Well, I have referred you to the bit in your statement. Do you want to alter the answer that you gave me?
- A. I can only go what is in my statement, my Lord, that I saw him getting out of the rear side, rear passenger side of the vehicle and that the door was fully open.
- Q. Having seen that you now think you did see him getting out?
- A. My Lord, when I first saw him, he was out of the open side of the door. The events happened so quickly. When I have seen him and my attention has been drawn to him because of the position of his hands he was then at the corner of the vehicle.
- Q. Statement, quote: "I saw an IC3 male getting out of the near passenger side of the vehicle". Is that accurate to your memory now or not?
- A. No, my Lord.
- Q. Are you confident that what you now tell the jury is accurate?
- A. As best of my knowledge, my Lord.
- Q. How does it come about that something wrong like this got into your statement on 7th August?
- A. I am unable to say why, my Lord. Page 129 F
- Q. Is it possible that it results from something said to you by other officers in the conversation you had that day?
- A. No, my Lord.

D1030

539. R68 also gave evidence on 10-11 January 2013 at the second trial of Mr Hutchinson-Foster. During examination-in-chief by Prosecution Counsel (Q.), R68 (A.) was asked when he first saw Mr Duggan:

Page
146E-
147E

- Q. Where was he at that moment, when you first had sight of him?
- A. When I first saw him, he was by the -- he was --

had both feet on the footway and was by the open rear passenger door of the minicab.

Q. Where were you at this moment?

A. I was -- I was by the front nearside -- sorry, front offside of my vehicle.

Q. So, the driver's side?

A. Yes and beginning to move forward.

Q. Past your door, forward of your door by then or not?

A. I can't say, my Lord.

Q. Which direction did you move in? Where did you go?

A. I then moved alongside the -- my side of the car, towards the driver's side of the minicab.

Q. To what extent were you able to see what was going on?

A. I was about ten feet away, my Lord, and I was looking across the bonnet of my vehicle. I've had a clear an unobstructed view of the male coming away from the minicab.

Q. Whereabouts was he?

A. The male was on the footway, just by the rear corner of the minicab

...

Q. Was he moving?

A. Yes, my Lord, he was moving away from the vehicle on the footway back towards us.

540. R68 was cross examined by Defence Counsel and said the following:

- He was able to see both of Mr Duggan's feet when he saw him and his view was unobstructed by the minicab;
- He could not say the exact distance between Mr Duggan and V53 when he saw them but they were very close to one another.

22.10.13,
p.50, line
9

541. R68 gave evidence to the inquest on 22 October 2013. R68's evidence was that the stop was a "*textbook stop*", and that he was particularly proud of the way that he had positioned his vehicle and thought he had done a good job. R68 said that he then would have got out of the car, "*looking for a job or looking for something to do*". He said that, having got out of the vehicle, he looked up and as he did so, he saw a male coming away from the rear or the passenger side of the minicab. He saw this by looking over the top of his own vehicle, which he did in order to assess what was happening, as in a stop of this type, it would be necessary to react to the behaviour of the occupants.

22.10.13,
p.50, line
25

22.10.13,
p.52, line
5 to p.57,
line 16

542. Mr Underwood QC then asked R68 questions about what he saw next:

Q. All right. Let's leave this up on the screens. You were about to tell us that you saw a person. Can you tell us in your own words what you saw, please?

A. Sir, yes. As I've stood up, I've seen Mr Duggan coming out of the -- well, Mr Duggan on the footway, moving away from the vehicle. I've seen W70 and V53 moving towards him on the pavement, from the passenger side of the vehicle.

Q. You corrected yourself about whether you saw Mr Duggan getting out of the minicab. Can we explore that a bit?

A. Yes, sir.

Q. In relation to what we now know of the layout of the door of the minicab, can you tell us where he was? Was he stepping out of the car, was he stepping up on the threshold of it to get out was, he down on the pavement; can you help?

A. When I first saw Mr Duggan he had both feet on the footway, sir, and he was in somewhere - initially somewhere in that box B.

Q. So from where you were basically standing in the doorway of your car, obviously part of the minicab would shield anybody getting out of it; would that be fair?

A. Yes, sir, yes.

Q. He has to have got past that shielding area for you to see him with both feet on the ground; would that be right?

A. Yes, sir.

Transcript
22.10.13,
p.59,
lines 1 –
3

543. In response to further questioning from Mr Underwood QC, R68 stated:

- He would liken Mr Duggan's "lolloping run" or "awkward run" to someone running for a bus and trying to get change out of their pocket or get their wallet out;
- He could not see Mr Duggan's hands;
- It was very rare that somebody would run from a car;
- He would have seen a gun if it had been visible in Mr Duggan's right hand but he did not;
- If Mr Duggan had been pulling the bottom left hand part of his

jacket up to the right hand part of his chest with his left hand then R68 would have seen this but he did not;

- He could not comment on the suggestion that Mr Duggan could have been putting a mobile phone in his pocket;
- Mr Duggan was running from the stop and struggling with his waistband but this had not struck R68 as a threat because Mr Duggan had not been in front of R68. He might have done if Mr Duggan had been closer to him;
- A couple of seconds passed between R68 diverting his attention from Mr Duggan to the minicab driver and R68 hearing the shots;
- There was a gap between the two shots;
- He did not look back to see who had fired the shots; and
- He did not remember seeing anyone from the Bravo car.

544. R68 added that, when he initially saw Mr Duggan, Mr Duggan was “grinning” in what R68 described as a “closed mouth grin”. R68 could not say who Mr Duggan was looking at directly, though he was looking generally in R68’s direction. This was, R68 said, seconds before the shots were fired, and R68 did not see him again before the shots were fired. The next time that R68 saw Mr Duggan, he said, Mr Duggan appeared to be doubled over, almost as if winded. R68 said that he continued forward down the driver’s side of the minicab and then dealt with the driver.

22.10.13,
p.61,
lines 21-
22

545. R68 said that he became aware that a gun had been found; he said: *“I believe it was just after the HEMS crew had arrived that a gun had been found nearby.”*

546. In response to questions from Mr Thomas QC about what had happened and what he had seen during the incident, R68’s evidence was:

- The plan prior to the stop was to arrest, not to shoot, Mr Duggan;
- When R68 first saw Mr Duggan, R68 was standing alongside his vehicle by the open driver’s door and both of Mr Duggan’s feet were on the footway;
- When R68 saw that Mr Duggan had his right hand inside the left-hand side of his jacket near his waistband, his right hand was concealed inside the jacket, and his left hand was securing the left-hand side of his jacket;
- He did not know what Mr Duggan was reaching for, but he did not

reach for his weapon as there were adequate officers already on the footway and R68 was happy that the officers on the footway with him would be able to deal with any threat, although R68 agreed that he did not know what those officers could see;

- Mr Duggan was moving towards where V53 was with a slow, lolloping run;
- R68 saw Mr Duggan go to the right, not to the left (by reference to the plan), when he got out of the minicab and R68 did not recall Mr Duggan even facing to the left, although he would have been in a position to see it and he had a clear and unobstructed view;
- R68 took his eyes away from Mr Duggan and went to the driver, because he trusted his colleagues to deal with the threat;
- He was not surprised when Mr Duggan was shot;
- He could not account for his colleague's threat assessment; and
- He did look in the direction of where the shots were being fired and there was a gap between the two shots. After the first shot had been fired, he did not see anything flying overhead and there was no weapon next to Mr Duggan's body when he went to assist with first aid.

547. R68 agreed that he had given a detailed account of his **involvement in the provision of first aid** in his witness statement on 7 August 2011, and he agreed that that account did not mention Q63 being involved in the provision of first aid. His evidence was that he did not recall seeing Q63, but he was concentrating on his task. In reply to questions from Mr Stern QC, R68 agreed that he did not know what Q63 was doing before he was filming. He believed that one first aid pack had been taken from the rear of the Bravo vehicle, but he could not account for the other and he did not know who had given first aid to W42.

548. R68 said that he normally worked in a team with W70 and V53, but that he knew other members of the firearms unit.

549. In response to questions from Mr Stern QC, R68's evidence was:

- He saw Mr Duggan for a "*split second*" at which time Mr Duggan was almost facing R68;
- When R68 saw Mr Duggan, he could see V53 running towards Mr Duggan with his MP5 up in the aim, and he could see W70 about an arm's length behind V53. He could not say whether he was looking at them directly or whether he saw them out of his

peripheral vision; he thought the latter more likely; and

- R68 was only looking at Mr Duggan for a very short period of time, because he could see only W56 at the driver's side of the vehicle and his eyes had been diverted there.

550. Answering questions from Mr Stern QC, R68 said:

Transcript
22.10.13,
p.106,
line 15 to
p.107,
line 12

MR STERN: That is a point I wanted to ask you about. Obviously something that happens in a second or so, what is your focus? Because obviously none of us have been trained in this way. What is it that you actually focus on. Are you looking, "Oh, there's R31, there's W56, there's V53"; how does it work?

A. All I'm focusing on, sir, is I have glanced over, I have seen Mr Duggan, I can see there's numerous officers on the pavement. I am very much aware that the driver is -- he's still an unknown risk, he has not got anyone to deal with him so --

Q. Looking at it overall, what are you focusing on? Are you focusing on the public safety, the safety of officers, the safety of yourself or is it nothing to do with that?

A. It's the focus or predominantly the safety of my colleagues and myself and members of the public.

THE ASSISTANT CORONER: You are also focusing on a gun, aren't you?

A. I've not seen a gun, sir, no.

THE ASSISTANT CORONER: You've not seen a gun, but if there was a gun, you would be focusing on it.

A. I think I would have been, sir, yes.

551. In reply to further questions from Mr Underwood QC, R68 said that when he first saw Mr Duggan, he could see that the door of the minicab had come back along the passenger side of the vehicle and he could see the rear corner of the sliding door, although he did not see it move and it was open as far as he could see. R68 said that he was quite tall, which was why he could see this.

R31

552. R31 was a firearms officer in the Tactical Support Team deployed on 4 August 2011. He sat as the front seat passenger in the Bravo car that was positioned directly to the minicab driver's side when the minicab was stopped on Ferry Lane. During the late evening on 4 August 2011, R31 wrote an entry in an Evidence and Action Book. He wrote a statement on 7 August 2011 and further statements thereafter (he

declined to be interviewed by the IPCC investigation). He also gave evidence at both criminal trials involving Mr Hutchinson-Foster.

S26A

553. In his 4 August 2011 account, he wrote as follows:

“On THURSDAY 4TH AUGUST 2011, I was on duty in full uniform. I was armed with a Glock 17 self loading pistol (338), Heckler and Koch M5 [sic] (T20) and a Taser. I was posted to the front passenger seat of covert armed response vehicle TJ902B. At 1600 I paraded at Lemman Police Station, also posted in my vehicle was W39 in the rear of the vehicle and Q63 driving. As a result of information received we were deployed to stop a gold people carrier type vehicle index R343KPE. We made our way to the location and stopped the vehicle in FERRY LANE N17.”

S26A

554. *“We stopped the vehicle and deployed from our vehicle. The subject got out of the vehicle. I ran towards the man as I did so I heard a number of shorts [shots] fired and saw the man fall to the ground. A number of officers began to administer first aid. After a short period I began to search a small grassed area close to the incident. I found what appeared to be a self loading pistol wrapped in a black sock. I did not touch it. I arranged for an exhibit box to cover it and a plastic bag over that. After a short period of time I was relieved by a uniformed officer. After short period of time we left the scene and returned to LEMAN STREET POLICE STATION. NOTES END 11.40PM.”*

S26

555. R31 wrote a more detailed account on 7 August 2011. Relevant extracts, focusing on his account of what happened in Ferry Lane, are included below.

S26

556. *“On Thursday 4th August 2011 I came on duty at 16:00 we received a tactical briefing from V59...I was told that the day's operation was again 'Operation DIBRI' which we had been posted on the previous day...At 17.15 we left Lemman Street police station and made our way to Quicksilver Patrol Base” [R31]*

S26

557. *“Whilst on route we received an update that a man was on way to Leyton to collect a firearm. Whilst at Quicksilver Patrol Base V59 reminded me of the firearms warnings which I had been given at the previous day's briefing. V59 also told me that it was Mark DUGGAN who was going to collect the firearm. At 17.55 we left Quicksilver Patrol Base as we were aware that our unarmed colleagues were trying to locate a man who was on his way to collect a firearm. At about 18.00 the operation went to 'state amber' this means that the firearms team is authorised to move up through the traffic to a position where we are in a position to instigate a stop of the vehicle. We received several intelligence updates firstly the vehicle was heading*

towards the Broadwater Farm Estate, the vehicle was a taxi and the subject Mr DUGGAN was a rear seat passenger.” [R31]

S26

558. *“Shortly after this it was confirmed that Mr DUGGAN was in possession of the firearm and not on his way to collect it. The registration number of the vehicle was R343KPE and was a gold people carrier type vehicle...” [R31]*

S26

559. R31’s account describes what he says occurred when the minicab was stopped:

“As the traffic lights turned to green the gold vehicle index R343KPE moved forward, when it was at the lights it turned left onto Forest Road travelling westbound, when it was out of view our four covert armed response vehicles pulled to the offside in Blackhorse Road and started to move up past the slow moving traffic. Other vehicles began sounding their horns at us. At the junction with Forest Road we turned left and travelled westbound. We made our way past the unmarked surveillance vehicles, once we had passed the last surveillance vehicle W42 called State Red which confirms the stop is imminent at the discretion of the passenger of our lead vehicle. At this time there was one BMW X5 motor vehicle between our lead vehicle, this X5 turned left into Jarrow Road, our vehicles were in order 902A [Alpha], 902B [Bravo], 902C [Charlie], and 902 control behind the gold vehicle.” [R31]

S26

560. *“W42 called "strike strike strike" covert armed response vehicle [Alpha] pulled out and alongside the gold vehicle, it then moved in front of the vehicle, approximately his nearside level with the front offside of the gold vehicle. The [Alpha] vehicle veered two or three times towards the gold vehicle, at the same time we were pulling alongside the gold vehicle but slightly behind. I could see the silhouette of a person in the rear of the gold vehicle bending forward as if he was reaching for the nearside rear sliding door. I said "I'm not taking my five I think he is going to leg it". This meant to my colleague I was not taking my H and K MP5 allowing me to give chase easier. At this point our vehicle activated its two tone siren. I put on my high visibility police cap. The vehicle then stopped, we stopped with my front passenger window slightly behind the gold car's front driver's window. I quickly got out of our vehicle and went between our vehicle and the gold car.” [R31]*

S26

561. *“My MP5 was still in our car, and I was holding my Glock pistol in my left hand, I then turned between the gold subject vehicle.” [R31]*

S26

562. *“I [sic] as I ran between the vehicles I saw a man wearing a dark tan hip length "puffa" type jacket and dark trousers moving from my right to left in front of me. At this point I thought he was trying to escape. I ran to attempt to "rugby tackle" the man from his left and rear. I then*

heard two very loud bangs from my left hand side. I saw the coat of the man I now know to be Mark DUGGAN billow out to the back. He then fell forwards, bending forwards. I was momentarily stunned by the sound of the firearm being discharged only a few feet from my left ear.”

S26C

563. R31 declined to attend IPCC offices to be interviewed in relation to what occurred on 4 August 2011; therefore, the IPCC provided R31 with 150 written questions which he answered in a statement dated 22 May 2012. He said he did not confer with other officers when writing this statement.

S26C

564. Question 1-14 concerned R31's initial view of Mr Duggan and R31's intentions. He answered these questions as follows:

“Q 1-14. As we pulled along side the vehicle in order to active the stop I could see the person in the rear of the gold vehicle was positioned in the rear nearside seat. I could not see the person clearly as they were only silhouetted to me from the chest upwards. The person appeared to be leaning forward generally towards the area where the door handle would be. I could not make out the persons arms and hands as I could only see the top part of the person as a silhouette. I could see nothing of the persons clothing. I do not recall specifically identifying the person as male at the time. I have used "he" in my original statement as I knew the person was male when I wrote my statement. I did not recognise the man as Mark DUGGAN at the time. I am unable to say if the man was aware of police presence at this time. I believed the person was trying to open the door and run before our vehicles had come to a halt enabling us to contain any attempted escape. I believed the person to be in possession of a firearm from information I had previously been given, and thought it reasonable to assume they may try and escape rather than be arrested. As our vehicle came to a halt I exited intending to block the persons escape, or give chase if necessary. I did not take my Heckler and Koch MP5 in order that if the person had evaded the containment by running between vehicles or climbing over the railings then it was my intention to give chase, and it would be easier to do so without the weight of my carbine. As the gold vehicle was close to our nearside I didn't see anything significant as I exited our vehicle. I was concentrating on opening my door safely and running as fast as possible between the vehicles. Similarly I did not hear anything of note as I got out of our vehicle.” [R31]

565. *“Q15. As I exited I turned and ran to the rear of vehicles, I then turned right at the back of the gold vehicle towards the pavement and continued running. As I ran towards the pavement I saw a man who I assumed to be the man who had been in the rear of the vehicle. I am*

not exactly sure how long I observed the man for, probably less than a second. At this point I was running as fast as I could. I did not recognise the man at this point but assumed him to be the man from the gold vehicle. There were no obstructions to my view.” [R31]

S26C
S26D

566. *“Q16 to 18 and 30 to 33. The man was wearing a puffed type or padded jacket which was longer than [sic] waist length from the angle between myself and the man I could see the rear of the shoulder and part of the back of the jacket. I do not know if the jacket was opened or closed as I could not see the front of it. I also noticed the man was wearing dark trousers, I could see the rear left of the dark trousers from the thigh to the floor. The man was moving from my left to my right, and at the same time away from the car towards the railings. I can't be sure what pace he was moving at as I only saw him for a few steps, probably 2 or 3 before I heard two loud bangs to my left hand side, he was standing at an angle turned away from me. Also due to the very short time period between me first seeing the man and the two bangs I did not have time to assimilate the position or movement of the man's hands and arms, or if he was holding anything in them. This was compounded by the bulky and baggy nature of his jacket. I am unable to comment on his demeanour and facial expression for the reasons previously stated and the fact that he was at an angle turned away from me. Whilst I can not be exact in the man's position in relation to myself and other object, I believe the man was in "Box A" on my attached map and he appeared to be moving in a line approximately from the mini cab door to the wall/lamp post on the map. He was facing the wall/lamp post direction. At this time I was in the area marked "Box B" on the map, and at this point I was still of the opinion he was trying to escape, probably by climbing over the railing.” [R31]*

S26C

567. *“Q19. At this point my focus was on preventing the man from getting over the railings, and I did not hear either the man or any other officers say anything. At this point I had not challenged the man myself.” [R31]*

S26C

568. *“Q20-27. At this time nothing had changed my opinion from that which I had formed inside our vehicle, that he was trying to escape, the fact that he was moving away from the vehicle added to my sense of this. I did not notice the man look in any other direction or change course. At this time I believed the man to be in possession of a firearm. I therefore believed him to be a high threat, however the only option available to me at that time to prevent his escape was to chase and catch him. No tactics or plans were discussed in our vehicle to prevent escape, however I did inform the other officers that I was not taking my MP5 so that I could run easier. It is the purpose of this type of vehicle*

stop to contain a subject and isolate them from the public. I do not recall being given details of Mr DUGGAN's PNC record, and I was not aware that he had warning markers of escaper. Had I been aware of this it would have not impacted my decision making in any way.” [R31]

S26C

569. *“Q42. At the point I heard the two loud bangs I was at the rear of the gold vehicle either towards, or slightly onto the pavement. I have shown this area "Box B" on the sketch plan.” [R31]*

S26C

570. *“Q43. At the time of the two bangs I believed the man was in the area marked "Box A" on the plan. This is within the box I referred to previously, however due to the very short period for which I saw the man I don't think he took more than 2 or 3 steps and therefore had not moved a significant distance.” [R31]*

S26C

571. *“Q44 to 46 and 61. The two bangs I heard were close together but distinctly separate, probably less than one second apart, I was unable to say if there was one or more weapons discharged. The time between me exiting our vehicle and the two bangs was the time it took me to run from the door of my vehicle to the rear of the gold vehicle, turn right and reach the area Box B. I would say this was no more than 5 seconds, possibly considerably less. There was probably less than one second between the man coming into my view and the two loud bangs.” [R31]*

S26C

572. *“Q47 to 62. As I heard the two loud bangs I saw the mans jacket move away from his body at the back, for reasons previously mentioned I am unable to say what happened to his arms or hands. His legs began to give way as he continued forward, and at the same time his upper body appeared to fall forward. I assumed at this point he had been shot by one of the officers from our near vehicle, the rear BMW on the sketch plan. I only new [sic] for sure some time later that this was Mr DUGGAN. I am unsure exactly when. At this point I couldn't hear anything around me as a firearm had just been discharged nearby. At this time I suffered a sharp pain in my ear, and shock from the close proximity of the firearms discharge and it was probable I was unaware what was going on around me for a short period of time as I was holding my ear and was bent over. I believed the firearms discharge was from my left as that was the direction from which the sound had come. At the time of the discharge I was facing from Box B to Box A in the direction of Mr DUGGAN, generally towards the railings.” [R31]*

S26C

573. *“Q71 to Q76. I drove the silver Lexus (the Alpha vehicle) onto the footway at the bottom of the diagram with the front of the car approximately where the lamp post is marked on the diagram at an angle of about 45 degrees to the railings[.] I positioned the vehicle so*

that the front nearside bumper was almost touching the metal railings. Once I had moved the vehicle I did not move it again. I moved the vehicle from approximately position D on the diagram.” [R31]

D906
[Pages 8D-
10E]

574. R31 gave evidence at both criminal trials concerning Mr Hutchinson-Foster. He gave evidence in the first trial on 27 September 2012. He stated that he only saw Mr Duggan for about a second before he was shot and that, in that second, he was convinced that he was trying to escape because of the direction that he was moving. He reiterated that he was between the rear of the minicab and the Charlie car at the time Mr Duggan was shot. He stated that he could only see the back and left of Mr Duggan as he moved across in front of him. He said that he did not see Mr Duggan’s hands. He stated that from his view, Mr Duggan’s right arm would have had to have been outstretched “*to the full*” for him to see it as he felt his “*bulky coat*” would have obstructed his view. In relation to the two shots, R31 stated “*they were distinctly separate but very short.*”

D1107

575. R31 gave evidence at the second trial concerning Mr Hutchinson-Foster on 11 January 2013. His evidence covered the same issues as those that were covered by the first trial. R31 was cross examined by Defence Counsel about his position and he stated that he was approximately 6-10 feet from Mr Duggan when he was shot.

Page 125C

576. R31 gave evidence to the inquest on 10 October 2013. R31 told the inquest that he came on duty at 4pm on 4 August 2011 and was posted to the Bravo car in the front passenger seat position.

577. By way of **background**, he said that he had been a firearms officer since 1988 and had been attached to the Specific Firearms Department for ten years. He said that enforced vehicle stops vary in frequency – he had conducted in the upper tens, not hundreds, of stops.

578. He explained his **role generally in an enforced vehicle stop**. The passenger of the Bravo vehicle would generally be the person who is nearest to the car which is being stopped. Thus he would try and cover the target with a firearm, if the target was driving the car. In this case, as the person they were trying to apprehend was in the back of the vehicle, where people would be was dependant on the circumstances.

579. In relation to the **hard stop**, R31’s evidence was as follows:

- The convoy of cars going from Leman Street picked up intelligence en route and was in due course sent off to the Leyton area. He said that, when “*state red*” was called, the convoy was still behind

the minicab with R31 being in the second car in the convoy. At this point, R31 said, there was another car in front so, depending on the actual positioning in the road, occasionally he could see the minicab ahead and occasionally it would be out of sight;

- “Strike” was called pretty much at Ferry Lane, with the car which had been between the minicab and the convoy pulling away. The minicab was contained by the convoy of vehicles; and
- As the Bravo vehicle pulled alongside the minicab, R31 could not see detail as the windows were, he thought, slightly tinted but he could see silhouettes. On looking into the minicab, he could see a man that he subsequently knew to be Mr Duggan. He stated that Mr Duggan was in the rear of the vehicle towards the nearside and he appeared to R31 to be leaning forward to where R31 thought the door handle was. Mr Duggan was, R31 said, on the side of the minicab that was furthest away from him. R31 said, in answer to questions from Mr Underwood QC:

A. Basically, as we come alongside I can see the man who I subsequently knew to be Mr Duggan basically leaning forward. I could only really see him from his shoulders and his head but he appeared to be going to where the door handle was.

Q. You put your left arm out; did you see his left arm or are you just --

A. I didn't actually. No, because he was sat on that side -- actually, it's an assumption on my part, because I am actually left-handed, so I suppose he could have equally been doing that (indicates).

Q. Let's plumb this as far as we can. Was it your impression he was leaning forward with his left hand?

A. Actually, it wasn't, no.

Q. You presumably took it from that that you thought he was going to try to get away, did you?

A. That was my impression. This is obviously not the first time we've done one of these and there tends to be two ways people react. They either try and make a run for it or they freeze like rabbits. Because of the movement inside the car, I thought he was going to make a run for it.

580. R31 had not had any experience of the subject of a stop opting to take a run for it and brandishing a firearm. While quite often someone who had a firearm in that situation would leave it behind, it varies and, he said, it would be impossible to say that there was a particular trend.

581. Having described seeing Mr Duggan leaning forward and going to the door of the minicab, R31 said that he did not see the door of the minicab slide. R31 said that he had formed the view that Mr Duggan was going to “*leg it*”. He explained that, because he thought that Mr Duggan was going to run, there was not time to convey the message over the radio. R31 thought that he was the one person in the three Tactical Support Team cars who had established that Mr Duggan was going to run. R31 thought that he had let his colleagues know that he was not going to take his carbine in case he had to give chase. R31 stated that he had made an assessment that the driver was not a particular risk because, firstly, it was a minicab, and, secondly, the driver had stopped and was therefore compliant.
582. R31 stated that he then opened his door which he had already cracked open pending the stop, so that he was able to hit the ground running when the vehicle stopped. He then turned left out of the door.
583. R31 explained **what happened after he had left his vehicle**. He said that, as he got out of his vehicle, he turned towards the back of the minicab and the rear of the Charlie car. When he got to the end of the minicab, he then turned right between the Charlie car and the minicab. He had been running since the outset. He said that, as he slowed to turn between the Charlie car and the minicab, he then saw Mr Duggan “*pretty much*” directly in front of him. R31 said that his impression was that Mr Duggan was running slightly away from him, rather than directly in a straight line backwards, from the minicab to where the wall was located. R31 said that he could see the left-hand side of Mr Duggan’s body, but from the back. He said that he had a view of Mr Duggan’s left shoulder and arm but he could not see what Mr Duggan’s left hand was doing. In respect of Mr Duggan’s stance, R31 said that he was running, fairly upright and running forward. R31 said that he suspected that Mr Duggan was not running at full speed however he was moving at above walking space. He said that the time gap between seeing him and then hearing the shots being fired was about a second.
584. R31 told the inquest that it was his intention to stop Mr Duggan running and he intended to “*rugby tackle*” him. Although he had drawn his weapon, he said, it did not cross his mind to shoot Mr Duggan. As Mr Duggan was in front of him, R31 said, he heard the two shots fired from what he now knows to be his left-hand side, because that is where the noise came from.
585. R31 stated that he had counted two shots, but said that it was very difficult to tell, because “*you don’t know whether two people have fired simultaneously*”. He said that he recalled two bangs, with a slight gap

21-22

Transcript
10.10.13,
p.119, lines
22-23

between the bangs, and that it was not a double tap, as that would have been virtually instantaneous. R31 described the noise as “*very, very shocking because it was so loud*”.

Transcript
10.10.13,
p.156, lines
11-12

586. R31 told the inquest that he had not seen the gun flying through the air and while he was looking at Mr Duggan the overriding picture in his head when the weapon was discharged was Mr Duggan’s jacket ballooning up at the back and the wadding coming out of the jacket. His attention was drawn to the jacket, he said, as the shots were fired. He described the shots as being “*distinctly separate but they were close together*”. R31 said that it would be very difficult to tell if Mr Duggan was going down between the first and second shot. He said the whole thing happened very quickly. He agreed that he did not see Mr Duggan’s arms rise up, although he said he would not have seen that from his position. R31 said that his attention had been drawn to the feathers coming out of Mr Duggan’s jacket.
587. After the bangs, R31 said that he saw Mr Duggan begin to go forward, but he did not see him going to the ground.
588. R31 described that he came to realise that another officer, W42, had been shot. R31 said that he went over to W42 and assisted in the delivery of first aid to him – in particular he got the oxygen bottle. R31 also described that he moved the Alpha car. He did this, he said, because he could see a group of people gathering on the pavement and, as Mr Duggan and W42 were in difficulty, he wanted to prevent a video of this ending up on YouTube or similar, so he thought it best to block their view with the car.

Q63

589. Q63 was a firearms officer in the Tactical Support Team deployed on 4 August 2011. He was the driver of the Bravo car that was positioned alongside the minicab driver’s side when it was stopped on Ferry Lane. During the late evening on 4 August 2011, Q63 wrote an entry in an Evidence and Action Book. He wrote a statement on 7 August 2011 and further statements thereafter (he declined to be interviewed by the IPCC investigation).

S31A

590. In his Evidence and Action book on 4 August 2011, Q63 stated, “*On Thursday 4th August 2011 I was on duty in plain clothes in company with other plain clothed officers. I was the driver of a covert armed response vehicle (TJ902B) a GREY BMW SALOON. I was in possession of my personal issue Glock 17 SLP issue number 184 which was holstered and my MP5 CARBINE, issue number T21. This*

was loaded and made ready and was secured in the boot of our vehicle. I also had a taser (No 8). In my vehicle, R31 was operating and W39 was in the rear on maps. We were on duty at 1600hrs. At about 1800hrs we were asked to carry out a stop on a people carrier, index R343 KPE as it was believed that the occupant of the vehicle was in possession of a firearm.”

591. Q63 continued,

“We located the vehicle in FERRY LANE and at about 1813hrs a non-compliant stop was implemented. As I run towards the rear of the vehicle I heard a number of shots being fired and saw a black male fall to the floor. A police officer had also been shot. I co-ordinated other resources whilst first aid was given. I then videoed 1st Aid of the black male until life was pronounced extinct. We all left the scene.”

S31

592. Q63 wrote a more detailed account on 7 August 2011. Relevant extracts, focusing on his account of what happened in Ferry Lane, are included below.

S31

593. *“...I jumped out of our car and I ran round the back of it towards the pavement between the rear of the subject vehicle and our CHARLIE vehicle. I could still hear lots of shouting.”*

S31

594. *“I can’t remember exactly where I was but I did not reach the pavement when I heard two gun shots. I could see DUGGAN on the pavement in front of me and there were two armed officers very close to him but to my left. DUGGAN had buckled slightly at the waist, and I noticed white fluff in the air. I could hear shouts of ‘shots fired, shots fired’ as I got onto the pavement I saw someone take hold of DUGGAN and put him on the floor. I ran down the nearside of the subject vehicle and looked in through the open slide door to clear it...” [Q63]*

S31

595. *“...I was made aware that R31 had recovered a firearm in the grass area close to where DUGGAN had been shot. V59 was coordinating the scene and deploying marked police units as they arrived. I went to the boot of our car and took out a camcorder and as soon as I could started to film the first aid that was being rendered to DUGGAN by a number of my team...” [Q63]*

S31C

596. Q63 made a further statement dated 22 May 2012 at the request of the IPCC. He answered specific questions relating to the non-police issue firearm. He stated, *“...I did not see the firearm prior to R31 finding it. I did not see how the firearm got to where it was and did not see it once it had been found. I was made aware of the location where the firearm was found whilst filming but I cannot be specific as to where this was.”*

597. Q63 was not called to give evidence at the trials of Mr Hutchinson-Foster. Q63 gave evidence to the inquest on 9 and 10 October 2013. He confirmed that, in August 2011, he was an officer working with CO19. Q63 explained that he paraded for duty at around 4pm that evening, and was the designated driver of the Bravo car. He told the inquest that he had immediate access to a Glock 17 self-loading pistol, which would have been on his right hip in a holster. He also had, he said, access to an X26 type taser and a MP5 carbine, which is a longer rifle, secured in the boot of his vehicle should he have needed it.
598. Q63 gave evidence about the **stop conducted in Ferry Lane**. He told the inquest that, when “*state red*” was called, the CO19 vehicles were in convoy and Q63 personally had sight of the minicab on a number of occasions. When “*strike*” was called, Q63 had sight of the minicab and, he said, he drove the Bravo vehicle along the offside of the minicab and maintained a parallel with the minicab’s offside to get a tactical benefit. The Charlie vehicle brought up the rear and there was nothing unusual, Q63 said, in the manner in which the stop was conducted. In fact, Q63 felt that the stop went very well.
599. Q63 said that he did use his siren during the stop. He said that, at the point when he was alongside the minicab, someone in his vehicle said something along the lines of, “*I think he’s going to leg it.*” At this time, Q63 said, he believed that Mr Duggan was aware that they were police officers. Q63 said that he put on the two tones to ensure that the minicab driver was aware and to make the stop as safe as possible for everyone involved. Q63 could not recall how easy it was to see inside the minicab.
600. On **exiting his vehicle**, Q63 said that he took with him only his Glock, which remained holstered. He was asked to explain why this was so. He told the inquest that, in the Bravo vehicle, the front seat passenger was really the first one out to contain subjects and the driver would naturally be pretty much the last person out of each car. This was because, he said, as the driver, he would remain in his vehicle for a very short period of time after the stop in case the subject vehicle tries to drive away. He explained that as the Bravo car driver, in general terms in a stop of this nature, he would be the best person to pursue the vehicle safely if necessary. This was because the Alpha car would be at an angle. He continued, “*once I’m happy the vehicle is stopped and the subjects are being detained or attempted to be detained, I get out and I’ve got an option whereby I can draw a firearm*”.
601. Q63 said that in the circumstances of this stop, where his team had deployed around him, he was confident that he would not necessarily have to deploy straightaway. He had access to his weapon and his t-

shirt was tucked inside his holster so that he could present a firearm to any threat in a matter of less than a second but, as it was, he did not need to. Further, being one of the last to deploy as the Bravo driver, Q63 said that he could maintain some kind of overview to assist and direct people if necessary and help out the firearms leader.

602. Q63's evidence was that he was conscious of shouts while in the car or getting out of the car – this was the usual, "*dominating shouting*", he said, that could be seen on the training videos. He said that he heard shouts of "*Armed Police*", "*show me your hands*", and "*get on the floor*", and that he distinctly remembered W42 shouting repeated commands which identified him as an armed police officer and required the subject to stop. Q63 said he probably would have heard this shouting from W42 while in or deploying from the Bravo vehicle but he could not see at whom W42 was directing his commands.
603. Q63 said that when he got out of his car, he effectively turned right and ran down the offside of the Bravo vehicle, towards the boot. He said that he then ran past the rear boot of the Bravo vehicle and down towards the gap between the Charlie vehicle and the minicab.
604. On **what he saw of Mr Duggan**, Q63 told the inquest that he had a glimpse of Mr Duggan in an upright position and bent slightly forward, as though he had been or was running. Q63 said that Mr Duggan was moving towards the officers who were deploying from the Charlie vehicle. Q63 stated that he heard two shots before he reached the pavement as he was moving between the Bravo and Charlie vehicles. He said that he saw Mr Duggan buckle slightly at the waist as though he had been winded. It was Q63's recollection that Mr Duggan never came back up. In Q63's recollection, Mr Duggan was on the pavement at the point at which he was shot. At the same time, Q63 stated his position to be probably in front of the front number plate of the Charlie vehicle and immediately behind the minicab. He was behind R31 and W39.
605. Mr Mansfield QC explored further with Q63 what he saw as he went towards the pavement. Q63 confirmed that, at the moment that he saw Mr Duggan in a semi-upright position, Q63 was located between the Charlie car and the minicab. Q63 agreed that he was one of the nearest officers to the scene at that point, with the other officers being to Q63's left on the pavement or off to his right. Q63 said that there would have been two officers within his vicinity – i.e. between the Charlie car and the minicab – and those two officers would have been in front of him. They had come from the Bravo vehicle, and had got there before Q63 did.

Transcript,
10.10.13, p.4,
lines 16-17

606. Q63's evidence was that he did not see a gun in Mr Duggan's possession at that time or at all and said that he "*would not have been in a position to see whether or not Mr Duggan had a gun in his possession at that time*". He explained this further by saying that, from the angle at which he saw Mr Duggan, he could not see Mr Duggan's hands and therefore it would have been impossible to say whether he had anything in his hands.

Transcript
9.10.13, p.160,
line 15

607. Q63 said that he did see feathers in the air behind Mr Duggan and all around him. He described it as a "*large plume*" of feathers.

608. In respect of the shots that he said he had heard, Q63 said that there was not much time between the shots but they were distinctive, though close together. It was not, he said, a "*double tap*". He told the inquest that it was definitely the case that the time between these two shots was capable of supporting a re-assessment.

609. Q63 recounted that Mr Duggan, having lent forward after the shots, was at some point falling to the floor. An officer then almost caught him and laid him on the floor. Q63 said it was the officer in front of Mr Duggan that caught him, although he could not remember whether that officer had put him forward, backwards or sideways. Q63's evidence was that Mr Duggan was still moving forwards with purpose at the point at which he was hit.

Transcript
9.10.13, p.163,
lines 5-6

610. Q63 said that shortly after the shots he looked inside the minicab very briefly. This was perhaps around 2-3 seconds after the shots were fired, though he could not be entirely certain. He did not, he said, go into the minicab. The sliding door of the minicab was open. Q63 said he looked inside "*just to clear it of any other people, to see whether there were any other persons inside that minicab.*" He said he did not notice anything significant and he did not notice a box with its lid off. When asked by Mr Mansfield QC on behalf of Mr Duggan's family whether he had taken a gun out of the minicab, Q63 said that he absolutely did not. He said that he had "*literally looked inside to make sure no other persons were in it*" and did not have a weapon at this point.

Transcript
10.10.13, p.71,
lines 1-2

611. The Assistant Coroner asked Q63 some questions on this matter:

THE ASSISTANT CORONER: Your concentration is on firearms, isn't it?

A. Sorry, sir?

THE ASSISTANT CORONER: Your team is there to concentrate on the firearms and to make a scene safe?

A. To detain those we believe to be in possession of

Transcript
10.10.13, p.86,
line 17 to
p.159, line 19

firearms, sir, yes.

THE ASSISTANT CORONER: Yes. And in what you were doing, why didn't you look into the taxi to see if there was a firearm in there?

A. Because it was of no significance to me, sir. I cleared the vehicle, as I'm trained to, to look for people. I didn't feel a need to look in the firearm (sic). We don't search vehicles.

THE ASSISTANT CORONER: You don't search vehicles?

A. No, sir.

THE ASSISTANT CORONER: If there had been a firearm just obviously there --

A. If there was an obvious --

THE ASSISTANT CORONER: -- what would you have done?

A. We're taught if there's an obvious firearm, if it was on a person, unless it was unsafe -- a hypothetical scenario: if it was in the back of a trouser in their waistband, if they were secured and it was safe, we don't even remove it from there. The investigative team would have it photographed, the situation, and then it would be removed. If it was in a vehicle and it was obvious, ie if we opened a boot and it was sat in a boot for all to see, we would alert everyone with the shout of "Gun!" and one of us would sentry the boot of the vehicle, we would secure that and the support team, again, would come forward with their scenes of crime and their SOCA and they would photograph that and arrange the safe removal. So if we find a firearm, we would identify its location and we would secure it to make sure it's safe, that nobody else can get access to it, but leave it solely down to the investigation team to do their bit.

THE ASSISTANT CORONER: Thank you very much.

Transcript
9.10.13, p.162,
lines 21-25,
p.163, lines 1-
12

612. Q63's evidence was that, by this stage, he believed that the driver had been "*taken out*" because otherwise he would have potentially posed a threat to the CO19 officers and Q63 would himself perhaps have dealt with that from where he was. Given that Q63 did not need to deal with the driver, this led Q63 to believe that the driver had been "*taken out*" already.

613. Of his **awareness that W42 had been shot**, Q63 said that he became aware of this at almost the same time that he went to look in the minicab. Q63 explained to the inquest that he saw W42 beside him next to the railings. W42 said that he had been hit and Q63 screamed for a medic. W39 and Q63 found a bullet hole in W42's clothing, were

joined by V72 and assessed W42. Q63 said that this was his first action after the shooting.

614. Q63 then ran to get a radio from his vehicle, he said, to transmit an urgent message to get more resources. He said that he spoke to the control room and informed them that a suspect and a police officer had been shot. He asked them to get appropriate resources to the scene, such as twice the number of medics given that there were two casualties. Q63 acknowledged that there were officers who were senior to him in the control car but the control car was, he said, back from the stop and so he was unaware if those in the control car knew at that point that the officer had been shot.
615. Q63 said that he became aware of helicopter emergency services (HEMS) arriving, the doctor attending and in due course pronouncing life extinct. Q63 filmed the giving of first aid.

W56

616. W56 was a firearms officer in the Tactical Support Team deployed on 4 August 2011. He was the rear passenger in the Alpha car that was positioned directly in front of the minicab when it was stopped on Ferry Lane. During the late evening on 4 August 2011, W56 wrote an entry in an Evidence and Action Book. He wrote a statement on 7 August 2011 and further statements thereafter (he declined to be interviewed by the IPCC investigation).

S28A

617. The account in his Evidence and Action book dated 4 August 2011 stated, *“On Thursday 4th August 2011 I was on duty in plain clothes in possession of my personal issue Glock SLP, MP5 and Hatton gun. I had been posted as map reader on vehicle call sign TJ902 Alpha in company with W42 and V48. As a result of information received I had occasion to stop a vehicle, a gold coloured MPV, the occupants of which were believed to be possession of firearms. The vehicle was stopped at approx 18:13hrs in FERRY LANE, N17.”*

618. W56 continued, *“I stepped out and covered the front offside tyre with a Hatton gun. I was joined by R68 who removed the driver onto the floor, I then handcuffed the driver. I became aware that an IC3 male had been shot on the nearside of the vehicle and first aid was being given. I took still photographs of the scene. Some time after I returned to LEMAN STREET.”*

S28

619. In his statement dated 7 August 2011, W56 stated, *“I exited my vehicle with my Police cap on and carrying my Hatton gun. I ran towards the gold vehicle and shouted out “Armed Police” then*

placed the Hatton gun against the front offside tyre. The purpose of deploying with the Hatton gun is as a contingency should the driver attempt to drive off. If there is a danger to officers or members of the public then the Hatton gun would be used to deflate the tyres to stop it moving. I looked at the driver who was an IC4 male wearing a light coloured top. The driver was looking over his left shoulder towards the left hand side of the vehicle. The driver then turned to me. I was aware that officers were on the other side of the vehicle. I had heard officers identifying themselves as armed Police. I heard a loud popping sound and a loud cracking sound. I believed that Hatton had been deployed on the left hand side of the vehicle. Moments later I was joined by R68 who was holding a MP5. He opened the driver's door and ordered the driver to get out onto the floor. The driver stepped out of the vehicle and laid face down beside the gold vehicle and the bravo vehicle which was parked next to it."

S28

620. W56 continued, *"A short time after I took a camera from the rear of Bravo and started taking photographs of the scene at the request of V59..."*
621. W56 gave evidence to the inquest on 24 October 2013. As at August 2011, W56 said that he had been an MPS Officer for 16 years and had been in CO19 for eight and a half years, of which just over 18 months had been spent in TST. W56 said that this was the first time that he had been involved in a police shooting.
622. When *"strike"* was called, W56 explained that he was looking at the maps because his role was not only to get the convoy there but also to think about the fact that the subject vehicle may turn off. W56 said that, as the Alpha vehicle pulled in front of the minicab, he could hear two tone horns from the vehicle behind him. He said that he shouted *"Armed police"* and that he heard other people shouting but he did not know what. He did not specifically hear anyone shout, *"He's reaching."*

V48

623. V48 was a firearms officer in the Tactical Support Team deployed on 4 August 2011. He was the driver of the Alpha vehicle that was positioned directly in front of the minicab when it was stopped on Ferry Lane. During the late evening on 4 August 2011, V48 wrote an entry in an Evidence and Action Book. He wrote a number of other statements at the request of the IPCC.

S27A

624. In his first account on 4 August 2011 in his Evidence and Action book, V48 stated, *"On Thursday 4th August 2011 I was on duty in plain clothes together with other officers from TST2 and TST1. I paraded @*

TJ99 @ 1600hrs and I was posted as the driver of the ALPHA car a Lexus Silver GS300 together with W42 who was posted as the front seat operator and W56 who was posted as the back seat operator (MAPS). I was armed with a Glock 17 (34 rounds), a taser with (2 rounds) and an MP5 which was slipped in the boot of our car.”

S27A

625. *V48 added, “We were engaged on a MAST operation. Whilst on route to the main briefing we received info to stop a Gold people carrier index R343KPE. An armed intervention was carried out in FERRY LANE, near TOTTENHAM HALE, N17 @ 1813hrs. I deployed from my vehicle, I was aware that shots have been fired. I rendered 1st Aid to the subject who had been shot, but was fatally wounded.”*

S27

626. The relevant detail from his further statement on 7 August 2011 stated, *“I then applied the handbrake which is in the way of a foot pedal. I then alighted from my vehicle and put on my blue plot cap. I then ran to the back of my car, turning right and continued between my vehicle and the front of the subject vehicle towards the kerb/pavement. As I did this I heard two bangs, which were very distinctive and I believed that they were gun shots. I then turned left, once I had mounted the pavement and started heading towards the rear of the subject vehicle. I then saw the subject laying face down on the floor and W70 was standing over him with his right arm in an armlock. I then heard W42 say “I think I’ve been hit” and W39 then rendered 1st aid to W42. With W70 we rolled the subject onto his back. We started looking for a firearm which could have been a danger to ourselves.”*

S27C

627. In his statement dated 22 May 2012, in response to questions put to him by the IPCC, which were intended to clarify his actions when attending to Mr Duggan with W70, V48 stated, *“...I recollect W70 assisting me to roll the subject, but I cannot be certain if there was anyone else assisting. I rolled the subject onto his back, initially to look for a firearm or any other weapon, so as to make sure he was not a threat to myself or my colleagues and then to render first aid.”*

628. V48 gave his evidence to the inquest on 22 October 2013. He confirmed that in 2011 he had been a police officer for 17 years and in CO19 for seven years.

629. On the question of the colour of the minicab, V48 said that he believed that it was put out as a gold minicab on the surveillance commentary and that he had stuck to that description but, looking at the photos, he accepted that it is a silver vehicle. V48 said that the stop went as they had been trained and that it was a good stop, with no blue lights or sirens being used. He did not recall hearing any sirens.

630. V48 agreed, in answer to questions from Mr Thomas QC, that it was V59 who had brought a medic pack for the first aiders to use and that Q63 was not involved in administering first aid to Mr Duggan. V48 said that Q63 may have been around but agreed that he was helping their colleague who had been shot.

V72

631. V72 was a firearms officer in the Tactical Support Team deployed on 4 August 2011. He was the driver of the Delta vehicle that was positioned directly behind the Charlie vehicle when the minicab was stopped on Ferry Lane. During the late evening on 4 August 2011, V72 wrote an entry in an Evidence and Action Book. He wrote a statement on 7 August 2011 and further statements thereafter (he declined to be interviewed by the IPCC investigation).

S29A

632. In his Evidence and Action Book dated 4 August 2011 V72 stated, *“On Thursday 4th Aug 2011 I was on duty in full uniform (plain clothes). I was in possession of my personal issue Glock 17 SLP, MP5, shotgun and TASER. I was posted a driver of a covert armed response vehicle 902 control. I was in the company of V59. Information was received that a male was in possession of a firearm travelling in a vehicle VRM – R343 KPE. The vehicle was stopped, officers moved forward to the vehicle, a black male exited the nearside. I heard a number of shots. I saw the black male fall to the pavement and heard someone shout a police officer had been shot. First Aid was carried out on both parties. We then left the scene.”*

S29

633. In his account dated 7 August 2011, V72 stated, *“At approximately 1813hrs I heard W42 say “strike, strike, strike”. My role is to fend off or stop traffic trying to pass as the strike goes in. As the strike was called I put on my emergency equipment to identify that we are a police vehicle. My blue lights, flashing headlights flashing, and rear reds were on. My siren/two tones were on. I was aware of a female cyclist peddling [sic] towards the stop. I moved the vehicle to the nearside to stop her entering the sterile area. We then came to a stop about two car lengths from the C car. The target vehicle had stopped as it started to cross the bridge, before the hump. I saw the Alpha pass the target vehicle and pull in front of the car causing it to stop. The Bravo car was stopped to the offside parallel with the target vehicle. The Charlie was stopped directly behind the target vehicle. I took the car out of drive and became aware that V59 had deployed from the car. ZZ17 and Z51 remained in the rear of the car. Before I exited the car I put on my plot cap. This is a baseball style cap in dark blue with a black and white checked band round it and a sign on the front saying*

Metropolitan Police. As I opened the door I heard a number of shots and loads of down feathers explode into the air. There were a number of police officers around a black male. The black male started to fall to the ground.”

634. V72 further added, *“I made my way over to where everybody was to act as prisoner reception. I saw W70 grab hold of the black male and fall to the ground...”*

S29C

635. V72 further clarified this point in his statement dated 22 May 2012 in response to written questions from the IPCC. He stated, *“I made my way over to where everybody was to get as prisoner reception. I saw W70 grab hold of the male and fall to the ground.’ W70 was at right hand side of the subject and it looked like it was his arm and shoulder area.”*

636. V72 was not called to give evidence at the criminal trials or at the inquest as he was on long term leave in Australia.

W39

637. W39 was a firearms officer in the Tactical Support Team deployed on 4 August 2011. He was the rear seat passenger of the Bravo vehicle that was positioned directly alongside the minicab when it was stopped on Ferry Lane. During the late evening on 4 August 2011, W39 wrote an entry in an Evidence and Action Book. He wrote a statement on 7 August 2011 and further statements thereafter (he declined to be interviewed by the IPCC investigation).

S25A

638. In his first written account dated 4 August 2011 W39 stated, *“On Thursday 4th August 2011 I was on duty in plain clothes attached to Tactical Support Team 2 on a MAST operation. I was rear seat passenger on TJ902B. I was armed with my personal issue Glock 17SLP (butt number 4), personal issue MP5 (butt number 19), and also had access to a Hatton shotgun (number E25). My Glock and MP5 were in condition one, the Hatton shotgun in condition two. At approximately 18.00 hours we were tasked to complete an armed stop on a vehicle index R343KPE.”*

S25A

639. W39 continued, *“At approximately 18.13 hours that stop took place in FERRY LANE near to TOTTENHAM HALE tube station N17. R31 was operating, Q63 was driving. As our vehicle came to a stop I deployed from Bravo. A number of shots were fired, I saw the subject hit and W42 had been hit. First aid was given to both parties. A short time later we left the scene.”*

S25

640. In his statement dated 7 August 2011, W39 stated, “... I saw the 'Alpha' car start the overtake to stop the vehicle. The 'Alpha' car 'pinched' the vehicle to a stop, initially the vehicle seemed unaware we were stopping it as it took 'Alpha' two or three turns in and out to 'pinch' it to a stop. As this was happening our vehicle pulled alongside in a 'Bravo' position, while we were still moving alongside I heard R31 say "I think he is going to leg it". I took this to mean he was going to try and run from the stop on foot. As the stop was going in I heard at least two sets of two tones from our vehicles, the sounds were overlapping each other. The subject vehicle then came to a total stop, I put my high visibility police cap on and deployed from the rear of 'Bravo' on the offside. I had not seen any movement inside the taxi, and our vehicle was a few feet short of 'perfectly' level. I deployed dynamically with my MP5. I turned right out of the car, around the rear of 'Bravo', as I did so and faced the pavement, I came up to the off aim ready, selector lever to fire, my finger outside the trigger guard. As I made my way between 'Charlie' and the subject vehicle I saw a male in a tan 'puffer' jacket side on to me moving from my right to left along the pavement towards 'Charlie' vehicle. He seemed to be moving faster than a walk but not quite running.”

S25

641. W39 further added,

“As I closed the subject down I could see his left arm and body, he was almost completely side on to me, possibly a little further past so I could see a small part of his back. As I started to shout "armed police" I saw in my left peripheral vision a flash and heard two loud bangs, close together but distinctly apart. I could see the flash come from an area to my left where I could see two colleagues, I believed it to be gunfire. I saw the subject bend over as if winded and continue to fall to the ground...”

642. W39 gave evidence to the inquest on 22 October 2013. He explained that by August 2011, he had been in the Police for 11 years, in CO19 for six and a half years and in the Tactical Support Team (TST) for three years.

643. W39 said that he heard at least two sets of sirens going off as the minicab was stopped; he said there were two sets as they were overlapping. He said they did not go off straightaway, saying, “as [the subject vehicle] wasn't yielding the first or second time, I heard the sirens go off to indicate to the driver we were the police”. He did not know which cars had used the sirens, but thought that his car might have done, though there would have had to be more than one car using them to give rise to the overlapping sound. He confirmed that sirens were definitely on as the stop was going in.

Transcript
22.10.13, p.
116, lines 14-
16

644. W39 stated that he ran between the back of the Bravo car and the minicab. He said that after the shots went off Mr Duggan appeared winded as if he had been punched in the stomach, and that he saw him crouched forwards. W39 said that this position occurred as a reaction to the shots.
645. Mr Thomas QC tested W39's account of what he said had happened. W39 stated:
- Mr Duggan was closer to the Charlie vehicle than he was to the minicab;
 - The shots were pretty close together but “distinctly apart”;
 - At the time of the first shot, Mr Duggan was not quite sprinting but he was moving more quickly than walking pace and he was upright;
 - After the shots, Mr Duggan's position changed and Mr Duggan bent forward;
 - He did not recall any change in Mr Duggan's position between the two shots, nor did he recall Mr Duggan going backwards at any stage;
 - As Mr Duggan went forward, as if he were winded, Mr Duggan's body was obscuring his right hand;
 - He could not see Mr Duggan's right hand at all;
 - He did not recall any movement by Mr Duggan after seeing him in the winded position; he did not see Mr Duggan go to the floor; and
 - W39 did not believe that V53 had made a mistake in shooting Mr Duggan, as he trusted his colleague, but he denied that the officers “*all stood together*” in the sense that they were lying.

Transcript
22.10.13,p.126,
line 23

ZZ17

646. ZZ17, in his evidence to the inquest on 30 September 2013, stated he was in the control vehicle (the Delta vehicle), with Z51, V59 and the driver. He was sitting in the back. He informed the inquest that the main features of the stop were:
- He heard sirens;
 - Just before the stop went in, he was conscious of a woman on a pedal cycle who was coming up behind the minicab; this momentarily distracted him as he looked round to check she was not going to continue into the area where the stop was happening. At this time he had the impression of the passenger of the minicab, who turned out to be Mr Duggan, rushing out of the back of the

Transcript
30.9.13, p.29,
lines 4-6

passenger side of the taxi;

- He had a fairly clear view of the taxi, from the back passenger side;
- After the stop had occurred, he saw the firearms officers jump out of their cars with their guns and rapidly surround the minicab on foot. ZZ17 said, “*you could see the CO19 officers all then swarm round to where [Mr Duggan] was clearly trying to get out of the minicab.*” It seemed to ZZ17 that something in the order of seven or eight CO19 officers were swarming around him;
- ZZ17 could not describe how far Mr Duggan got or his actions in any detail;
- As the CO19 officers swarmed around Mr Duggan they came within a few feet of him and they were shouting “*Stop, armed police*”, or words similar – ZZ17 could not remember exactly what they were saying;
- ZZ17 heard some shots fired but could not say with accuracy how many shots he heard. They were fired immediately after each other;
- ZZ17 held members of the public back near the bridge at Tottenham and then other officers quickly took over this duty; and
- His next action was to telephone A10 to update him that Mr Duggan had been shot.

Z51

647. In his evidence to the inquest on 2 October 2013 in relation to the stop, Z51 confirmed that he travelled in the control vehicle, sitting in the rear. V59, ZZ17 and the driver, R68, were also in this vehicle.
648. Z51’s evidence on what he saw of **Mr Duggan being shot** was as follows:
- He saw Mr Duggan going to the left to get out of the minicab. Z51 saw Mr Duggan momentarily look right and then look left, towards where Z51 was, and very quickly he was surrounded by six or seven CO19 officers. There were two officers between Z51 and Mr Duggan from the Charlie vehicle, and two officers from his own vehicle that got out, and there were other officers on the other side;
 - He believed officers were on the pavement when Mr Duggan was at the door of the minicab;
 - When Mr Duggan came out of the minicab, Z51 could see his head and shoulders, and Z51 knew that it was Mr Duggan at this point;

- When Mr Duggan got out of the cab, he was higher up and that was when Z51 saw Mr Duggan's face; as he stepped onto the pavement, he came lower down;
 - Z51 did not see a gun in Mr Duggan's hands. He did not see Mr Duggan either holding or throwing a gun, nor did he see anything else in Mr Duggan's hands. He believed, however, from the intelligence that Mr Duggan was in possession of a firearm;
 - Z51 could only see the top of Mr Duggan's head;
 - He heard shouting along the lines of, "*Stand still*" or "*Hands up*" – he could not recall the precise words, but the commands being shouted were the type of command that he would expect to hear;
 - He could not recall whether the words, "*Put the gun down*" were used. He accepted that he would have recalled these words if they had been said, as it would have made it obvious that the man was armed, and he did not hear those words. His vehicle was, however, some distance away;
 - Z51 heard a number of shots – he thought that it was two or three shots;
 - At the point at which he heard the shots, Mr Duggan had not got very far – about six feet; and
 - After hearing the shots, Z51 could see Mr Duggan on the ground. Z51 stayed in the control vehicle until he was told to come out of that vehicle, but he saw officers very quickly giving Mr Duggan first aid. Z51 did not see Mr Duggan go down because the officers were blocking his view.
649. On **getting out of his vehicle**, Z51 said that he got out very shortly after Mr Duggan had been shot but only once he had been told it was safe to do so because he was not an armed officer. It was right to have let the armed officers take control of the situation. He said that his priority was to make sure that first aid was being given, which it was. He knew, he said, that an officer had been shot so he went to make sure that the officer was also being given first aid and that he was alright. He moved away from the area to allow the first aid to be delivered and he made sure that the LAS and HEMS were called.

B22

650. In his statement dated 4 August 2011, the SCD11 surveillance officer, B22 recorded,
- "Over the radio as I pulled in behind the convoy onto FERRY LANE I*

heard 'State Red', vehicles ahead of me moved into position for a controlled stop of R343KPE, I then heard "strike, strike" and police officers in plain clothes with firearms wearing high visible caps approached the vehicle from various points. I drove into the offside lane to get to the other side of FERRY LANE E17, I heard a lot of shouting, most discernible words used was "Armed Police", "Armed Police". I then heard at least one shot fired, possibly two as I drove past, I assumed they were Hatton rounds being used to control the vehicle. I drove over the bridge the other side of FERRY LANE and using my vehicle blocking the oncoming traffic at FERRY LANE / HALE ROAD and then set up a sterile cordon for the firearms officers dealing with the vehicle and its occupants."

651. B22 gave evidence at the inquest on 3 October 2013 and reiterated the same account. In response to questioning he also stated that he saw that the officers carrying out the stop were wearing high visibility caps.

Miss O

D118

652. A witness referred to at the inquest as "Miss O" contacted the IPCC witness appeal email address on 5 August 2011. She said she had witnessed the police shooting and wanted the IPCC to contact her to take a statement. On 18 August 2011 she was interviewed as a significant witness by the IPCC.

S64
D126

653. Miss O said that when she left Tottenham Hale underground station for a cigarette she heard shouting and someone shouted "Stop!" She said that she turned the corner to see what was happening and saw armed police officers. She described four unmarked police vehicles around a minicab. Miss O said that she saw Mr Duggan and a taxi driver being dragged out of the vehicle and pinned to the ground by three or four unarmed police officers wearing "normal black and white uniforms". She referred to the minicab passenger door opening outwards.
654. Miss O said that she saw one armed officer, wearing a fluorescent yellow, sleeveless jacket, point his gun downwards and fire three shots at Mr Duggan on the ground and then lift his gun upwards and fire one more shot into the air. She said that Mr Duggan had been shouting "get off me, get off me" during this. She commented that she did not see Mr Duggan pull a gun or shoot at the officer at any time.
655. She said that there were a lot of people at the bus stop shouting and screaming. Miss O said that she was roughly three bus lengths away and on the same side of the pavement as the incident but she was short-sighted and not wearing her glasses. She explained that she

knew of Mr Duggan but that she did not know it was him that had been shot at the time.

656. Miss O was not called to give evidence at the inquest due to personal reasons.

Witness A

657. Witness A gave evidence to the inquest on 3 December 2013. She confirmed that she was in the bedroom at her flat in Emily Bowes Court on 4 August 2011 when her attention was drawn to something going on outside due to the noise of tyres screeching. She said that she heard tyres screeching, shouting and then gunshots. She told the inquest that she was in the same room as Witness B (her boyfriend) and was not immediately able to get a view out of the window from that room as Witness B was blocking her view. She did not, she said, hear anything being said from outside. Witness A said that she went into the kitchen and took some still photographs while Witness B took some footage.
658. Witness A said that she and Witness B met with the BBC in April 2012 to provide them with the footage and photographs. She could not remember any of the detail of the conversations with the BBC as there had been lots of discussions with lots of different people.

Witness B

659. Witness B gave evidence to the inquest on 3 December 2013. He confirmed that, on 4 August 2011, he was living in Emily Bowes Court on Ferry Lane in a flat on the ninth floor, which he shared with his girlfriend at the time, Witness A. He said that he was in the bedroom of the flat at about 6.10 or 6.15pm on 4 August 2011. He said that the window in the bedroom did not overlook Ferry Lane, but *“when you stuck your head out and looked towards the right you can see Ferry Lane. It was a clear, clear view.”*
660. Witness B said that he heard a commotion, of a couple of tyres screeching, and then shouting which was either *“put it down”* or *“get down”*. He said that he could not say exactly what was being said because there were a number of people shouting at the same time. Within his flat, he said he was sat at his desk about three or four feet from the bedroom window and the window was open. Having heard this shouting, he went to the window, and stuck half his body out of the bedroom window.
661. Witness B said that when he looked out he saw a taxi, which was a

people carrier, blocked in by a BMW and a white Vauxhall Insignia. He said that there was a Land Rover at the back, about ten steps away. He said there were policemen, who he identified from their blue jackets and that some of them had firearms with them. He said that he saw a man that he now knew to have been Mark Duggan *“on the sidewalk and he tried...well he tried to run off towards Tottenham Hale but there was a police officer standing there so he turned around to run towards Blackhorse Road”*.

662. Witness B estimated that, when he tried to run towards Tottenham Hale, Mr Duggan moved about a full car’s length. He said he ran beyond the minicab to the car Witness B had identified as a white Vauxhall Insignia. Witness B estimated that, when Mr Duggan turned around to run towards Blackhorse Road, he travelled around three steps.

Transcript
3.12.13, p.36,
line 23 to p.37,
line 1

663. Witness B said he could see the top half of Mr Duggan’s body and his hands. He informed the inquest that, *“it looked like he had a phone clutched in his hands, I have said that from day one, and I will always say that, it did look like a phone and he had his hands up”*. Witness B indicated that Mr Duggan’s hands were up above his shoulders close to his face and that he paused with a police officer in front of him, with about five to seven steps between them. Witness B said that Mr Duggan looked *“baffled, surprised and that his body language was a bit like ‘what’s going on?’ with his hands up”*.

664. Witness B said *“there was a lot of shouting at this stage, you know, I think, ‘get down, get down’”* and then Mr Duggan was shot twice. Witness B said that he heard the shots and he saw Mr Duggan collapse. He said that Mr Duggan was towards the rear of the minicab at this point.

Transcript
3.12.13, p.21,
line 15 to p.25,
line 22

665. Witness B was asked what happened to the mobile phone when Mr Duggan was shot and he stated, *“he was still clutching it, definitely, I think so”*. Witness B said that he could still see Mr Duggan, although he also said that when Mr Duggan was receiving first aid that he *“could only see bits and pieces, like his feet and a bit of his face as well”*.

666. Witness B then told the inquest that he had started filming the events on his phone. He said he had gone back inside the flat to get his phone the moment that Mr Duggan was shot and then he started recording. It took him two or three seconds to get the phone, he said, and Witness A also started recording some of what they were seeing on a camera. The footage was played in court. Witness B had initially been looking out of the window in this bedroom and then had been looking out of the window that was in the living room and the kitchen.

Transcript
3.12.13, p. 35,
lines 10-17

667. When questioned further, Witness B stated that,
- It definitely was not a gun in Mr Duggan's right hand;
 - Mr Duggan did not point or aim the object at the police officer between him and Blackhorse Road (V53);
 - Mr Duggan did not throw the object from his right hand or make any other sudden movement;
 - Mr Duggan had seen V53 in front of him as Mr Duggan paused and stopped;
 - V53 was in a position to have seen that Mr Duggan had stopped;
 - It was at this point that Mr Duggan raised his hands with a phone in his right hand as if surrendering;
 - Mr Duggan was trapped as other officers were surrounding him;
 - He saw no reason for Mr Duggan to be shot;
 - He then heard two shots; and
 - He accepted that, at the point Mr Duggan was behind the minicab, he could not see Mr Duggan's arms or hands. When Mr Duggan collapsed the rear part of the minicab was blocking his view and he could not remember or see if Mr Duggan was still holding the object when he collapsed.
668. Mr Stern QC asked Witness B about where the shots had hit Mr Duggan. Witness B said firstly that he could see that one shot hit him in his arm and one in his chest. He then accepted that he could not see this from the height that he was at but that he could tell from the video; what he could actually see was Mr Duggan being hit and then dropping to the ground. He agreed it happened in a split second.
669. Witness B said that he did not see Mr Duggan at an angle or his body forming any shape at the time he was shot. Witness B said that Mr Duggan was "*just facing Blackhorse Road*". Mr Stern QC asked Witness B if he had seen the left hand side of Mr Duggan's jacket pulled over the right hand side. Witness B stated, "*I couldn't see that*" and continued, "*I wasn't focussed on his clothing...I was focussing on the event*".
670. On 9 October 2012, the BBC provided a transcript of a 14 second segment of audio taken from what was described by them as '*...the long clip of digital camera footage*'. It became clear at the inquest that this was the footage that Witness B had taken and the audio was Witness B speaking over the footage. The content of the key parts of

the transcript appeared to be:

A. <i>“they blocked him in”</i>	00:00:02
B. <i>“they blocked him in”</i>	00:00:03
C. <i>“he jumped out ...tried (to run/him on)”</i>	00:00:04
D. <i>“and then he’s taken out, shot him”</i>	00:00:06
E. <i>“because I heard them shout at him yeah”</i>	00:00:08
F. <i>“put it down, put it down”</i>	00:00:10
END OF RECORDING	00:00:14

671. Witness B was asked about this transcript of the conversations. He made some changes to any parts that he thought were inaccurate as follows:

- In respect of the part of the transcript that said, *“He jumped out (unintelligible)”*, Witness B’s evidence was that the *“unintelligible”* ought to read *“then tried to run”*;
- On the transcript, it continued *“then he’s taken out something, because I heard the police officers shouting at him “Put it down”, “Get down”*. Witness B said that the reason he was saying *“taken out something”* was because he was sharing his assumption at that moment with his girlfriend. His assumption was that Mr Duggan had taken something out based on the fact that the police were shouting at Mr Duggan, *“get down”* or *“put it down”*;
- Witness B confirmed that he did not hear a police officer or anyone say *“take your time”* or similar to the ambulance service, even though he can be heard saying this at the time.

672. When questioned by Mr Stern QC, Witness B accepted that he had not used the words *“get down”* at the time. He had only referred to hearing *“put it down”*. Witness B stated that he said *“put it down”* at the time but it could have been *“get down”*.

673. Witness B acknowledged that he had been paid by the BBC for the footage and the still photos. Witness B agreed that he refused to meet or cooperate with the IPCC investigation but he did meet with the BBC on 12 April 2012. The meeting was between Witness B and three journalists and one of the journalists (Witness C) made notes from the meeting which are set out in further detail under *“Witness C”* below. By reference to this note, Witness B accepted that he said to the BBC that he had heard *“put it down”*. Witness B also accepted that the first time he had said the words that he heard were *“put it down”* or *“get down”* were at a meeting on 25 November 2013 with the inquest team. He

denied that he had said this because he knew that he would have to give evidence at the inquest. He said, *“It’s just that you want to be sure and I don’t want to come out here and actually look like a liar, so I would rather actually say what I heard...”*

Transcript
3.12.13, p.83,
line 25

674. Witness B agreed that the BBC note of the 12 April 2012 read that, after the shots, *“then phone went flying”*. He said that he had told the BBC that because, *“at the time you had stuff flying about”* but he did not actually see this happen. He denied that he had told a lie in this regard to the BBC; he said *“it was just what I thought I saw”*.

Transcript
3.12.13, p.84,
line 13

675. Mr Stern QC asked Witness B, *“where did you get the idea that it went flying?”* Witness B stated, *“I think when he got shot -- right after he got shot.”* The exchange continued starting with Mr Stern QC (Q), with Witness B (A) responding,

Transcript
3.12.13, p.100,
line 10 to
p.101, line 12

- Q. Right after he got shot, whatever was in his hand, it went flying?
- A. Well, it didn't go flying. At the time I thought it went flying but thinking about things again and actually -- well, thinking about things and remembering certain things, he had -- well, when he dropped, I didn't see the phone after that because he dropped with the phone in his hand.
- Q. You cannot say that. What you mean is he was -- when he was shot, on both occasions, he had something in his right hand.
- A. When he was shot he was clutching onto a phone -- on -- yeah, well, okay --
- Q. Let's not argue about the phone, he had something in his right hand.
- A. He had something in his right hand, yeah.
- Q. That then went flying or went out of his hand after he was shot?
- A. Well, at the time that's what I said, but thinking about it, I didn't see it fly. When he dropped, I didn't see the phone after that.

676. Witness B would not accept that his memory of what had happened must have been better in April 2012 than it was in December 2013. He said that he must have been mistaken about the phone going flying in April 2012. He said that, while he did not have any reason to distrust the BBC, the writing down of the notes in April 2012, which was done by the BBC and not him, may have been inaccurate.

677. The BBC note of the meeting also recorded, *“Phone always in hand – initially thought gun”*. Witness B stated that he did not say it was a gun to the BBC, however he also stated, *“If it’s written, then yeah, probably I said it, yes”*.

678. The BBC note of the meeting stated *“...initially thought gun, shiny, but read newspapers, thought it was a BlackBerry”*. Witness B stated he could not remember but he knew he had said Mr Duggan had a BlackBerry. Mr Stern QC asked how he could be sure from over 150 metres away that it was a phone and Witness B replied, *“twenty-twenty vision”*.

Transcript
3.12.13, p.111,
line 2

679. In response to questions from Mr Butt, Witness B agreed that his perception of what Mr Duggan had in his hand was, or is now, in part based upon what he had read in the newspaper reports. However Witness B maintained that what he saw Mr Duggan clutching was too small to be a gun, and it was *“definitely a phone”*.

Transcript
3.12.13, p.111,
line 3 to p.112,
line 10

680. Mr Butt took Witness B to a section of his witness statement dated 3 December 2013, which stated,

“Secondly, having subsequently read reports of the incident online, I am aware that Mark Duggan had been texting people from the taxi. This underlines my feeling that the object in his right hand was a mobile telephone or BlackBerry and not a gun.”

Mr Butt highlighted that this was similar to the BBC note of the meeting in April 2012, which read *“initially thought gun...but read newspapers then thought it was BlackBerry”*. Witness B said that he could not remember saying *“gun”* and that reading the newspapers had confirmed to him it was a BlackBerry.

Transcript
3.12.13, p.27,
line 15 to p.28,
line 10

681. Witness B explained that he had provided the footage to the BBC but that he was reluctant to give evidence about it. His explanation was, *“To be -- just didn't really want to, you know -- I mean, I took the video, I gave it to the BBC so they could put it out there and that was it really. I had to move out of London because of it, as well, so, you know, I just wanted to be left alone, really.”*

Witness B continued,

“So things like that played on my mind for a bit, as well, and you have people also talking, a whole bunch of stuff as well. So -- yeah. About, erm, him being in Tottenham, you know, all this stuff coming out like, you know -- you know, gangs and all of that stuff really, so I just didn't want to be bothered with it, that was it.”

Transcript

3.12.13, p. 60,
line 22 to p.61,
line 7

682. Witness B was asked by Mr Thomas QC why he provided his footage to the BBC rather than the police. Witness B stated,
“I don’t really trust the police in any way so not only with -- not just because of this case right here but things with me as well, certain things that have happened so I just can’t relate to them really so.”

Transcript
3.12.13, p. 83,
lines 7 to 12

683. In response to further questioning about this from Mr Stern QC, Witness B said:

Q. Let's look a little further on if we can, look at 33642. You set out there that you don't trust the police, that you have been stopped and searched all the time?

A. Yes.

Q. Obviously, you are not a fan of the police?

A. No, I'm not.

684. Witness B accepted that he had followed the media coverage of the shooting of Mr Duggan, but he did not think that his memory of what he had seen had been affected by this.

Transcript
3.12.13, p.123,
lines 13-24

685. In response to questioning from Mr Bunting, acting on behalf of Witness B, he stated that the death of Mr Duggan was *“an execution”*. He said, *“you don’t see someone with their hands up and shoot them and it doesn’t take the ambulance 20 minutes just to come...so I just think it’s just, this is what I assume, yeah, man”*.

686. Following the inquest, Witness B gave a statement to the IPCC but thereafter he refused to sign it.

Witness C

687. Witness C gave evidence to the inquest on 4 December 2013. He is a journalist who played a part in the BBC’s investigation into the incident and met with Witnesses A and B in April 2012.

688. Witness C said that he met with Witness A and B on 12 April 2012 with three journalists. All three of the journalists were asking questions and Witness C was taking notes but the interviews were not recorded in any other form.

689. Witness C recalled the following about the meeting:

“Witness A said to me that she had heard two shots. Witness B then interrupted and he said that he had heard “Put it down”. Witness A then said to me and to my colleagues that the windows were wide

open and then Witness A talked about that they shared a student flat on the 9th floor. You have to remember that both of them were talking at the same time, they were cutting into each other's conversations."

690. Witness C said that he asked Witness B to give him bullet points to describe the sequence of events, which were:
- *"Screeching of car tyres, to the window"* – Witness C understood Witness B had gone to the window and recorded eight minutes of BlackBerry footage;
 - Mark Duggan's body language was directed at the police and Witness B said it was as if he was indicating *"what's up"*. Witness B raised his arms and hands parallel to his shoulders to demonstrate;
 - Witness B said Mr Duggan had a BlackBerry;
 - Witness B said it was an execution.

Transcript
4.12.13, p.17,
line 25 to p.22,
line 26

691. Mr Underwood QC (Q) and Witness C (A) had the following exchange:

Q. Did he repeat the "Put it down, put it down!" phrase?

A. He repeated it once. He said that when Mr Duggan got out of the car he said "What's going on?" (indicates) and then he said that he heard "Put it down!"

Q. Did he say anything about the phone going flying?

A. (Nods). The conversation carried on. Then he gave, like, short sort of brief points. He said: "Split second, then fire, two shots, the phone went flying."

Q. Can you recall any more about that?

A. No, sorry.

692. When asked how accurate he thought his recording of Witness B's actual words was, Witness C said that he was paying a lot of attention to him, as were his other two colleagues from the BBC, and he had a notebook and pen. He therefore felt that his recording was accurate. By the time of the meeting, Witness C had been a journalist for 23 years, 21 of which had been with the BBC. He stated that he had had to make a lot of notes over the years.

693. In response to questions from Mr Thomas QC in relation to the first meeting on 12 April 2012, the main points of Witness C's evidence were:

- Witness B understood that Witness C was taking notes;
- Witness C's notes do reflect the sequence of events described by

Witness B;

- Witness C was necessarily highlighting the main points as he did not have time to note everything down;
- Witness B was telling Witness C that, when he saw Mr Duggan, the first thing that drew his attention was the screeching of the car tyres, after which there was approximately eight minutes of footage obtained from Witness B's BlackBerry;
- Witness B said that Mr Duggan's hands were up, but he didn't mention Mr Duggan running one way or spinning round;
- Witness C's notes from the first meeting record that Witness B said that there was a BlackBerry in Mr Duggan's hand. Witness C agreed that nowhere in the notes from this meeting was there a reference to Mr Duggan having a gun in his hand;
- Witness C agreed that the notes of the first meeting referred to what Witness B had seen as "*an execution*".

694. Witness C said that he had a second meeting with Witness B and another BBC colleague on 24 April 2012. The meeting took place on a street in north London. This meeting was planned in order to take the footage from Witness B's BlackBerry onto a BBC laptop. As this was being done, Witness C's colleague asked Witness B some questions. The purpose of that discussion, Witness C said, was both to get more information and to test his recollection. Witness C said that he did not want to scare Witness B by making contemporaneous notes in front of him, so he wrote his notes up while walking back to the tube station, while the meeting was still relatively fresh in his mind as it was approximately ten minutes later. In answer to questions from Mr Underwood QC and by reference to his notes, Witness C described what was said at this meeting as:

Transcript
4.12.13, p.29,
line 23 to p.30,
line 24

A. Witness B said that he was positive that Mr Duggan had a BlackBerry. It was shiny, he said. He said Mr Duggan was in between the car and the railings on Ferry Lane. He said that he was facing Blackhorse Road. Once again, he repeated this expression. He said to me that Mr Duggan said "What's going on?" (indicates). I remember him on at least a couple of occasions raising his arms as well -- this is Witness B. He said Mr Duggan appeared confused. Witness B said the phone was in Mr Duggan's right hand. I'm sorry, I wrote "on the grass side" but I can't remember specifically about those particular points, you know, whether -- so I wouldn't want to go into great detail about that because I wouldn't

want to mislead.

Q. Could that have been connected with whatever it was in his hand spinning away and ending up on the grass?

A. I wouldn't want to say.

695. Witness C was asked about whether his notes of this meeting should be read as Witness B having said that he initially thought Mr Duggan was holding a gun. In response to questions from Mr Underwood QC Witness C stated:

Q. Then we get the next line, can you help us with that?

A. I believe -- this is -- and I'm going to be straight with you here -- the difficulty is that normally I'm very good with my notes, but with this one, I think -- and I'm saying "I think" -- I believe that for a moment he may have initially thought it was a gun, but then he said it was shiny and he used the expression "shiny" before and I think on the first occasion, the face-to-face meeting, he used "BlackBerry shiny" but then he said because it was shiny, he always seemed to insist that it was a BlackBerry. But then the expression, you know -- there was this further -- there's a few words there as well: "But read N/papers then thought it was a BlackBerry." I've been thinking about this time and time again, trying to think about what happened. Was it my colleague posing a question and saying, you know, "Had you read the papers, did you read anything, has anything influenced you", but I cannot be 100 per cent about those words there from "Initially" to "BlackBerry".

696. Witness C confirmed to Mr Thomas QC that he could not be sure whether a gun was mentioned by Witness B or his colleague and that Witness B was not asked to view the notes or sign them.

697. Witness C confirmed that, during this second meeting, his colleague suggested to Witness B that he should go to the IPCC with his information, to which Witness B's reaction was that he would not do so. Witness C said that he sensed that Witness B was scared of the police.

698. Witness C confirmed that Witness B was paid for the original footage on 12 April 2012 and a further sum of money was paid for the Blackberry footage.

Report Produced by the Computer Aided Modelling Bureau of the MPS

699. The IPCC obtained a report produced by the Computer Aided Modelling Bureau (CAMB) of the MPS. The modelling illustrated the sight lines that existed from Witness B's flat to the scene of the stop. The IPCC sought this evidence to determine what Witness B would have been able to view in the moments after the stop from his bedroom window, as opposed to the view in the footage which was recorded. The modelling confirmed that the scene would have been visible to Witness B from the bedroom window. In addition, the modelling showed that only the head and shoulders would have been visible of a 6ft tall person who was standing right next to the minicab. It would have been possible to view down to the waist of a 6ft person who was around half way across the pavement between the railings and the minicab. Almost all of a person stood by the railings, apart from the feet and lower leg, was visible from the flat. The modelling showed that the scene was around 75 metres from the flat rather than 150 metres as Witness B had stated at inquest.

Civilian witnesses traced by the IPCC

Mr Darren Biggs

S84
D216
D232
D234
D484

700. Mr Darren Biggs gave his details to a police officer at the scene on 4 August 2011 and these were recorded on the police computer system (with reference CAD8215). Mr Biggs was further identified by swipe card enquiries carried out by the IPCC at the Hale Village building site. On 22 September 2011 Mr Biggs was interviewed as a significant witness by the IPCC.

S84,

701. Mr Biggs explained that, when he finished work at the Hale Village building site, he walked up Mill Mead Road towards the junction with Ferry Lane. He said that, as he approached the lights, he heard two-tone police sirens and saw possibly two cars go through the red lights. He turned right onto Ferry Lane heading towards Tottenham Hale underground station. As he reached the entrance to Emily Bowes Court on his right hand side, he said that he heard a commotion behind him to his left and that, as he turned to look, he heard two gun

shots which he described as a “*crack, crack.*” He said, “*it was one crack immediately followed by another crack.*” Mr Biggs said that he was on the pavement on the opposite side of the road to the incident.

D808
D809
D810

702. Mr Biggs said that when he turned to look he saw a group of three or four cars. The two cars he had seen go through the red light were not part of this group. He said he saw a man in his thirties or forties standing behind the bonnet of the front most vehicle which was grey-silver in colour, (as depicted on the diagram he drew during his interview) dressed in a white shirt, a black bullet proof vest and dark trousers. He described the man lifting up his vest up and then dropping down slowly out of sight behind the bonnet of the same car.

703. Mr Biggs said that he could see the driver’s side of the people carrier parked behind the grey-silver car but he said he could not see anyone inside.

704. Mr Biggs said that he was then ushered away towards Tottenham Hale by an armed officer. As he had turned to go in that direction, a double-decker bus pulled up almost level with him obstructing his view of the other side of the road.

705. Mr Biggs gave evidence to the inquest on 25 November 2013. He confirmed that at about 6.15pm on 4 August 2011, he was coming home from work. He explained that he is from Portsmouth but was working at the time on a job in Tottenham Hale.

Transcript
25.11.13, p.75,
line 10

706. Asked what it was exactly that made him turn round, he said it was “*the screeching of tyres, and a load of noise that should not have been there.*” His evidence was that he recalled one “*crack*”, having never heard a gunshot before in his life. However when, in answer to questions from Mr Stern QC, his earlier statement (made on 22 September 2011) was put to him, he agreed that his references to hearing “*crack, crack*” and “*one crack followed immediately by another crack*” were more likely to be correct. He confirmed that he was not wearing headphones or on the phone when these events took place.

707. As to what he saw when he turned round, Mr Biggs said that he just remembered a load of grey cars, a taxi-shaped car and lots of peoples’ heads behind the cars. One thing that did stick in his mind was the black, mop-haired officer doing the motion of pulling something up from his left waistband, which could have been pulling a waistcoat up.

708. Mr Biggs did not see anyone on the ground nor any first aid being administered.

709. Mr Biggs agreed that in his statement he did not refer to a minicab but to a people carrier type of car which was grey/silver in colour. He said that he could not see anyone inside this car.
710. The CCTV obtained from Emily Bowes Court recorded the point at which Mr Biggs turned his head to look over his left shoulder, as he heard the shots, as being at 6.12.47pm.

Mr Valentine Maguire

D61

711. Mr Valentine Maguire was traced during an IPCC witness appeal conducted at Ferry Lane on the Thursday after the incident. On 13 September 2011 he was interviewed as a significant witness by the IPCC.

S92]
D240

712. Mr Maguire said that he left Tottenham Hale underground station and was walking on the north side of Ferry Lane towards Walthamstow when he heard three gun shots which were “*quick, loud and short*”. He said the shots were the same and went quickly in rhythm of “*one, two, three with no pauses between them*”. Mr Maguire said that he did not hear anything before gun shots except everyday sounds like traffic and birds.
713. Mr Maguire said that he then looked ahead and to his left automatically. He said that he saw a police officer with a gun in the middle of the road walking backwards from vehicles that were stopped on the opposite side. Mr Maguire said that the officer was dressed in blue with a blue baseball cap on and a bullet proof vest. He said that he also noticed a male lying on his chest on the ground in the road with his hands behind his back looking terrified, with two officers close to him; one of the officers was kneeling on one knee holding the man’s wrists behind his back. Mr Maguire said that there was a lot of commotion and police officers with police baseball caps running around.
714. Mr Maguire said that he crossed over the road and saw a police officer pressing up and down on the chest of a man who was lying on the pavement around three feet away from a people carrier. He said that there were a mass of police officers around the man. He described the officers waving arms, shouting and issuing directions. He formed the opinion that someone had been shot and the officers were asking for help. As he was watching this for approximately 10 seconds, he said that he noticed a double-decker bus come to a halt close to the vehicles and a police officer forcefully told the bus to go back. He said he was then asked by a uniformed police officer to go away. He was

not asked for his details by this officer.

715. Mr Maguire recalled that he was wearing green combat trousers with a black belt, a white T-shirt and white trainers. He had a blue rucksack on his back with black straps.
716. Mr Maguire gave evidence to the inquest on 25 November 2013. He gave the same account of his movements. In response to questioning, he stated:
- The person on the ground was approximately three feet away from the people carrier in the centre of the pavement;
 - He heard shouting after the shooting and he heard sirens. He thought that the sirens were from the group of police cars that he could see at the scene; and
 - The colour of the minicab was “browny gold” which is how he had described it in his witness statement to the IPCC.

Mr Luke Clow

D63

717. Mr Luke Clow was traced by the IPCC at the seven day witness appeal. An investigator visited him in September 2011. The initial information he provided was considered again during a review and a decision was made to re-visit him. He gave a statement to the IPCC dated 7 November 2012.

S208

718. Mr Clow said that he got off the train shortly after 6pm and he heard loud bangs as he came out of Tottenham Hale station onto Ferry Lane. He could not be sure how many bangs he heard but he thought that it was more than one but not more than three. He was listening to music on his iPod at this time.
719. Mr Clow said that he walked along the pavement opposite the incident towards Walthamstow and he said that he saw a male police officer wearing dark blue body armour or vest, and a cap marked “Police” running towards him. Mr Clow said that the officer said, “*Sir, get back, get back*” and told him that he could not come through that way. Mr Clow said he saw six or seven other police officers keeping people back. Mr Clow said he thought the police were being professional as, although they were running and using loud voices, in his view they were not running around aimlessly or screaming at people or using foul language.
720. Mr Luke Clow gave evidence to the inquest on 25 November 2013. He gave the same account of his movements. In response to questioning

he also stated:

- He thought that he had heard more than one bang, with a short gap of not more than a couple of seconds between each bang;
- He did hear sirens in the course of the incident as a whole but not, he thought, at the time of hearing the bangs; and
- He saw the police generally running around the area to try and keep people away from the area. He said that residents of the estate were congregating around the grass bank and the police were trying to keep people back from there. The car that was closest to Mr Clow had, he said, one wheel up on the kerb and the passenger door open, and he could recall seeing some people around that door and some activity there.

Mr Finbar Hanrahan

721. Mr Finbar Hanrahan was identified through the house-to-house enquiries. The initial information he provided was considered again during a review of all potential witnesses and a decision was made to re-visit him. The interview was recorded by the IPCC on 8 November 2012 and he signed his full statement on 6 December 2012.

S207,
S207AD858,
D953

722. Mr Hanrahan said that he had returned home from work and just opened his front door, south of Ferry Lane, when he heard gun shots go off. He said, *"I am not sure but I think I may have heard two gun shots but because they were fired in quick succession of each other it appeared to sound like one loud bang but possibly with two shots within it."*

723. He said he immediately turned around and walked down his path and rushed towards the green which sloped upwards between Jarrow Road and Ferry lane. He described reaching the black, barred railings separating the top of the green from Ferry Lane after 10 to 12 seconds as he was moving at a fast pace. Mr Hanrahan estimated he stopped three feet away from the railings but he said that he was immediately directed by a uniformed police officer to go back down. Mr Hanrahan said the officer held his arm out over the railings with his palm facing him and spoke authoritatively.

724. Mr Hanrahan said that he noticed a black man with light skin lying on the pavement approximately two feet away from the railings. He said he had realised since the incident this was Mr Duggan. He said he saw two police officers approaching quickly from the direction of Tottenham Hale. He formed the impression that they were coming to help Mr Duggan as they were concentrating on him and he saw them bend

- over him. He said that another two police officers were also around Mr Duggan. He said that one of these officers was kneeling down by Mr Duggan's left side with his right hand placed on Mr Duggan. His observation only lasted for between one and three seconds before he turned to go back.
725. Mr Hanrahan said that he thought this was a "*police swoop*", meaning the police had stopped someone and shot them, but he did not see any injuries, any guns or any other weapons at any point. He reiterated that he did not see any guns, any other weapons or any other objects on Mr Duggan, on the pavement around him or on the green where he was briefly standing.
726. Mr Hanrahan said that no one else was on the green, except his son who had followed behind him from the house. [REDACTED]
[REDACTED]
727. Mr Hanrahan said that he walked back to the bottom corner of the green. The next thing he recalled was seeing a police officer arrive at the bottom of the green who started to cordon it off using the trees to place the tape around. Mr Hanrahan said the officer was telling people on Jarrow Road to stay back. Other officers joined him to assist him. Mr Hanrahan said that from this position he did not have a very good view of Ferry Lane; he could not see Mr Duggan due to the slope and the bushes in front of the railings and he said all he could see was officers walking about and talking to each other, and further cars and officers arriving. Mr Hanrahan said that he went home after five minutes.
728. Mr Hanrahan gave evidence to the inquest on 25 November 2013. Mr Hanrahan said that he was familiar with the sound of gunshots as he was in the Territorial Army in Ireland. He said that he heard three shots.
729. Mr Hanrahan said that he was not the very first person on the green, but he was one of the first ones there. It took him about 20 to 30 seconds to get there. He could see other people coming forward at the same time.
730. Mr Hanrahan was shown the following photograph and stated that his position was next to where the two men were standing when he was three feet from the railings:



Transcript
25.11.13,
p.126, line 25
to p.127, line 5

731. Mr Stern QC asked Mr Hanrahan about the number of shots he had heard and pointed out that in his witness statement made in December 2012, Mr Hanrahan had said differently. Mr Hanrahan said:

A. Well, the initial sound, to me, sounded like they were in quick succession. It was a quick succession. When guns are fired in quick succession it's very hard to distinguish how many shots.

Q. Exactly.

A. Because one noise leads into another so --

Miss Z

R3M
S69L
D389

732. Miss Z was granted anonymity by the inquest and is referred to in this report as Miss Z. She was identified as a witness by the IPCC during house to house enquiries in December 2011. On 16 December 2011 she was interviewed by IPCC investigators. She was happy to tell the IPCC what she had witnessed but she was unwilling to sign any statements. The interview was video recorded and a report written to summarise the main points.

R3M

733. Miss Z said that between 5.30pm and 5.45pm on 4 August 2011, while assisting a friend put her baby in her car, she noticed a commotion on Ferry Lane. She said that she saw a man, around five feet and ten inches tall, standing with his back to the railings. She said that she

walked to the end of Erskine Crescent and could see the same man with a police officer standing an arm's length in front of him.

734. She said that the officer, who had white sleeves, was standing with his left arm stretched out at shoulder height straight towards the man at the railings. She said that something was shouted and she heard a gun go off and the man went down although she was not sure how he did so.
735. She said that an officer tried to keep the man alive until the air ambulance arrived. She stated that after some time afterwards she saw two officers looking behind the railings for something on the grass side of the railings. She said that she did not see any guns the whole time she was watching. She said she is both long and short-sighted and was not wearing glasses at the time.
736. Miss Z gave her evidence to the inquest on 25 November 2013. She confirmed that she knows Miss J and Miss J's daughter, other witnesses from the local area. She could not remember, however, if she had been with them on 4 August 2011.
737. To the inquest, Miss Z described what she saw as follows:
- She came out of her front door with a friend who she was seeing off;
 - There was a commotion but she did not really take any notice of it as she was busy with her friend but after a while, she did go and have a look;
 - She did not go over the road but went on the pavement at the corner of Erskine Crescent.
738. Miss Z said that she saw "*loads of policemen, cars and stuff going on*". Her evidence to the inquest was:
- She saw a person who ended up on the ground. That person had, when she first saw him, been standing up with a policeman opposite him. The policeman had been reaching out to the person with his arm out and there was another policeman nearby;
 - Before that person went to the ground, she heard something shouted, but she did not know what that was or who did the shouting;
 - She heard a bang, like a car backfiring, and then it went quiet for a little while;
 - She then saw the policeman trying to save the person that was on

25.11.13, p.19,
lines 2-3

the ground.

739. Mr Straw asked Miss Z questions on the basis that the person she had described to Mr Underwood QC as having a policeman opposite him was Mr Duggan. Miss Z said that, from where she was standing, the policeman was facing her and Mr Duggan's back was towards her, so she could not see where Mr Duggan's hands were. She did not see any movement from Mr Duggan and said that "*he was just there.*"

25.11.13, p.24,
line 22

740. Miss Z said that the officer that she had seen facing Mr Duggan was white, although she accepted she had said in her interview that she could not see this. She said that, "*the police officer was white, both of them was white but Mark Duggan was white*". She did not see the skin on the hand or arm of the officer. She said that the officer opposite Mr Duggan was a little bit taller than Mr Duggan.

25.11.13, p.36,
lines 19-20

741. Miss Z said that she saw the officers looking for things on the grass, but she did not know what they were looking for.

Miss J

D578

742. Miss J has been granted anonymity for the inquest and is therefore referred to in this report as "Miss J". Miss J was identified after the witness appeal on 13 October 2011 when IPCC investigators spoke to her daughter. Miss J's daughter said that they were at their house when the shots were fired. On 7 November 2012 Miss J was interviewed by the IPCC.

S108
X218
X219

743. Miss J said that she heard two gun shots as she opened the front door of her house on Erskine Crescent to visit a neighbour. Erskine Crescent has walking access onto Jarrow Road. Miss J described the shots as a "*bang, bang*" noise and said the two bangs were one after the other, referring to them as "*consecutive with only half a second or a second between them.*" Miss J said that she did not hear anything prior to the two bangs.

744. Miss J described running out onto the grass embankment area to see what was happening. She said she was around half way up the green when within a few seconds an armed police officer yelled at her to get back and to go away. She said the officer told her "*this was a scene of a crime and the whole area has been sealed off.*" She described the officer as wearing navy blue all-in-one clothing and a bullet proof vest; she stated that the officer remained on the grass the whole time she was present.

745. She described a big estate car which she said she had realised from

- the media reports since the incident was a taxi. She said that the driver's door and the back passenger door on the left were open. She said the back passenger door opened out onto the pavement and she could see inside but could not see anyone inside the taxi in the front or rear.
746. Miss J said that she noticed a person lying on the pavement close to the railings. She explained that she did not know how this person had got to the ground. She could not describe any further details except that there was a police officer wearing latex gloves carrying out CPR on the person which went on for a long time and until at least 6.40pm when she went home.
747. As she walked back down the green, she said that she noticed a white man running from the front of the minicab towards Tottenham Hale station on the pavement. She said that at the same time she heard a police officer repeatedly shouting "*stop.*" Miss J believed the white man to be the taxi driver.
748. She said that she also noticed two officers on the grassed area searching in the bushes. She said she thought that they were looking for bullets as they were looking at the ground and in the bushes. She said these officers were present the whole time she was watching.
749. Miss J also remembered officers arriving on Jarrow Road who told her and other local people to leave the area.
750. Miss J said she then crossed over Jarrow Road and stood on a low wall to assist her view. She said that she saw a police officer running towards Tottenham Hale at 6.25pm. She said the officer ran from the direction of the minicab. She described this officer as wearing a white shirt carrying a clear, see-through forensic bag with a handgun inside it. She described the gun as modern as it was rectangular in shape and black or grey in colour. She said that the officer carried the handgun flat on its side in the palm of his hand and that she said she could see the entire gun. She referred to seeing the trigger and the "*mouth end*" of the gun. She said that the officer then placed a black flannel-like cloth over the handgun and forensic bag as he continued to run towards Tottenham Hale. She said that the black cloth covered the gun but not all of the clear bag and the officer seemed as though he was concerned to cover the gun but not the bag.
751. Miss J said that she did not see this '*running officer*' get in or out of the minicab or exactly where he ran to, but that a few minutes later she saw a different officer inside the minicab at approximately 6.28pm. She said she did not know if the officer was male or female and could not

describe them in any detail but she thought they were in the minicab via the right hand door at the back on the driver's side. She said that she did not see them open a door nor did she see what the officer did in the back of the minicab because she was watching the CPR.

D910

752. On 3 October 2012, at the first trial of Mr Hutchinson-Foster at Snaresbrook Crown Court, Miss J opened her evidence by explaining she had tried to "*erase the incident*" from her mind. She continued to say that she had seen police officers pull out a body from a taxi and place it at the railings. She said that she saw the taxi driver get out the driver's side and she saw him running towards Tottenham Hale as someone shouted "*stop*" and other things after him. When it was put to Miss J that her evidence appeared to have changed, she said that she had told the IPCC investigators "*whatever*" as she felt they had been at her house too long when interviewing her.
753. With regards to the officer she saw running with a handgun, Miss J stated, "*I saw the officer – I believe the officer came out the taxi on the passenger's side at the back. Because I was standing on the wall, it seemed like I could see over his hand, so he came out and he had the gun on the palm of his hand...I can't remember to tell you the truth...By the time he had walked to the passenger side of the door, he'd put a black cloth over it, and by the time he'd passed the full length of it, he'd put it into a forensic bag, but it was a thing where – and then put it into a bag...there's no way that I could mistake it. It was a handgun.*"
754. Under cross examination at the trial, Miss J maintained that she saw a handgun in the palm of the officer's hand, he threw a cloth over it and then he put it into a forensic bag.
755. Miss J gave evidence via video link to the inquest on 16 October 2013. Miss J said that she recalled getting about halfway onto the green. She also said that she went up the green, by the railings, and was then sent back by a police officer and then went back to the pathway on Jarrow Road. She said she crossed the road and stood on the other side and watched what she called "*the commotion*".
756. Mr Underwood QC asked her what she saw and she stated "*there was commotion where the police was dragging out Mr Duggan.*" She continued, "*they was pulling him out of the car to where they eventually ended up doing CPR on him*".
757. Miss J said that the car she saw was a large silver/grey car and that she saw Mr Duggan being taken out of the back left-hand side of the car, which was the side nearest her. She said that Mr Duggan went

16.10.13,
p.103, lines 17
to 25

onto the floor with the officers and she saw them doing first aid. She saw this on the second occasion when she was on the green.

16.10.13,
p.104, lines 20-
24

758. Miss J said that she saw *“a police officer come out with the gun – he had it on the black piece of cloth and he had it in the palm of his hand, and it was like he was showing somebody or – I don’t know, he had it in the palm of his hand.”* Miss J’s evidence to the inquest was that the policeman came out of the minicab carrying the gun in this way.

16.10.13,
p.106, line 10

759. Miss J referred to there having been *“a hiccup about where I was standing”* in her evidence to the first trial of Mr Hutchinson-Foster. She said that, before the inquest, she had refreshed her memory of where she had been standing. Her recollection was that she was at the railings when she saw the gun on the cloth. She was not able to recall what the police officer looked like or whether he was in uniform, but she said that it *“wasn’t a boiler suit policeman, it was a regular police”*.

760. Miss J’s evidence was that the police officer who was carrying the gun was moving forwards towards the front of the car with it and she did not know what happened after that. In response to questions from Mr Thomas QC, Miss J said she had no doubt in her mind that she saw what she believed to be a police officer coming out of the vehicle, and that the racial origin of the police officer that she saw was white.

761. Miss J had drawn the gun previously and maintained that it was a sort of L-shape. She said that the gun was not wrapped up in anything when she saw it. She thought that the gap between hearing a noise and seeing the gun was probably about five minutes. Miss J said she was clear that she had heard two shots.

762. In answer to questions from Mr Mansfield QC, Miss J said that she was standing on the wall next to her neighbour’s house *“after the commotion”* to see what was going on. She then said it was more than likely that she had stood on the wall after being told to move for the first time.

763. Miss J was shown the BBC footage which she said she had seen previously. She said that this footage triggered some memories as follows:

- She identified the railings where she said she was standing, (she appeared to point towards the railings running along Ferry Lane) saying that this was how she was able to see what was going on as she *“was there”*;
- She said that she remembered that when she was standing at these railings, she saw the taxi driver run off, with a skin-coloured t-

shirt.

764. Mr Mansfield QC asked Miss J to watch the video footage and follow the person with a white arrow (identified as Q63). He asked her whether that person was the same as the person she had seen with the gun; she said it was not that person.
765. Mr Stern QC took Miss J through the account she had given to the IPCC on 7 November 2011, considering both her witness statement and the answers she gave in interview to the IPCC. By reference to those accounts, and the evidence she had given in the first criminal trial, Mr Stern QC suggested that Miss J had never previously said that she had been onto the green twice, which had been her evidence to the inquest. Miss J's response to this was that she had never been asked previously and it was the fact that she has to pass the green every day that has jogged her memory that she was there on 4 August 2011. She said that she had been stood on the wall at some point but when she saw the gun she was not stood on the wall.
766. Miss J disagreed with the suggestion from Mr Stern QC that she could have been mistaken about seeing the gun from 50 metres away. She said, *"There's no way that you can be mistaken seeing a gun in Tottenham in broad daylight."*
767. Mr Stern QC asked Miss J further questions about whether she saw Mr Duggan being physically pulled from the vehicle. She said, *"I didn't see him physically being pulled but I just presumed, because he had to get out the cab one way and he couldn't have got on his own, somebody would have had to pull him out of the cab to put him where he was"*.
768. With regards to the man Miss J said that she saw running from the minicab, she said that he was a white man with no shirt on. She said that she thought he was the taxi driver because she saw him get out of the taxi and she saw him running away from the taxi. It was put to Miss J that this was inconsistent with what she had said in her IPCC statement (where she had said, *"I did not see the white male get out of the taxi though"*) and Miss J said this was because she had presumed that he got out of the taxi. Miss J said on a number of occasions in her evidence to the inquest that she could not remember things and she also said that she could not remember whether her statement to the IPCC was wrong about what she had seen.

Transcript
16.10.13, p.
182, lines 8-9

Transcript
16.10.13,
p.158, line 9 to
p.159, line 1

Miss J's daughter

769. Numerous interviews were arranged with the daughter of Miss J for various dates during the IPCC investigation but these did not take

place and she did not respond to further contact from the IPCC.

770. Miss J's daughter gave evidence to the inquest on 25 November 2013. When she was asked questions by Mr Stern QC, she confirmed that the first time she was spoken to about this matter was on 1 November 2013. She said that when her mother was being interviewed, the interviewers wanted to interview her, but time ran short. She said that she was not present in the interview with her mother.
771. In answer to questions from Mr Underwood QC, Miss J's daughter confirmed that, in August 2011, she had just turned 16. She told the inquest that she went out of her house on 4 August 2011 and could see the cars that she had described as the minicab and a car in front and behind it, but not the car to the right of the minicab, as the minicab was blocking her view of it. She was on the other side of Jarrow Road. In answer to a later question from Mr Stern QC, she said this was by Erskine Crescent.
772. In answer to questions from Mr Underwood QC, Miss J's daughter said that she could not see whether the minicab door was open or not but she presumed it was open because she knew something was happening. She said that she could see Mr Duggan and a lot of people surrounding him and, initially in her evidence, she said that she did not remember seeing anything or anyone going in or out of the minicab.
773. Mr Straw asked Miss J's daughter about a matter that she had mentioned in her interview with the inquest team. The exchange continued thus:
- Q. Is it right that you thought someone had gone to the minicab?
- A. To get something?
- Q. Is that right?
- A. Yes, to get something.
- Q. Okay. Can you describe in a bit more detail what you saw?
- A. Like I saw a guy, like, he was near the minicab and then it was like -- I thought he got something from the minicab and then ran towards Tottenham Hale station.
- Q. That guy, was he a member of the public, a police officer?
- A. I would have thought that he was a police officer, like, at that moment in time I believed that he was a police officer.
- Q. Did you see what he got from the taxi?
- A. No, because it looked like it was covered with,

like, either a piece of material or a cloth.

Q. Is it right that at the time he was going to the taxi, you weren't focusing on him because you were focusing on Mr Duggan who was on the floor?

A. Yes.

Q. Is that why you didn't see whether or not he went into the taxi?

A. Yes.

Q. Then you started focusing on him after he sort of came out from that area of the taxi door?

A. Yes. It's like when he started -- just before he started running towards Tottenham Hale, that's when I actually noticed that he was there and then when he started running to Tottenham Hale I was thinking "That looks a bit dodgy".

Q. That looks dodgy?

A. Yes.

Q. So you looked at him once he appeared to take something from the cab?

A. Yes.

774. Mr Stern QC asked Miss J's daughter about the BBC footage that she had seen during her interview. She said that she remembered being asked about a man who had a white arrow pointing down at him who was near the minicab. Having been taken through the answers that she gave in interview, Miss J's daughter said that the person that she had seen running was not the one indicated in the footage by the white arrow (Q63), but was a person with a dark top. The video footage was later shown to the jury, after Miss J's daughter had finished giving evidence.

775. Miss J's daughter confirmed that she did not see a gun at any stage. She agreed that she was standing with other people, including her mother and another local resident, Miss Z.

776. She agreed that she could not see what the person who was running towards Tottenham Hale was holding. When she had told Mr Straw that whatever this person got from the taxi was covered with a cloth she said, "*because the way it looked is like it was covered so no one else could see it. That's why I couldn't see the actual object.*" She agreed that she had not mentioned a cloth or similar in her interview.

Mr [REDACTED]

777. Mr [REDACTED] came to the attention of the IPCC via the list of potential witnesses provided by local police officers at the scene on Ferry Lane on 4 August 2011. Mr [REDACTED] was interviewed by the IPCC on 26

September 2011.

778. Mr [REDACTED] said that he was carrying out some inspection work, with three colleagues, on the Hale Village site located adjacent to Ferry Lane. He said that at about 6pm, after walking through one of the exits on Daneland Walk, he was standing outside the exit chatting with the three colleagues. He recalled hearing sirens coming from the direction of Tottenham Hale tube station and fainter ones coming from the Blackhorse Road direction.
779. He said that about 30 seconds later he heard *“two or three sharp cracks in rapid succession.”* This was followed by what he described as a *“hubbub”* and *“definitive shouting”* whereby he felt the shouting was *“instructive”* as if someone was being told what to do.

Mr Emil Drzewiecki

S170

780. Mr Emil Drzewiecki was traced via enquiries made by the IPCC at the building site and was identified as being present at the bus stop on Ferry Lane during analysis of the CCTV from the buses. He was interviewed by the IPCC on 10 November 2011 with the assistance of a Polish interpreter.
781. Mr Drzewiecki said that he finished work around 5.00pm. He said that he left the building site and walked up to Ferry Lane and waited at the bus stop on the north side of the road. He estimated that this took him between five and eight minutes.
782. He said that he was sitting at the bus stop looking behind him at the fence surrounding the building site waiting for the 123 bus heading east. Around one minute after the 230 bus left, he said he heard the screeching of tyres. A few seconds after that he said he heard three gun shots. He said that he turned to see what was happening and came outside the bus shelter to see more clearly. He said that he looked at the cars on the opposite side of the road and the action evolving around and behind them on the pavement.
783. Mr Drzewiecki stated that he saw a Pakistani or Indian man lying on his stomach on the ground in between two parallel parked vehicles, one of which he believed was a green or metallic grey *“Renault Espace”* type vehicle and the other a navy blue car. Mr Drzewiecki estimated he was at this point around 10 to 12 metres away from the incident.
784. He said that he only saw the top of this man’s body from the waist up and his head was facing towards Walthamstow. He described the

man's hands as being raised on both sides of his head and that his head was raised up a little as if he was trying to speak to the policeman standing over him who was wearing a navy-blue checked baseball cap.

785. Mr Drzewiecki said that he saw several police officers moving at a fast pace on the pavement and that he heard them saying commands with a raised voice, one of which was *"Move!"*
786. After between 30 to 90 seconds he said he saw a blonde female officer, around 25 to 30 years old, 1.65 metres tall, wearing a dark blue top and dark jeans cross over to his side of the road. He said she spoke with an Indian or Pakistani couple coming from the direction of Tottenham and turning them back. She then spoke with Mr Drzewiecki and told him to move off too. She did not take his details.
787. Mr Drzewiecki gave evidence to the inquest on 25 November 2013 via a Polish interpreter. Mr Drzewiecki thought that, by 6.10pm on 4 August 2011, he was already at home. He described the three shots as being one, with a break, and then two very quick ones. He said that he was familiar with gunshots having heard them in the army and having taken part in hunting in Poland.

Chapter 5 – The immediate aftermath of the shooting at Ferry Lane

Civilian witnesses traced by the IPCC

Mr Kieran Ely-O'Carroll

D69

788. Mr Kieran Ely-O'Carroll was initially traced at the seven day witness appeal and it was established that he had only witnessed the aftermath of the incident. He was spoken to again at the witness appeal on 13 October 2011 when IPCC Investigators established that he might have seen aspects of the aftermath which had become significant as the investigation progressed. On 14 November 2011, he was interviewed by the IPCC.

S115

789. Mr Ely-O'Carroll said that he left Tottenham Hale station and walked onto the north side of the pavement of Ferry Lane heading east towards Walthamstow. He said that he did not remember hearing anything but, as he came up over the hump of the road and reached the entrance to Emily Bowes Court, the first thing he remembered seeing was a police officer approximately 15 or 20 metres ahead in the road saying words to the effect of, *"Stop, get back"*. He said that the

officer was making a pushing motion with his right hand signalling for people to move back. Mr Ely-O'Carroll said he was the first of a line of people heading in the same direction as him.

790. As he looked over to his right, he said he could see a silver car pulled up across the pavement at a 45° angle with the bumper touching the railing. He described two armed police officers by the front of the minicab "*keeping cover over a male*" who was sitting on the floor, knees to his chin, with his back leaning on the cab on the driver's side near to the front wheel with his hands on the side of his head appearing to be compliant. Mr Ely-O'Carroll said that both the officers were wearing soft police caps with black and white stripes.
791. He continued that he crossed to the south side of the pavement, west of the incident, and went down the steps onto Jarrow Road. He recalled that other people were standing and watching. He said he spoke to a woman who he described as being in her late 40's or early 50's and had an Irish accent. He stated that she had said to him that she had heard a shout, "*Stop, Police!*" and then heard four shots. He believed she lived locally. To date, the IPCC has not been able to trace this woman.
792. Mr Ely-O'Carroll said that there was a group of around five teenage youths filming the scene on mobile phones from one of the paths leading to the bus stop to the south of Ferry Lane. As they were edging their way up closer to the scene, an officer standing on the grass area told them to get back. He said this officer was armed and wearing a black cap with black and white stripes and that, as he did not move, Mr Ely-O'Carroll thought he appeared to be securing an area or protecting something in the grass.
793. Mr Ely-O'Carroll said that he was around 25 to 30 metres away from the minicab and could see that the rear sliding door was open. He said that he noticed a commotion going on between the minicab and the railings but could not see what exactly this was. Mr Ely-O'Carroll said he saw another group of officers arrive in a vehicle and move the youths back. He stated an officer greeted one of these officers and pointed out what he assumed to be a gun on the ground, although he could not see that it was a gun.
794. He said that he saw another officer bring to the officer on the grass a 40cm by 20cm white board with blue writing and a blue block printed on it. He did not see the officer place it on the ground.
795. Mr Ely-O'Carroll gave evidence to the inquest on 25 November 2013. He gave the same evidence, but in response to questioning, he also

stated:

- He agreed that he was looking up and the slope made it difficult to see everything;
- He was asked about the distance between the cab and where the item on the grass was. He agreed that, if one were taking a piece of string, counting the downwards drop and measuring it as a bird flies, the distance could have been five to ten metres, but in a straight line without the downwards drop, his recollection is that the distance was less than five metres;
- He said that the distance between where the item on the grass was and the railings was about 4 feet;
- In relation to what he had described in his earlier evidence as an ‘evidence board’, Mr Ely-O’Carroll said that the account he had given in his statement was likely to be more accurate. This account was:

“It was like a small board that opens and is used by cleaners to indicate a wet floor but this board was white and blue. I thought it was a blue and white evidence board. I saw the officer open it and head towards area J with it but I did not see them place it on the ground. The board was approximately 40cm tall and 20cm wide. It had a white background with blue writing on it but also a rectangle or square blue block on it.”

Transcript
25.11.13, p.63,
lines 7 to 16

Mr Norman Grodentz

S166

796. Mr Norman Grodentz was identified as a witness after he responded to a witness appeal leaflet posted through his door. On 20 December 2011 Mr Grodentz was interviewed by the IPCC as a significant witness.

S166

797. Mr Grodentz said that, at about 6.15pm, he was sitting in his living room in Jarrow Road when he heard two loud gunshots. He said that he looked out of his kitchen window and saw two white men running towards an incident which appeared to him to have occurred behind a brick wall with railings to the left of it. He said that he could see a couple of heads above the wall.

798. He said that he decided to join the other residents who had gone out to get a closer look at the incident and took his video camera and mobile phone. He walked straight across Jarrow Road. He said that he noticed a police officer making his way down the diagonal path on the green by the bus stop whilst putting on his police baseball cap.

799. Mr Grodentz stated that he walked up the path until he got to around half way up the green, when he was told by another plain clothes policeman, standing at the junction of the paths, not to go any further. Mr Grodentz said that he stood there and began to film on his camera. To his left by the small wall he could see a police officer wearing a flak jacket performing what he described as “*continuous resuscitation*” although he could not see the person being treated. He said that this was being performed very close to the railings.
800. He said that, after about one minute, he walked back down to the barriers and remained there looking up at the scene for a few more minutes. He observed that the officer continued to work on the resuscitation. He said that, after a while, a marked police vehicle arrived and it parked up close to where he was standing on Jarrow Road. He said that he then returned home but kept an eye on proceedings throughout the evening.
801. Mr Grodentz believed he had erased the footage of the CPR from his video camera but the IPCC submitted the camera for forensic examination and the deleted video files were retrieved. They showed CPR being performed on Mr Duggan as he had described.

X247
X248

Mr Richard Noble-Thompson

802. Mr Richard Noble-Thompson was identified at the seven day anniversary appeal as observing the aftermath of the incident. On 11 January 2012, he was interviewed by the IPCC as a significant witness as aspects of the aftermath appeared to be of further relevance.
803. Mr Noble-Thompson said that, after arriving at Tottenham Hale tube station at 6.10pm and walking through the underpass to the south side of Ferry Lane, he noticed a white van parked across the road that was stopping traffic coming onto Ferry Lane from Hale Road.
804. He said that he noticed a group of vehicles further down Ferry Lane and the closest vehicle, which was 40 to 50 metres away, was parked on the pavement at 45° to the road. The bonnet of this vehicle was blocking his view of what was going on further down on the pavement.
805. He said that he could see armed police moving about wearing black caps and flak jackets. He stated that there was no-one preventing him from walking down to the vehicles but chose not to do so. He said he had his camera with him and that he walked down the stairs onto Jarrow Road.
806. Mr Noble-Thompson said that he saw a high powered marked police

S153
D695
D669
D1052
D1056

car making its way from Ferry Lane onto Jarrow Road. He said that, when he walked along the railings by the diagonal path along the green and looked up, he could see through the railings onto Ferry Lane. He said that he saw a police officer giving CPR to someone on the pavement although his vision was obscured by a bush and the angle. He said that he was about to start filming but then noticed the police car was approaching at speed and felt it was coming towards him because of his intention to film the scene.

807. Mr Noble-Thompson said that the driver of the police car motioned for him to move but the police car carried on 15 metres past him. He then started to film his first clip and the armed officers from the car started to get out and go up the green. Shortly after this a plain clothes officer wearing a cap came from Jarrow Road, approached him and placed his hand over the camera lens and told him to get back.
808. Mr Noble-Thompson said that this officer walked on and spoke with three people who were standing behind and to the left of Mr Noble-Thompson. He said that by the time he started filming his second clip, the officers had met up with another officer who had walked round from the scene. He described the officers having a fraught conversation involving a lot of hand gestures. Following the end of the second clip he decided that, as they were all going to get moved on anyway, he would go home.
809. The images were obtained by the IPCC and were sent for forensic processing. The footage and still images were of police officers standing on the grass bank between Ferry Lane and Jarrow Road and of the first aid being administered to Mr Duggan.
810. Mr Noble-Thompson gave evidence to the inquest on 30 October 2013.
811. He confirmed that, on 4 August 2011, he was coming out of Tottenham Hale tube station at about 6.10pm. He said that he did not hear or see anything of the stop. He went through the underpass from the station and up onto Ferry Lane. When he got to Ferry Lane, he saw a van blocking traffic coming onto Ferry Lane from the Hale gyratory system. Then, in the other direction, he noticed activity on the road, which he could not quite see. He did not hear any gunshots and imagined that he was still in the tube station at the moment at which the incident happened.
812. His evidence was that he then walked up Ferry Lane, coming from the direction of Tottenham Hale station, until some stairs going down to the Jarrow Road side or green. At this point he saw a lady waiting at

the top, looking along the road to where the scene was happening. He had, he said, a quick conversation with this lady. She told him that someone had been shot and the police were everywhere. He then went down the steps towards the green.

813. Mr Noble-Thompson described that he had a camera with him – it was a still camera with a video function which he used to take video footage and still photographs separately. He identified the footage that he shot.
814. Mr Noble-Thompson said that, as he passed the recycling bins on Jarrow Road and was walking towards the green, he saw a marked police car wheel spinning and turning round, so as to move itself to come down Jarrow Road. As he was walking along Jarrow Road, he then saw this police car starting to move. He said that this vehicle appeared to be coming towards him at high speed, at which point Mr Noble-Thompson was holding his camera. He agreed that a possible interpretation of the police car movements would be that it was approaching at speed with an urgency to stop on Jarrow Road on the grassed side (i.e. the wrong side of the road) as quickly and as soon as possible.
815. Mr Noble-Thompson described some non-verbal communication between two officers that it is now known were Z51 and W39. Mr Noble-Thompson said that one appeared to be gesticulating to the other.
816. Mr Noble-Thompson's evidence was that, at some point during the taking of footage/stills, he was asked to move back by a police officer. He said that he did not see a gun on the ground and he did not see anybody picking up or carrying a gun, apart from the weapons that the police had in the photographs.
817. From the point at which he came out of the underpass until he turned around from the green to go home (which was about 50 metres away from the green), Mr Noble-Thompson said that he was at the scene for four to five minutes. He confirmed that he had given the video and still images that he had taken to the IPCC.

Mr Nino Hamadouche

818. Mr Nino Hamadouche was located after photographs were produced from the 123 bus CCTV and an IPCC investigator identified him during a witness appeal on board the 123 bus route on the 25 August 2011. Mr Hamadouche was interviewed on 16 September 2011 by the IPCC.

819. Mr Hamadouche said that on 4 August 2011 he was on board the 123 bus heading east along Ferry Lane and sitting in the middle seat at the back of the bus. He said that the bus braked hard and came to a sudden stop. He said that he looked through the windscreen from the back of the bus and saw an unmarked police car, light grey or silver, parked about three metres in front of the bus at an angle.
820. Mr Hamadouche said that he walked to the front of the bus where the driver was and said that he saw a police officer get out of this vehicle. He also said he noticed two other vehicles on his right hand side and saw two police officers, one of whom was walking up the pavement telling people to move back and gesturing with his hands. He estimated that there were around 15 to 20 members of the public a few metres away from this officer further up the road towards Tottenham Hale.
821. Mr Hamadouche said that, when he looked out of the front window of the bus, he noticed two men on the floor in between two cars. One of the men was sitting with his legs out in front of him and the other was kneeling down facing the first one. He described the kneeling man as helping the other one gently to the ground, using one hand on his front and the other on his back. He believed both men were police officers, with the one on the ground being white, wearing jeans and having short brown hair. He described seeing a “*Kalashnikov*” type gun on the left hand side of the person being helped to the ground. He believed someone had been shot but as the bus moved on he did not see anyone who had been.
822. Mr Nino Hamadouche gave evidence to the inquest on 25 November 2013. He confirmed that between 6.10 and 6.12pm on 4 August 2011 he was a passenger on the 123 bus which he had boarded at Seven Sisters, intending to travel towards Blackhorse Lane / Blackhorse Road.
823. Mr Hamadouche explained that when the bus arrived in Ferry Lane, the bus was stopped suddenly by an “*undercover police car*”. He saw a scene of chaos to his right. He was on the left-hand side of the bus, but could see on the right “*five or six undercover police officers*” and “*a blonde lady*”. He said that he knew they were police officers because they were “*wearing ... a vest*”, as was the lady.
824. Mr Hamadouche described seeing two police officers laying a colleague down on the floor about a metre away from the silver minicab. He said that he saw a gun between these two police officers and on the floor. The gun was not, he said, a pistol but it was smaller than a Kalashnikov. He did not see anybody else injured apart from

the police officer on the ground.

825. Mr Hamadouche said that there was a lot of shouting and that he saw the blonde police officer open a car and get a file out of it. He did not see anyone being guarded by police and he did not see any of the cars move after the initial incident.
826. Mr Hamadouche said that the bus stopped about four to five metres from the incident and there were a lot of people on the bus. He said that after the incident he felt confused about what he had seen. Mr Hamadouche agreed that one of the cars was boxed in. The female police officer who got the file took it from a different car, before returning to the incident next to the car that was boxed in.

Ms [REDACTED]

D310
D311

827. Ms [REDACTED] was identified by IPCC investigators from photographs from CCTV during a witness appeal on board the 123 bus route on 1 September 2011. She was spoken to and provided a brief verbal account of what she had seen.
828. Ms [REDACTED] said that she was sitting upstairs half-way along on the right hand side of the 123 bus. She said that she saw “a boy” being dragged from the pavement side, maybe from the front passenger door, of a seven-seater vehicle. She believed that there were maybe two other people already on the pavement.
829. Arrangements were made by IPCC investigators to interview Ms [REDACTED] to obtain a detailed statement from her. IPCC investigators attended the address she provided on Saturday 5 November 2011 at the agreed time. Ms [REDACTED]’s mother answered and said [REDACTED] was not at the flat and only occasionally lived there. The investigators tried to contact Ms [REDACTED] on her mobile phone but there was no answer. Ms [REDACTED] did not respond to further phone calls, text messages or a subsequent letter sent to her to attempt to rearrange the interview.
830. It is understood the inquest team attempted to contact Ms [REDACTED] but did not receive any response from her.

Ms Giedre Tilinskaite

831. Ms Giedre Tilinskaite was spoken to on board a 123 bus by an IPCC investigator. As the 123 bus pulled up after the shooting and Ms Tilinskaite did not see it, a decision was made that a full statement was

not required from her.

832. Ms Tilinskaite gave evidence to the inquest on 25 November 2013. Ms Tilinskaite's said that she was that she was going home on a 123 bus towards Walthamstow. She was sitting downstairs in the bus. At the time, she said that she was not particularly interested in what was happening at first, but she could see through the window some guys running away and police chasing them. This attracted her attention, and then she bent down and looked through the bus window, where she could see a person being dragged onto the sidewalk and a car blocked by other cars. As to that person, she could see that his t-shirt was being taken off and he was put down on the sidewalk. She could not recall what colour this person's clothes were. She said that there were at least two or three people with this person as his t-shirt was being taken off.
833. People around her started going upstairs in the bus and she did the same. She said that she could then see that there was a second person, further down the sidewalk, surrounded by a lot of police officers. She could not see this person but, when the bus moved, she then saw that this person was without his t-shirt and his chest was covered in blood. He was being given CPR.

SCD8, SCD11 and Local Officers

SCD8 officers

834. In addition to the SCD8 Trident officers already referred to previously, other SCD8 officers working on Operation Dibri on 4 August 2011. They were ZZ83, ZZ08 and ZZ42. The Trident officers were also involved in following the minicab, but their vehicles were overtaken by the CO19 vehicles to enable the CO19 TST officers to carry out the stop. ZZ83, ZZ08 and ZZ42 indicated they did not arrive on Ferry Lane until after the shots were fired and during the course of the first aid being administered. ZZ50, ZZ63, ZZ46, ZZ75 and ZZ37 said they remained with their vehicles on Ferry Lane until after the shots were fired as they were unarmed and their vehicles were not in the immediate vicinity of the minicab. As a consequence, all of their evidence relates to peripheral matters and none of these officers provided evidence to the IPCC investigation that they had directly witnessed Mr Duggan being shot.

SCD11 officers

835. It is understood SCD11 officers were intended to be used as a

supporting armed surveillance prior to the interception of the minicab by the CO19 officers. On 4 August 2011, the SCD11 officers were not properly equipped and ready for deployment at the time ZZ17 wanted them to deploy to Vicarage Road in Leyton about 5.20pm. They were briefed by their team leader B17 just before 6pm on 4 August 2011, before being deployed to the Leyton area. The team briefed by B17 consisted of B19, B6, B11, B22, B21, B32, B35 and B9. According to their statements, B17 and B22 were driving through Ferry Lane as the shots were fired. B17 indicated he did not directly witness the stop of the minicab or the shooting. The other surveillance officers indicated they were not present on Ferry Lane at the time the shots were fired. They stated they arrived after the shooting and then assisted in putting up various cordons in the surrounding roads and therefore their evidence has not been included.

Transcript
30.10.13,
p.165, line 10;
12

Arrival of local officers

836. Police Sergeant Steve Boswell from Havering Borough Command Unit was the first local uniformed officer to attend the scene. He heard the request for local units to attend over the radio and he arrived between 6.15pm and 6.20pm with his colleague, Police Constable Partridge. Six other local police constables were present by 6.20pm. They assisted in closing the road and putting up cordons in the area to keep members of the public away from the scene. Inspector Caroline Saunders arrived at Ferry Lane at 6.22pm and was responsible for the initial management of the scene. At the inquest on 30 November 2013, Inspector Saunders explained that her role at the scene was really cordon control and that anyone who came in or out of the cordons was recorded in the log. She said, “*there was a lot of confusion*” as to who was actually in charge.

The finding and preservation of JMA/1, the non-police issue firearm

837. The following section sets the key evidence relating to the finding and preservation of JMA/1. At the inquest, two particular issues arose in relation to which this evidence is relevant. First, it was suggested that JMA/1 had been ‘planted’ by the police and, second, it appeared that there was contrary evidence about who found JMA/1. The latter issue arose in particular in V59’s evidence, and V59 was recalled to the inquest towards the end to deal with this.

Footage from the British Broadcasting Corporation (BBC)

838. On 20 April 2012, the IPCC became aware that the BBC was in possession of some footage that was relevant to the Ferry Lane scene.

S134C, R3Q

On 22 June 2012, after extensive negotiation, the BBC provided a disc containing seven video files of footage of the aftermath of the incident. The footage had reached the BBC via two sources – Witness A, who was the ‘direct source’ who supplied the footage to the BBC and Witness B, who was the ‘ultimate source’ who had originally filmed the footage. The BBC did not provide the audio as it stated this was contrary to its editorial policy as it might reveal the ultimate source.

839. The file entitled ‘Phone clips’ contained material which was useful to the investigation. The footage totalled 15 minutes and 13 seconds and appeared to have been recorded from above and opposite the scene. It appeared highly likely to have been filmed from several storeys high in the Emily Bowes Court accommodation block which overlooked the scene.

R3Q

840. The following points in the clip are considered relevant:

- When the footage starts the Toyota minicab was already boxed in by three cars. The Alpha car was in front at a very slight angle. The Bravo car was along the offside and the Charlie car is directly behind it. The Delta car was behind the Charlie Car. There were 5 further vehicles behind the Delta Car. All the vehicles were stationary;
- The pavement area where the first aid treatment would have been occurring was not sufficiently visible to detail what is taking place and each person’s movements;
- There does not appear to be anybody in the grassed area between Ferry Lane and Jarrow Road or the paths leading down to Jarrow Road;
- At 3 seconds into the footage a member of the public, appearing to be Mr Valentine Maguire based on his clothing and description, crossed the road to behind the rear of the Charlie car. 19 seconds later this person walks down the centre path to Jarrow Road;
- At 45 seconds a man opened the driver’s door of the Alpha car and got in. The car is pulled forwards onto the pavement. At 1 minute 3 seconds the Alpha car stopped closer to the railings;
- From around 4 minutes and 46 seconds an officer in a white T-shirt appears to disappear from view on the pavement behind the area of the minicab and return to view a few seconds later;
- At 6 minutes and 4 seconds an officer walked toward the front of the Alpha car and climbed up onto the railings. The officer appeared to look over the fence onto the grassed area south of Ferry Lane;

Transcript
9.10.13, p. 170,
line 22 to
p.171, line 19

- At 6 minutes and 7 seconds the officer used the lamp post to climb over to the other side of the railings;
 - At 6 minutes and 15 seconds the officer was upright on the railings scanning the grassed area. Two seconds later the officer dropped onto the grass and walked to the east. This is the first person seen on the grassed area;
 - During the next minute the officer looked in bushes and shrubs along the railings and wall. From around 7 minutes and 25 seconds the officer was standing behind the wall close to where the non-police issue firearm was recovered;
 - A marked police BMW vehicle sped onto Ferry Lane. After speaking to an officer, the BMW travelled at speed onto Jarrow Road at 7 minutes and 28 seconds into the footage;
 - At 8 minutes and 37 seconds, four officers were standing on the grassed area where the firearm was found. The additional officers approached from Jarrow Road;
 - At 9 minutes and 8 seconds an officer from the grassed area walked towards the paved area by the road sign and met another officer. The officer on the paved area appeared to either point or hand the officer from the grassed area something. The officer from the grass then walked back to the grassed area;
 - At 12 minutes and 10 seconds an officer was running on Ferry Lane towards Tottenham Hale. They were joined by another officer walking towards them who turned and ran toward Tottenham Hale. Various other officers moved about on Ferry Lane throughout the footage; and
 - At 12 minutes and 20 seconds an officer on the grassed area walked toward a bush close to the railings level with the front of the minicab. After two seconds the officer bent down and then walked back to where the firearm was found.
841. At the inquest on 8 October 2013, DS Dempsey (ZZ42) was shown this same clip of the BBC footage, in an attempt to assist in identifying the officer with a white T-shirt in the vicinity of the vehicles and minicab at around 4 minutes and 46 seconds. Having dealt with the footage for the criminal trials, DS Dempsey considered it was Q63.
842. At the inquest on 10 October 2013, Q63 was asked to explain what he was doing to cause him to momentarily disappear from view. The suggestion from Mr Mansfield QC was that Q63 had entered the minicab at this time. Q63 stated that he had not entered the minicab. He said that he obtained a second medical kit and was not visible on

the footage when he provided this to the officers administering first aid on the pavement.

S194C

843. The 'Phone Clips' were provided to an independent imagery analyst. They used the file in conjunction with various other sources of footage and evidence to calculate the start time of 'Phone Clips' by visually synchronising images across the different sources of footage. 'Phone Clips' was assessed to have started at 6.13.22pm.

V59 & PCs Christiansen, Gibson & Fowler

S22

844. In his statement, dated 7 August 2011, V59 stated:

"I was conscious that that there was no weapon obviously apparent and therefore I asked R31 to look for a firearm within a few moments he informed me that he had found one on the other side of the wall from where the stop took place. I was conscious of the need to get further resources to our position, I was aware Q63 had already made this request via the radio system, however I then telephoned W55 the on call SFO Inspector and requested his attendance along with further Armed Response Vehicles [ARV] to our position to assist in securing the scene and firearm."

S22A

845. V59 made a further statement on 30 September 2011 in response to an IPCC question in relation to whether any of the CO19 officers had moved or had seen anyone move the non-police issue firearm recovered from the Ferry Lane scene. V59 states, *"I asked the following Officers; V53, W42, V48, R31, Q63, W39, W70, V72, R68, W56 if they moved or saw anyone move this non police issue firearm. All officers responded that they had not. In addition I did not move and did not see anyone move or touch this firearm for the duration of the time we were at the scene."*

S22E

846. The IPCC has investigated how the non-police issue firearm came to be found 4.35m away from Mr Duggan's body (after Mr Duggan had been moved for medical treatment) in a grassed area over the railings. V59 was asked a series of questions about how and why he tasked R31 to look for the firearm, in his statement 22 May 2011 he stated:
- "...I could not see a weapon on the pavement next to the male. I had expected there to be a weapon as one of my officers had just fired his weapon and I anticipated that this would have been as a response to an imminent threat to himself or others. I had no idea where the weapon was at this stage. My reason for asking R31 to look for a firearm was because he was not carrying out first aid on the male or performing any other role at that stage. He was the only officer I asked at that stage to search for weapon and I did not give him any search*

parameters....When the firearm was found I told R31 to remain with the firearm. I did not see how the firearm got into this position nor did I consider how it got there. I did not see the firearm previously.”

847. In his statement dated 7 August 2011, V59 stated that he then liaised with local police officers at the scene and the local duty officer. He stated, “*Upon arrival of the ARV's I directed one of them to secure the firearm.*”
848. In his evidence at the inquest on 8 – 9 October 2013, in respect of the search for the gun, V59's evidence was that, as time passed, it became apparent that they could not find the firearm. V59 confirmed that he had been informed by ZZ17, prior to the stop, that Mr Duggan was in possession of a firearm. V59 did not see anyone search in the minicab for a gun and he had not examined the inside of the minicab himself. He was expecting to see a firearm.
849. V59's evidence was that the CO19 officers did not have to look for the gun, as this was a matter for the investigating officers, but that it is obviously very helpful to secure the scene in a situation of this type. He did want someone to look for the gun, because there was a gun outstanding, and R31 was therefore asked to do this.
850. V59 explained to the inquest that he instructed officers to go and preserve the scene where the gun had been found. V59 left the scene in due course with V72 and R68 and returned to Leman Street.
851. Prior to the inquest, three uniformed ARV officers and ZZ75 had provided statements describing their role.
852. PC 4448CO Gibson was a uniformed armed officer assigned to a marked police vehicle, call-sign Trojan 523, along with two colleagues, PC Christiansen and PC Fowler. V59 said that he requested they attend the scene to secure the non-police issue firearm which had been found at the scene.
853. In his statement dated 9 November 2011, PC Gibson said that they immediately made their way to the location, arriving within five minutes, where they met V59. PC Gibson said that V59 told them a firearm was in the grassed area just on the other side of the railings and asked them to secure it. PC Gibson stated that he and his two colleagues drove into Jarrow Road and parked at the bottom of the grassed area where a crowd was beginning to gather. He said PC Fowler initially remained there to seal off the area whilst he and PC Christiansen went to the area near the iron railings where the firearm was and met with R31.

S118

854. PC Gibson said that the firearm was pointed out to him by R31 and it was in “*the grass area adjacent to the TST officers administering first aid*” to Mr Duggan. PC Gibson described the firearm as a black handgun partially covered with a black sock which had a number of holes in it. He stated that he then secured the area around the firearm but that at no point did he touch it or move it and nor did any other person. PC Gibson stated that a short while later another officer approached with an evidence box and bag to cover the firearm in order to preserve evidence.

S119

855. In his statement dated 9 November 2011, PC Christiansen stated that PC Gibson remained with the firearm which was in what appeared to be a black sock and another officer returned with an evidence box and bag to cover it.

856. In his statement dated 7 August 2011, ZZ75 said that he was approached by an “*armed officer*” requesting items that could be used to protect a firearm exhibit. He said that he got out a flat pack cardboard evidence box and large plastic bag and approached the scene. He said that he was directed to a grassy area where he saw a pistol wrapped in a dark cloth, possibly a sock. He said he placed the box then the bag over the firearm and that a CO19 officer added a plant pot next to it. ZZ75 said that he left that officer and others with the pistol and left the grass area.

S117

857. In his statement dated 9 November 2011, PC Fowler stated that he went up onto the green to join his colleagues who were near the scene of the stop next to the metal railing. He said they were standing next to a cardboard box and they informed him that a firearm had been found on the grass underneath it. PC Fowler said that there was also a black plastic plant pot next to it.

858. The statements of PCs Gibson, Christiansen and Fowler were read to the inquest. Following this, V59 was recalled to the inquest to give further evidence on 5 December 2013 and to answer questions about who he had asked to search for the gun. Prior to being recalled, he was interviewed about this by the inquest team on 22 November 2013. In this interview, he said:

“I think – obviously in my oral evidence I think I’ve got slightly confused around timings. I remember the ARV arriving quite clear. I spoke to them and asked – I could see a lot of people coming out of the estate, which is back down past the grass area, and I was concerned they were going to interfere with the grass area where we were searching for the gun. Initially I asked them to go in there and secure that grass area because I believed that we were going to find something and they

were searching there and I didn't want that area to be contaminated."

859. The BBC footage showed V59 meeting the ARV officers when they arrived at the scene, which V59 accepted when he gave evidence at the inquest on 5 December 2013. The BBC footage showed R31 approaching the firearm on the grass. This occurred after V59 could be seen talking to the ARV officers. This called in to question V59's statement that he had told the ARV officers to secure the firearm when they arrived and the supporting evidence in the statements of the ARV officers.
860. V59 explained to the inquest, when recalled to give evidence on 5 December 2013, that it was a slight confusion in what he had written and in his evidence on 8 October 2013. He said:
- In his evidence on 8 October he had also spoken about how he directed the ARV officers to Jarrow Road because he was concerned about people coming out of the estate on Jarrow Road. The ARV officers drove round into Jarrow Road and then parked their vehicle up and got out. The ARV officers then came across to where R31 had found the firearm;
 - V59 gave the ARV officers a later briefing to secure the firearm;
 - When he wrote up his statement, a lot of things had happened after the incident. V59 listed them and he may have got the chronology slightly wrong in terms of exactly what he told them. However, there were at least two briefings with the ARV officers, one being to secure Jarrow Road and one being to secure the firearm;
 - He definitely did not brief them as soon as they arrived to go and secure a firearm which had been found on the grass.
861. V59 denied that he had been tipped off about the video footage prior to the interview with the inquest team. He also wholly rejected the suggestion that the gun had been planted.
862. V59 disagreed with the evidence of the ARV officers that, on arrival, when they first met V59, he told them to secure the firearm. In response to questions from Mr Thomas QC, V59 said:
- Q. They are saying at this stage you are telling them to go and secure the gun on the other side of the railings -- I see you shaking your head -- but they are saying to you to go and secure the gun on the other side of the railings. Now, there's a problem, isn't there? The gun hadn't been found, so it begs the question: how did you know the gun was on the other side of the railings?

A. Mr Thomas, if I told them to secure the gun why are they driving to Jarrow Road, they would have walked across to the gun, which was over the other side of the railings. They drove into Jarrow Road because I told them to go to Jarrow Road, that's why.

Transcript
5.12.13, p.31,
lines 8-14

863. V59 said that it was in a subsequent conversation (not the first conversation on their arrival) with the ARV officers when he told them to secure the gun. He told them to secure the gun when they were standing next to the gun so that he could release R31, a firearms officer. Mr Thomas QC questioned V59 on why he would take this course of action when the BBC footage showed that the ARV officers were already by the firearm before they had this second conversation with V59. V59 stated that the ARV officers would not have been aware that they were in charge of this particular scene without this instruction

Transcript
5.12.13, p.33,
line 23 to p.35,
line 3

864. In response to questions from Mr Stern QC, V59 said that he now recalled that the nature of the first conversation with the ARV officers was that he asked them to secure the green area because he was concerned about people coming from Jarrow Road that may contaminate the scene while they were searching for the firearm. The exchange continued:

Q. If you had told them to secure a firearm where would you have expected them to go, because you said that you wouldn't have expected them to drive all the way round onto the other side of Jarrow Road?

A. I would have expected them to get out of the car and walk across to where the firearm, if it had been found, was.

Q. But they don't do that, what they do is they drive right the way round onto Jarrow Road and we'll see them come round at 7.28 if you watch them.

(Video footage was played to the court)

Here it comes, we'll see the car any second. If we could just stop it there. They came round rather quickly, according to Mr Noble-Thompson. There we are, we can see them coming quite fast there.

(The video footage ended)

Now, you were at the time, and are, a Sergeant --

A. That's correct.

Q. -- and they obviously would have to take orders from you?

A. Yes.

Q. If they would have gone round there, if you would have told them to secure a firearm, what would your thoughts have been in that regard?

- A. I would have been very unimpressed and I would have shouted at them as they have driven off down the road.
- Q. So they have driven round there. What other purpose could they have gone round all the way around to Jarrow Road for if it was not to preserve the scene?
- A. I cannot think of any other reason to go round there otherwise.

Transcript
5.12.13, p.37,
lines 17-21

865. V59 pointed out further conversations that he had with the ARV officers later on the video footage. He stated that he did not know *“exactly what happened, there were a number of conversations and it was quite a confused scene, lots of things happening at the same time.”*
866. Having been asked if he saw a mobile phone or BlackBerry on the ground, V59 confirmed that he did not see any mobile phones at any time. He also confirmed that he did not see anyone go into the minicab.
867. Following the inquest, the IPCC sought to interview PCs Fowler, Gibson and Christiansen, to see if they could give further evidence on what they were told by V59 when they first arrived at the scene, or anytime thereafter regarding the securing of a firearm. Each of PCs Fowler, Gibson and Christiansen attended interview but declined to answer questions. Thereafter, they provided further written statements on the issue. They had all watched the video footage of the aftermath of the incident prior to preparing their additional statements and had been made aware of the evidence given by V59 when he was recalled to the inquest, as described above. They each pointed out that due to the elapse of time, the high level of media coverage of the incident and fading memories in respect of the detail of what was said, they preferred to provide an account in writing.
868. PC Fowler’s further statement is dated 10 February 2014 and PCs Gibson and Christiansen’s are dated 23 January 2014. All three of these officers said that they could not say exactly what their conversation with V59 was on arrival at the scene. They said that, on reflection, particularly having watched the video footage, it was possible that V59 did ask them at a later stage to secure the firearm *after* they were on the grass area and after the firearm had been found. PC Christiansen stated that:
- “I have looked at the video footage and it does appear that V59 has a brief conversation with one of the ARV officers. Having looked carefully at this I believe it may be me that walks over to where V59 is and then walks back to where the firearm was on the grass. This is*

the first time I have seen this footage and I had not seen it prior to 14th January 2014 when the request for interview by the IPCC was made.”

Z51

869. On **what happened after the shooting**, Z51 told the inquest in his evidence on 2 October 2013 that after the shooting, his priority was to make sure that the area was kept as sterile as possible. He said that he had cordons put in place and the area surrounded by officers. He also made contact with a range of other officers: he telephoned D/Supt Mallon at 6.14 and updated her, he phoned DCI Foote (SIO) to update him and he informed the local police to gain their assistance. Z51 agreed that, as the senior person on the ground, he was the one responsible for all of these things.
870. Asked in more detail what he was doing immediately after the shooting, Z51 said:
- He was on the phone immediately following the shooting. He did not keep a record of what he said, although one of the Constables (ZZ50) did note down some of the times that Z51 thought might be important;
 - ZZ50's note recorded that, after the shooting, Z51 communicated with D/Supt Mallon, DCI Foote and Detective Chief Superintendent Stuart Cundy (who on August 2011 was the DCS responsible for Trident within the MPS). At 7.20pm, Z51 was told that Mr Duggan's brother was at the cordon;
 - Z51 agreed that there was no mention of him finding the gun in ZZ50's note, and he did not know whether ZZ50 knew that he had found the gun or not; and
 - Z51 kept his own day book and, on 4 August 2011, it would have been in his briefcase in the control vehicle.
871. As to **who would take over command** after a shooting like this, Z51 said that the IPCC would get involved eventually, as would the DPS, senior officers from Trident and the local borough. He said it would escalate quite quickly. It was not, however, his job to involve the senior officers as he had to concentrate on what he was doing: making sure that any first aid that could be given was being administered and to preserve the scene. He said that he did his best to ensure that everyone who needed to be was contacted.
872. On the **finding of the gun**, in answer to questions from Mr Underwood QC, Z51 gave the inquest this account of it:

- Q. Right. A gun was found; how did that come about?
- A. That's right. Well, at some stage, I am not sure exactly how long after it, I was on the phone to the SIO and I could hear one of the firearms officers saying that they hadn't located the firearm, and I remember thinking "I wonder if anybody's looked to the left of the wall where it happened", and I just took a couple of steps down to the left -- there's a little alleyway there and the gun was just on the ground on the grass right there.
- Q. What did you do?
- A. Well, I was on the phone. My first priority was to get it covered and secured. I also was worried about the fact that there were people in the vicinity of the firearm, so I got officers to move those people back, and I made sure that one of my detectives was going to cover it up and preserve it.
873. Z51 was shown the BBC footage and agreed that he was probably represented by the blue arrow; it was difficult to see but he felt it looked as if he was on the telephone. He agreed that he would have been talking to V59 at the point of finding the gun. Z51 said that he had gone to make sure that there were cordons at the bottom of the road and then he came back onto the grass. Although the footage shows R31 coming over to Z51 and Z51 going back to the grass, Z51 said that he did not actually see R31 at the time and did not realise that he was down there. The footage showed him speaking to one of his staff to try and make sure that the firearm was covered.
874. Z51 agreed that a photographic still showing someone pointing at the gun was him. This happened when he was on the phone to DCI Foote. He remembered it because that was exactly when he saw the firearm, and he said to DCI Foote, "*I think I've found the firearm*". He said that he had not been alerted to the presence of the gun on the grass before he walked on to the grass.
875. Z51 told the inquest that, as far as he was concerned, the gun was then kept safe and he checked this later on. He said that he also found a casing in the road, which he made sure was preserved, and he checked that both of these items had been properly covered and remained in the position that they were in when he found them.
876. Z51 was asked further questions about the finding of the gun, and gave the following evidence:
- He agreed that the finding of the gun was a very significant event;
 - He had looked for the gun because he had heard the firearms

officers mention it and they had not found a gun on Mr Duggan;

- At some stage, one of the firearms officers alerted Z51 to the fact that a gun had not been found. Z51 walked to see if it had gone over the wall. He agreed that he walked straight to where the gun was and it was just on the grass. It may have been V59 that told Z51 that a gun had not been found;
- He was shown the video footage again and agreed that the time when he was next to the gun was 18.20.52. This timing meant that there was an eight minute period between the shooting and the finding of the gun;
- Z51 was unaware of anyone else being involved in finding the gun. He believed that he found the gun first. That was certainly his belief on the day;
- In the eight minute window between the shooting and the finding of the gun, Z51 was in charge of the scene;
- He agreed that the footage appeared to show R31 pointing over to the direction of the wall;
- While the first aid was going on, it was the first aid, and not the location of the gun, that was the topic of the day;
- He did not see anybody going into the minicab;
- He did not see R31 climbing over the fence near the lamp post;
- He did not see a marked police car driving off into the road beyond the grassy area;
- Although he did ask for officers to push people back further and push the cordon back, he did not ask for a vehicle. He wanted to keep the public away because it was a crime scene but he did not give any instructions to prevent photography happening on the green;
- No-one told him that the gun was there;
- It was “*outrageous*” to suggest that he put the gun there.
- He did not hear any suggestions amongst police officers or others that a police officer had thrown the gun over the fence, either at the scene or back at Lemn Street later;
- He did not know how the gun had got there;
- In the footage, Z51 was primarily to be seen in the area between the bus shelter and the fence;
- As soon as he had found the gun, he told someone about it, as he

was on the phone at the time; and

- By reference to a photograph that showed him pointing in the place where he found the gun, he confirmed that he did not know anyone was taking a photograph at this point. He explained that he was pointing whilst talking on the phone and this was his natural reaction during that conversation.

Transcript
2.10.13, p.156,
line 23 to
p.157, line 10

877. Z51 was asked again whether the gun was planted. In answer to questions from Mr Thomas QC, Z51 responded as follows:

Q. Was the gun planted?

A. Sir, I've already said to Mr Mansfield that --

Q. Forgive me for asking --

THE ASSISTANT CORONER: No, let him answer.

A. Are you going to let me answer, sir, because it's an outrageous allegation. I'm under oath here, I know you are not but I am under oath and I am under oath to tell the truth to this jury and the truth is I found that firearm exactly when it was when the IPCC got there, sir.

MR THOMAS: So you cannot help us with how the gun got there?

A. No, sir.

Transcript
2.10.13, p.167,
line 7 to p.168,
line 6

878. Z51 answered as follows in response to questions from the Assistant Coroner:

THE ASSISTANT CORONER: When you pointed at the gun in that picture that we see, did you -- you then instructed someone to -- obviously aware of it.

A. Yes, I went straight back to one of my officers and said can you get a box or something to put over there because I know we carry equipment in the back of the cars for exhibits and stuff like that. So what I was asking was to get an exhibit box or something to cover the gun.

THE ASSISTANT CORONER: You didn't want the gun moved, did you?

A. No, I knew I had to preserve it.

THE ASSISTANT CORONER: And keep it in the same place?

A. The gun never moved, because I checked before I handed the scene over that the gun was still -- or certainly it was underneath a plant pot --

879. Z51 was asked about the **security of the scene** in the context of the gun being found. As to this, Z51's evidence was:

- He emphasized that he was dealing with experienced officers who

knew how to preserve evidence;

- He said that, while there were inevitably people near the minicab because that was where the first aid was being done, he did not see anybody enter the minicab and he would have regarded the inside of the minicab as something that should be kept secure. He also did not see anyone lean into the minicab. If anyone had done this in front of him, he would have had something to say about it. No-one indicated to him that anyone had gone into the minicab. He agreed that there was no good reason for any officer to enter the minicab;
- He did not look inside the minicab himself and he could not assist the inquest with whether there was a box in the minicab;
- Most of the time after the shooting, Z51 was on the pavement area on the phone, near the bus stop, but keeping an eye on the scene at the same time;
- Asked about a conversation between the man in the white shirt and himself that was apparent from the footage, Z51 said he could not recall what they were discussing, but he imagined it would have been something to do with preserving the scene. He was certain that it was not to do with anyone telling him that they had been into the minicab. Z51 agreed that, watching the footage, the man in the white shirt was not offering first aid to anyone, with the first aid being done by two other officers.

880. Z51 said that the proposition that the man in the white top, having gone out of the sight of the camera in the footage, had taken the firearm out of the minicab and then passed it to Z51, somehow to be put in the grass, was nonsense. Z51 confirmed that he did not know R31 or Q63.

R31

S26

881. In his statement dated 7 August 2011, R31 said that after the shooting he heard someone shouting that W42 had been shot and that he went to where W42 was stood. He said that W39 began to assist W42 to sit down and that V72 got out a medical kit. He stated that at this time he saw people on the pavement watching the incident so he pulled the Alpha car onto the pavement to block their view of W42 and Mr Duggan.

S26

882. In his statement dated 7 August 2011, R31 stated that, after he had moved the Alpha car forwards, he heard V59 shout "*can we start looking for the gun*". His account continued:

“As there were several officers on the pavement I decided to search the grassed area through the railing at the side of the footway. I began looking through the bushes, and then saw a black object lying in the grass about 10 feet from the railings. The gun appeared to be a self loading pistol shape in a black sock. The muzzle was clearly visible where it had worn through the sock. I informed V59 the firearm had been found. I was quickly joined by a uniformed ARV officer. I said can you keep an eye on this while I go and get something to cover it with. I went out of the park and approached a plain clothes officer and said have you got anything to cover the gun with. He said I'll go and find something. I went back to where the gun was located. Several minutes later the plain clothes officer returned with an MPS exhibit box and property bag. I opened the box placed it over the firearm then placed the property bag over that. I found a plant pot in the hedge which I used to hold the bag down. I then left the firearm with the ARV officer and returned to the road area.”

S26C

883. In his statement dated 22 May 2012, in response to questions from the IPCC, R31 stated:

“After repositioning the Lexus I don't think I carried out any other actions before starting to look for the gun. I assumed the gun V59 wanted us to start looking for was the one that may have been in possession of the subject and now could not be found. I based this assumption on the fact that I had been informed prior to the stop that the subject in the vehicle was in possession of a firearm. I believed one or more officers had discharged their firearms at the subject, therefore I assumed the gun had been seen by them. I don't know specifically who V59 was referring to, but I assumed it was a generic instruction to anyone not actively engaged doing anything else. I had not seen any non police issue firearm prior to this instruction. I don't know the time period between the loud bangs and the directions to look for the gun.”

S26C

884. *“Q83 – Q87. On hearing this instruction I looked for the most obvious places to search that were not already being searched. I could not see anyone searching anywhere else other than the pavement area, I did not suggest to anyone else where they should search before I decided to search the grassed area. I selected the grassed area to search because no one else was searching there, and given that the gun had not been found on the pavement it seemed an obvious place to look. In addition there had been a lot of activity around the vehicle so I assumed if the gun had been in the road or on the pavement it would have been found. I did not consider that the gun was still in the people carrier because officers had fired at the subject when he was outside of the vehicle.” [R31]*

S26C

885. *“I climbed over the metal railings near the lamp post at the bottom left of the diagram. I noticed there were low bushes between the grassed area and the railings and that there was a low wall between the grassed area and the pavement and railings. The bushes were against the wall approximately between the lamp post and wall. I looked under the bushes and between them by lifting the lower leaves and branches. My initial thoughts were that any firearm that may have been dropped may have slipped off the pavement under the bushes. I started at the lamp post end working towards the wall, I am not sure how long it took me to search the bushes. I searched them alone. I did not actually enter the bushes as they were not big enough to necessitate this. I stopped searching the bushes once I had looked through all of them without finding anything.” [R31]*

S26C

886. *“Q94 to Q102. Once I had completed searching the bushes the next logical area was the grass. After a very short period of time I saw a black object lying on the grass. I was between 5 and 10 feet from the black object when I saw it. The gun was located below and to the right of the bushes on the diagram in the area marked Box E. I was probably about 2 – 4 feet from the object when I realised for certain that it was a gun in a sock. I do not know what material the sock was made from, but I noticed it was stretched around the area the ankle would be, and it was worn through the toe area with the muzzle of the gun pointing through. I do not know what size the sock was as it was stretched to the size and shape of the firearm.” [R31]*

S26C

887. *“Q103 to Q107. I cannot describe the gun in detail as it was completely covered by the sock apart from the muzzle. The gun was flat on the grass. I don't know which side it was lying on as it was covered by the sock. I cannot remember in which direction the muzzle was pointing. I did not see anything on the grass nearby at this time, and there were no members of the public on the grass nearby at this time, and there were no member of the public on the grass. There was one other uniformed armed response officer who was walking from the other direction roughly towards me as if he had entered the grassed area from the path leading to the bus shelter on the road to the bottom of the diagram.”*

S26C

888. *“Q108 to Q111. Having located a firearm I informed V59. I do not remember the exact wording I used to tell V59 I had found a firearm. I conveyed the message verbally or believe I may have shouted it over the railings. In order to do this I may have taken several steps towards the metal railings but was never more than a few feet from the gun. I can not remember the words V59 used to me when I informed him I had located the firearm.”*

S26C

889. *“Q112 to Q117. I visually inspected the firearm more closely but at no time did I touch it. I was then joined by the ARV officers within a few seconds, probably less than 10. I do not know the name or number of the ARV officer who joined me. He was wearing standard armed response uniform of blue shirt and trousers with black heavy weight body armour. I asked the uniformed officer to remain with the gun whilst I went to find something to cover it with. At the time I left the [sic] I did not have a specific item in mind with which to cover the firearm, and I am not aware of a standard method of covering firearms at such scenes.”*

S26C

890. *“Q118 to 129. I went back to FERRY LANE but to the east of the Land Rover location walking at normal pace. I approached a plain clothes officer but do not know who he was or what he was wearing. I could not say how far east of the Land Rover this was. I do not recall that he was doing anything specific when I approached him. Whilst I do not remember doing so I must have explained that I wanted something with which to cover the firearm. I am unsure if he knew what I was referring to. I was not expecting any particular item with which to cover the firearm, and left it to the officer's discretion. I left the plain clothes officer and walked back to the gun at normal pace. When I returned, the same ARV officer was still with the gun.” [R31]*

S26C

891. *“Q130 - Q138. The plain clothes officer returned from the east. He was walking towards me, not running or walking especially slowly. I was not aware of the officer carrying anything other than the exhibit box and property bag. The plain clothes officer was not overtly armed and I was not aware of him being covertly armed. I do not recall any conversation that took place between myself and the plain clothes officer. The ARV officer was still present at this time. I placed the box and bag over the gun in the way I did as it was the most suitable way of preventing contamination to the gun or sock. I had intended to find something, small stones or similar, to weigh each corner of the bag down. However I couldn't find anything other than a single plant pot which was in the hedge which I have also referred to as bushes.” [R31]*

S26C

892. *“Q139 to Q142. I asked the ARV officer if he could remain with the gun until he was relieved by an investigating officer. I assumed the firearm would remain at the scene until it had been photographed. It would then be taken away by an exhibits or forensic officer. I returned to the road via the path leading to the bus shelter. I wasn't carrying anything when I returned to the road.” [R31]*

S26C

893. *“Q45 to Q149. I did not enter the people carrier prior to, or after the shots being fired. I did not see any persons in the people carrier at anytime. It is not the roll [sic] of any individual officer to clear inside*

the vehicle as long as it is done by someone. I initially believed I had heard two shots fired but was unsure if there may have been two or more officers firing simultaneously. I later found my initial assessment had been correct.” [R31]

S26C

894. *“Q77 to Q82. After repositioning the Lexus I don't think I carried out any other actions before starting to look for the gun. I assumed the gun V59 wanted us to start looking for was the one that may have been in possession of the subject and now could not be found. I based this assumption on the fact that I had been informed prior to the stop that the subject in the vehicle was in possession of a firearm. I believed one or more officers had discharged their firearms at the subject, therefore I assumed the gun had been seen by them. I don't know specifically who V59 was referring to, but I assumed it was a generic instruction to anyone not actively engaged doing anything else. I had not seen any non police issue firearm prior to this instruction. I don't know the time period between the loud bangs and the directions to look for the gun.” [R31]*

D906

895. When questioned at the first trial of Mr Hutchinson-Foster, R31 expanded on the evidence in his written statements as follows:
- When V59 asked for someone to start looking for the gun, he made an assumption that, given the level of activity on the pavement, the gun would have been found if it was there;
 - He looked for the next most obvious place and decided it was the grassed area between the two lampposts and below the metal railings;
 - He used the lamp post to help him climb over the railings as they were sharp at the top and because at that stage he was not aware that there was a gap after the railings which would have allowed him to walk onto the grassed area;
 - He was unable to estimate the amount of time between the shots and when he started to look for the gun but he reiterated the sequence of events that he believed had occurred. He said that he went to W42 and assisted in providing him with oxygen. He saw the crowd on the pavement and moved the Alpha car and then he heard V59 ask for someone to look for the gun. He could not be specific about any timings;
 - Once he started searching the grass area, he looked in the bushes close to where Mr Duggan was receiving first aid as he expected the gun may have slipped off the pavement and gone onto the grass or into the bushes. He then worked his way along the railings from the lamp post near the Alpha car towards the wall, from left to

right as he looked at the plan he had previously marked for the IPCC;

- When he got close to the wall he saw a black object lying on the grass. He thought that nobody else was around when he first saw the gun. As he moved closer towards it he thought it was obvious it was a pistol inside a sock; and
- He was almost immediately joined by a uniformed armed response vehicle (ARV) officer. He was not sure where the ARV officer had approached from.

Pages 113D-
114E

896. At the second trial of Mr Hutchinson-Foster, R31 was questioned again about finding the gun and gave the same account of his actions. He was played footage acquired by the IPCC investigation from the BBC (“the BBC footage”). The BBC footage did not form part of the first trial and R31 indicated that he had not seen the footage before. R31 identified himself as the person climbing over the railings using the lamp post.

897. At the inquest, R31 was informed that Z51 had stated that he had found the gun. R31 gave the following evidence in response to this:

- R31 said that he knew Z51 was a Tactical Firearms Commander who was an Inspector and, at the time, R31 would probably have recognised him as he had delivered the briefing on 3 August 2011. However, he could not say that he would definitely have recognised him and he said that he did not know him personally; and
- He maintained that he thought he was the first person to find the gun, and that all he could say was that he did not see Z51.

Transcript
10.10.13,
p.163, line 11
to p.167, line 7

898. Mr Thomas QC questioned R31 on why he did not look for the gun in the kerb or under the minicab first. R31 stated *“because obviously you’ve got to pick one place. If I’d’ve gone to the kerb you could quite easily ask exactly the same question: why didn’t you go to the bushes first? Because Mr Duggan is in the middle of the pavement and there’s two ways to go”*. In response to questions from Mr Thomas QC about why R31 had gone *“completely the other way to Mr Duggan”*, R31 stated that he thought the *“drop off”* of the grass area *“right next to Mr Duggan was a good place to look”*.

Q63

Transcript
9.10.13, p. 170,
line 22 to
p.171, line 19

899. At the inquest, Q63 was shown the BBC footage, which he confirmed he had seen before. He identified himself on that footage and he accepted that a fair description of what he was doing until the last few seconds was *“making himself useful”*. At 4 minutes 46 seconds into the

BBC footage, Q63 appears to disappear behind the minicab for around 12 seconds and then reappears. As to what he was doing at this point, Q63 said he was opening a second medic pack to assist the officers who were giving Mr Duggan first aid.

900. Mr Mansfield QC queried why this was not mentioned in any of Q63's previous statements. Q63 said that he knew all along that this was what he had done but he had not mentioned it in any previous statement because he did not think it was relevant.
901. Q63 agreed that there was a later point on the footage when, having walked up and down looking at the fence/railings, Q63 was actually looking over the fence. Q63 said that the reason he was looking over the fence was for "*crowd control*", as a large crowd was gathering in the grass area in Jarrow Road or the extension of Jarrow Road. Q63 was trying to see whether any further help was needed in dealing with the large crowd that had gathered there and to direct resources there. So, Q63 said, the role that he had assumed which was visible on the video was checking the scene as a whole, trying to make sure it was secure and making sure colleagues were safe, including those giving first aid to Mr Duggan.
902. Mr Mansfield QC asked Q63 about a point on the footage shortly before Q63 was seen to be looking over the fence, when he was in the company of V59 and R31, before the gun was found. Q63's evidence was that there was not discussion between them about a gun on the grass before it was found.

Other CO19 Officers

903. None of the other CO19 officers provided relevant information about the finding of the firearm. Some of the officers were aware it had been found but they could not assist with how the firearm got to the grass area. None of the officers stated that they had seen it travel through or over the railings.

Mr Clive Burchett – Imagery expert

904. Mr Clive Burchett gave evidence to the inquest on 30 October 2013. He is an expert Forensic Imagery Interpreter. He told the inquest of his professional background in the RAF, that he had worked with LGC in the area of forensic imagery and of his experience in analysing images. In response to a request from the Inquest team, he had produced **a report of imagery analysis dated 27 August 2013** which

he explained in his evidence. He had been asked by the Inquest team to provide his opinion on the interpretation of the imagery, and in particular to:

- 1) Determine the movements and actions of three men seen on the grass before the uniformed officers arrived on the grass;
 - 2) Determine whether the gun, marked on the provided plan, can be seen on the imagery;
 - 3) Determine the position and movements of two men seen falling to the ground;
 - 4) Determine a precise timeline dealing with the end of Mr Duggan's last telephone activity, the minicab stopping and the shooting.
905. Overall, **the footage which was available to Mr Burchett** and all of which he said fed into the overall view that he formed was:
- Multiple CCTV footage from two buses;
 - The BBC footage, which was in fact telephone handset footage. The quality of this was poor to fair and broke down into seven video clips. Mr Burchett attended the BBC to view the imagery that they had recovered as well as that which was provided to him initially on a compilation DVD;
 - Footage taken by Mr Richard Noble-Thompson on a digital camera – stills and moving imagery was provided to Mr Burchett;
 - First aid footage taken by Q63 which was of very good quality;
 - Footage taken from the Air Support Unit, i.e. the police helicopter.
906. Mr Burchett noted limitations in the imagery, arising particularly from the changing of the cameras' directions and orientation, and he had stabilised, with the assistance of a colleague, the 'BBC' footage to improve the visibility of the movement.
907. Other material that was available to Mr Burchett included:
- A timeline which Mr Burchett checked and used as the basis for looking through all the available imagery that was provided to him;
 - Two telephone handsets attributable to Mr Duggan. The purpose of that was for the experts acting under Mr Burchett's supervision to try to look at them to see if there was evidence of activity after the last call but this was not fruitful as the clock settings on the phones could not be confirmed;

- Still photography by the police.

908. In relation to **the movements and actions of three men seen on the grass before the arrival of the uniformed officers**, Mr Burchett stated in his report that:

- R31, Z51 and V59 can be tracked from their initial identified locations on the grassed area using the 'BBC' and other available footage;
- R31 is identified by the Lexus. He walks towards the railings beside the minicab before moving towards the lamppost in front the Lexus and climbing the railings. He is intermittently visible on the grassed area where he is seen to approach Z51 and later he is joined by the three armed police officers;
- Z51 is observed moving from behind the scaffolding mounted advertising board and loitering in the general vicinity of the bus stop. He eventually enters the grassed area and moves to a position where he points at the ground, probably for the benefit of R31. He retraces his steps, passing close to V59, to stand at the side of the Land Rover;
- V59 is identified within the group beside the Lexus before moving to the area of the minicab where he appears to communicate with R31 and an unidentified person. He moves off and passes Z51, gesturing towards the grassed area before moving off with a male wearing a white top to an approaching police car. He eventually moves back to the BMW parked on the cycle path and passes to the rear of the minicab to position himself on the pavement. He gestures in the general direction of the grassed area and passes Z51 on route to join R31 on the grassed area. He then departs and moves in the direction of the previously mentioned BMW before becoming obscured from view;
- No other persons are observed on the grassed area in the vicinity of the recovered weapon between the start of the available imagery and the time at which R31 is imaged with the three armed officers.

909. In his evidence to the inquest, Mr Burchett confirmed that his conclusions in respect of the movements of Z51, V59 and R31 were mainly based on the BBC footage, although there were elements of the relevant time period covered by other systems as well. As a result of his reference in his report to a person wearing a white top, Mr Burchett was asked to provide another DVD tracking his movements, as well as the three individuals already covered.

910. After giving evidence at the inquest, Mr Burchett provided a further

witness statement which provided as follows:

“I gave evidence in support of the Mark Duggan inquest at the Royal Courts of Justice on 30 October 2013. I was requested to clarify two (2) specific areas of my evidence:

a. What I meant by the term ‘beckons’ used to describe the actions of R31 at Paragraph 44 of my report [Exhibit/13127172/CB1 dated 27 August 2013].

b. Whether Z51, during the period dealt with in my report at paragraphs 45, 46 and 47, can be seen to be using a phone.

Examination and Results

Having reviewed the Thompson imagery and the ‘BBC’ Footage I am of the view that:

a. R31 does not ‘beckon’ but rather appears to ‘nod’ and point toward the ground with his right hand as the two (2) uniformed armed Police officers approach him.

b. At times within the footage covering the movements of Z51 he appears to have his right arm raised, as if bent at the elbow; consistent with the action of being on the phone. His left arm can, again at times, be seen to move at his side as he walks whilst his right arm cannot; although obscuration by his body may prevent his right arm from being resolved. In my view, given the poor image quality, particularly camera and subject movement and the presence of compression anomalies, there is imagery evidence that adds some weight to the contention that Z51 may have his right arm raised to the side of his head, whether he is holding a phone cannot be confirmed.”

911. In relation to **whether the gun can be seen on the imagery**, Mr Burchett’s view expressed in his report was that there is no imagery evidence that confirms the presence of a weapon on the ground prior to the comparative Police Scene of Crime still images taken later in the evening. He could not, however, eliminate the possibility that the weapon was present earlier but not visible. At the inquest, Mr Burchett confirmed that his view on this aspect of his task was based on the imagery in general, but that the helicopter footage (covering after the

incident on 4 August 2011) assisted with the placement of the evidence bag and the box that Mr Burchett understood was over the gun.

Transcript
30.10.13
p.14, lines 7-10

912. At the inquest, Mr Burchett emphasised that his conclusion is not that the gun was not there but that the imagery was too poor to show it. He then said that, *“There are features on the ground that I understand are suggested that it could be the gun, but I don’t believe the imagery evidence supports that.”*
913. Mr Burchett also said that the actual apparent location of the plant pot that was marked on the map with which he was provided is captured and viewable on a range of images from each of the available CCTV footages or camera footage. His evidence was that, in writing his report, he referred to it all to be sure that there were no other features that could be the gun, and he confirmed the location of such features in relation to the position of the plant pot. He also viewed the scene.
914. In relation to **the position and movements of two men seen falling to the ground in the available bus CCTV imagery**, Mr Burchett set out the view in his report that:
- There is movement at 06:09:06.6 that is consistent with the movement of a person or persons in the direction of the area in which the shooting took place. Whether this is the ‘shot’ policeman or another person cannot be confirmed from the imagery. The movement of three individuals is particularly discernible although others are visible on the ground around Mr Duggan and the ‘shot’ police officer;
 - The quality of the available bus imagery does not allow for much of the imaged activity to be resolved, however, I am of the opinion that the lack of defensive reaction by the light, mid and dark-toned persons visible indicates that the immediate reactions to the shootings have already taken place;
 - It was his assessment that the actions of the mid-toned person are consistent with going to the aid of the ‘shot’ police officer;
 - The actions of the dark-toned person suggest communication with the light-toned person before he aids others already evident around the body of Mr Duggan.
915. At the inquest, Mr Burchett confirmed that his view on this aspect of his task had been mainly formed from the bus CCTV footage where the actual motion was detectable, but some of the other footage then allowed Mr Burchett to be more specific as to who it was likely to be. He confirmed in his evidence that he was able to discern that the

person who had been believed potentially to be one of those falling to the ground was actually one of the officers going to the aid of the person already on the ground. Thus the actual shooting incident and the immediate impact of the shooting incident do not appear to be imaged.

916. On the question of **a timeline dealing with the end of Mr Duggan's last telephone activity, the minicab stopping and the shooting**, Mr Burchett stated in his report that, having viewed all the available imagery, the minicab appears stationary when first imaged. At no time did he see any indication or movement of the vehicle, nor could he find any imagery evidence of shots being fired or persons falling to the ground as a direct result of such an occurrence. In Mr Burchett's view, all movements were consistent with reactions immediately after the shooting. At the inquest, Mr Burchett confirmed that his conclusion on this was formed from a number of imagery and other records, with other LGC analysts. His evidence at the inquest was that establishing a timeline as requested was an impossible task.

Making JMA/1 safe

S74

917. In the statement of PC Green, dated 5 August 2011, he explained that he was assigned to a marked police vehicle (call sign Trojan 314) with two colleagues: PC Hughes and PC Smith. He said that they received a phone call at around 10.10pm to attend the scene in order to make safe a non-police issue firearm and ensure forensic evidence was preserved during the process. He and PC Hughes attended the grassed area and PC Smith remained at their vehicle.
918. PC Green stated that he saw a black sock in the shape of a handgun on the grass, which looked like it was concealing a self loading pistol. It was lying down on its left side pointing towards Ferry Lane. PC Green stated that the toe end of the sock was ripped and exposing the muzzle of a black handgun. He said that the heel of the sock was also ripped exposing a cocking lever with its action forward. There was also a rip in the ankle area of the sock exposing what looked like a safety lever which was rotated up in a horizontal position.
919. PC Green stated that, at 11.19pm, he put the slide forward, fired the trigger and confirmed the firearm was now safe. He handed the firearm over to DC Jon Payne, the MPS Exhibits Manager.
920. On 10 October 2012, PC Green gave evidence at the criminal trial of Mr Hutchinson-Foster. He explained that, in order to fire the gun as he found it, the firer would have to physically pull back the slide. This would cock the firing lever and pick up a bullet from the magazine. It

would require two hands to pull back the slide: one to be holding the firearm and the other to pull the slide. It was therefore not immediately ready to shoot. However, when simply looking at the gun or with the gun in the sock, there was no way someone could tell if it was ready to be fired straightaway or not.

921. PC Green gave evidence to the inquest on 24 October 2013. PC Green confirmed that, at the scene, he removed the gun from the sock and made it safe. In addition, he said that:
- From the state that it was in, there was no way of telling whether it was a lethal firearm or not, or whether it was loaded with bullets;
 - The safety trigger was to ‘fire’ however, when looking at the gun, it would not have been possible to see the position of the safety trigger.

Attendance of Medical Professionals

D991

922. The IPCC obtained and transcribed the recording of the 999 telephone call made by police at the scene at 6.13pm to request an ambulance and the helicopter ambulance for Mr Duggan. This was made by ZZ50. A further 999 telephone call was made at 6.14pm by ZZ75 explaining that a police officer (W42) also required medical assistance. Both telephone recordings indicate the officers did not know the name of the road they had stopped on or the name of Mr Duggan at that time.

S33

923. In her statement dated 15 August 2011, Paramedic Ms April Barter stated that she arrived at 6.28pm. She said that she could not see the patient (Mr Duggan) initially due to the heavy police presence and number of police cars. She said that, as she walked between the cars, she was approached by a plain clothed officer and that she asked him if there were multiple patients. She stated that the officer explained someone had been hit in the radio but he was fine and did not need to be seen. Ms Barter said that the officer directed her to a patient on the ground who was receiving CPR from armed police.
924. Ms Barter stated that the police were performing “*very good CPR*”. She said that they had already cut up the middle of Mr Duggan’s puffer jacket and his chest was exposed. She said that she let the police continue with the chest compressions as they had been providing, in her view, “*very effective*” CPR and good chest compressions. At the same time she ventilated Mr Duggan with oxygen.
925. During the first aid her colleague, Mr David Brennecke, arrived to assist her and she provided him with an update. Ms Barter stated that they intended to carry out further treatment when the London

Helicopter Emergency Service (HEMS) arrived.

926. Ms Barter said that HEMS immediately moved Mr Duggan by grabbing his legs and that he was moved about two feet to the right and down the pavement away from the wall.
927. Ms Barter gave evidence at the inquest on 28 October 2013. Her evidence was consistent with her statement described above.
928. In his statement dated 15 August 2011, Paramedic and Duty Station Officer David Brennecke said that he was at Edmonton Ambulance Station when, at 6.21pm, he received a call from his control room to attend the incident. He said that he left at 6.22pm and drove straight there. He arrived at the underground station at 6.29pm.
929. He continued that he could see a man in plain clothes doing CPR. He said that he assumed that this man was a plain clothed police officer. He said that he saw a man on the floor who he also thought was a police officer, but he now knows was Mr Duggan. He said that he was not told who he was when he arrived.
930. Mr Brennecke said that he could see that Mr Duggan had a gunshot wound to the upper right chest above his nipple, which had already been covered with an Asherman chest seal. He stated that he remembered a uniformed police officer arrived with the defibrillator machine from Ms Barter's car which he then put on Mr Duggan's chest. He said that they did not use the defibrillator machine because the HEMS team arrived.
931. Mr Brennecke said that Mr Duggan had suffered "*severe cardiac tampanarde i.e. he had severe damage to his heart and to his heart sack and his lungs had been traumatically damaged.*" He said that the HEMS doctor, Dr Glazebrook, explained this to him and then pronounced Mr Duggan dead at 6.41pm.
932. Mr Brennecke said that he wished to add that the two officers who were performing CPR were "*making very good efforts to save*" Mr Duggan's life. He stated that there was nothing else the police could have done to save his life before their arrival and in his view "*they were doing their best to save him*".
933. Mr Brennecke's witness statement was read to the inquest on 28 October 2013.
934. Dr Glazebrook, the HEMS doctor, said that he attended the scene at 6.31pm. In his statement dated 8 August 2011, he said that Mr Duggan was lying on his back on the pavement and there were no signs of life.

S36

S63, S63A

He said that he pulled Mr Duggan into the middle of the pavement to obtain 360 degree access to him and performed a thoracotomy to attempt to reverse the cause of the cardiac arrest. However, Dr Glazebrook said that Mr Duggan had sustained a *“catastrophic haemorrhage within his chest, and there was no further procedure that would treat this.”*

S63, S63A,
S22

935. Dr Glazebrook said that he stopped resuscitation and pronounced life extinct at 6.41pm in the presence of V59. V59 stated that *“At 1841 hrs I was called over by the HEMS doctor he informed me that his call sign was 'MEDIC 1' and that he was pronouncing life extinct. I gave him my call sign”*.
936. Photographs and footage of the first aid treatment captured by the CO19 officers were obtained. These showed the CO19 officers providing Mr Duggan with CPR and assisting the paramedics and HEMS.
937. Dr Glazebrook gave evidence at the inquest on 28 October 2013. His evidence was consistent with his statement described above.

Metropolitan Police Air Support Unit Footage

D197

938. The MPS helicopter attended Ferry Lane after the incident and recorded footage of the scene. The footage showed a box in the passenger area of the minicab with the yellow lid apparently displaced.

Ferry Lane Forensic Strategy and IPCC attendance at Ferry Lane

Initial IPCC actions at the scene

939. The Independent Police Complaints Commission (IPCC) was notified of the fatal shooting by DCI Steve Williams of the Metropolitan Police Service (MPS) and commenced an independent investigation at 7.20pm that evening. IPCC Deputy Senior Investigator Chris Mahaffey attended Ferry Lane during the evening of 4 August 2011 to manage the examination of the scene. IPCC Investigator Richard Omotosho attended to support him at 9.15pm.

R22

940. Mr Mahaffey initially met with a Crime Scene Manager (CSM) from the MPS to set and oversee the forensic strategy. CSMs attend major crime scenes to co-ordinate the forensic response. The MPS supplied

the CSM, other scene examination staff and specially trained search teams to implement the agreed forensic strategy. The IPCC does not have specially trained staff to carry out this work and therefore the police have a duty to secure the evidence at the scene.

941. Mr Omotosho is an IPCC investigator who attended Ferry Lane on the evening of 4 August 2011. He gave evidence to the inquest on 5 November 2013. He explained that, early in the morning of 5 August 2011, he had a conversation with Acting Detective Inspector Suggett who was the on call Senior Investigator from the DPS. Mr Omotosho said that he talked with A/DI Suggett about the gun and that he asked the Detective Inspector about it, asking “*How did it get over there, how did the gun get there?*” and A/DI Suggett replied “*The police threw it*”. Mr Omotosho told the inquest that he passed this information on to the lead investigator, DSI Sparrow, some time in the next week who asked him to write a report confirming what he had been told.

S129
S134
S200

A/DI Suggett

942. Acting Detective Inspector (A/DI) Peter Suggett was the on call Inspector for the Metropolitan Police Department of Professional Standards (DPS) Specialist Investigations. He was informed that there had been a fatal police shooting at 6.45pm on 4 August 2011. He deployed some of his team to Leman Street to deal with the post incident procedures and he deployed to the scene with the remainder of his team. He nominated DC Jon Payne as the Exhibits Manager to manage the retrieval of any items from Ferry Lane. Other members of his staff met with a partner of Mr Duggan who had attended the scene. On arrival A/DI Suggett was briefed by the local duty Inspector Caroline Saunders. He met DCS Cundy regarding the police operation and he was later briefed by Ms Larrigan at 12.15am on 5 August 2011, regarding the scene examination.
943. A/DI Suggett gave evidence to the inquest on 5 November 2013. He explained **the role of the DPS**: he said that it is a department which is formed from police officers but is separate from the police, in that the DPS deals with investigations into police misconduct and complaints against the police. It also deals with instances where there has been a death following police contact or a death in custody. It is impartial from everyday policing but its members are police officers, which is where the IPCC is different, he explained, as the IPCC are not police officers; they are an independent organisation set up by the government and they have additional powers in terms of investigating and dealing with complaints and misconduct allegations.

Transcript
5.11.13, p.64,
line 22

944. A/DI Suggett described his **attendance at the scene**. He said that he went to the scene on 4 August 2011 as a result of a phone call from

his “*immediate boss*”, Detective Chief Inspector Steve Williams, that he received at about 6.45pm. This call informed him that there had been a police shooting and to expect a call from ‘the contact desk’ which was the department who coordinate the response from the police to this type of incident. A/DI Suggett said that DCI Williams informed him that he believed that a male had shot at officers, an officer was injured and that shots were then returned by police and the male had been fatally wounded. A/DI Suggett specifically recalled being told that there was an exchange of fire between the police and the other person. In this telephone call, A/DI Suggett said that he was also told that the IPCC had already been informed, otherwise he would have decided to inform the IPCC.

945. A/DI Suggett was taken through his **decision log** and confirmed that he was seeking to ensure that there was enough coverage at both the PIP location and at the scene to provide a full service. Significant entries in his log were as follows:

- He arrived at the scene at about 9.25pm, where he met Inspector Saunders from the borough; she gave A/DI Suggett a general overview of what happened, and what cordons had been put in place. In terms of who was in charge of the scene, he said that he would have regarded Inspector Saunders as being in charge at the scene, although he said it was complicated by the fact that there were other police departments involved and other senior officers at the scene. The Crime Scene Manager, Ms Larrigan also gave A/DI Suggett a briefing at the scene;
- A/DI Suggett accepted that his log said, “*CO19 officers had apparently thrown a firearm found in his possession over a fence so that it was out of his reach.*” A/DI Suggett said that he had been told this by either Ms Larrigan or DCS Cundy (from whom he also had a briefing at the scene). He could not remember which of them had told him;
- He was not sure how many other people he discussed the possibility of the gun being thrown by a CO19 officer with that evening; he described it as a “*working theory*”. He did think that he probably had a conversation with Mr Omotosho of the IPCC at some point in the evening about it. In A/DI Suggett’s witness statement, dated 30 September 2011, he had stated that he had no note or clear recollection of who had told him about the firearm being thrown over the fence by an officer from CO19;
- A further entry in the log, “*Initial indication that the bullet in the police radio is not a MPS round to be passed to Detective Superintendent Evans at the PIP procedure*” was recorded at 1am on 5 August 2011. At that stage, A/DI Suggett said it was still a

Transcript
5.11.13, p.102,
lines 24-25

Transcript
5.11.13, p. 81,
lines 5-9

S129

possibility that Mr Duggan had fired a shot and he did not have any information to suggest otherwise. He said, “*So I was working based on the information that I had been told at the start, that there had possibly been an exchange of shots between Mr Duggan and the officers.*”;

- A/DI Suggett’s log also recorded the decision to arrange for Police Search Advisor (PoISA) teams to attend the scene as a full forensic search was required at the scene. They were given a briefing at 8.53am. A/DI Suggett thought that he gave them the parameters, but that there were IPCC representatives with him as well. He said that he would have expected all the forensic work to be done before the PoISA team conducted their searches. A/DI Suggett said that he gave a briefing to Inspector Mugglestone, who was in charge of the PoISA team. A/DI Suggett said that he was not expecting the PoISA team to search the inside of the minicab. This happened after he had left the scene. When he left the scene, he said, he understood that the minicab was going to be taken away, lifted up and taken to Perivale. The decision to search the minicab at the scene was, he said, taken by the IPCC and he was not in a position to countermand that decision. He explained that at the scene decisions were being taken collegiately between himself, the CSM and the IPCC, although ultimately it was an IPCC investigation.

Ms Patricia Larrigan

S173
D323

946. Ms Patricia Larrigan was the first CSM in attendance at the scene. She provided two witness statements dated 14 November 2011 and 11 January 2012 and she gave evidence at the inquest on 4 November 2013. She confirmed that Mr Mahaffey and Ms Larrigan agreed the following key actions:

- the scene would be digitally recorded (including photography and computer modeling) prior to any forensic examination taking place;
- independent ballistic experts would attend to examine the non-police issue firearm;
- all spent ammunition and any other ballistic material would be forensically recovered;
- the minicab would be removed for a full forensic examination;
- the damaged radio would be located and recovered; and
- Mr Duggan’s body would be removed from the scene for a post-mortem examination.

947. The initial aims of the forensic strategy, underpinning the actions, were to establish:

- the sequence of events;
- the cause of death of Mr Duggan;
- the nature of the injuries sustained by the CO19 officer; and
- if the weapon at the scene was lethal and if it had been recently discharged.

948. Ms Larrigan's evidence given at the inquest about who was in charge of the scene prior to her arrival was:

- Before her arrival, it could have been any of a number of officers who was in charge of the crime scene and she did not know who it was;
- When she arrived at the scene, A/DI Suggett seemed to be the most relevant person to give her information;
- No-one formally handed the scene over to A/DI Suggett;
- She agreed that unless there is someone clearly at the scene in charge, there is a risk that the crime scene gets contaminated; and
- There was no-one from Trident still there when she was at the scene but she made calls to Trident / CO19.

Transcript
4.11.13, p.33,
line 19 to p.34,
line 12

949. In relation to whether she was told that Mr Duggan had fired shots or not, Ms Larrigan said, in response to questions from Mr Mansfield QC:

Q. You see, the people who were there are saying now that it was very clear that Duggan didn't fire any shots and there were only two police shots. Can you explain why you weren't told that or you didn't discover it? I mean, you seem to -- quite a long period you didn't know how many shots were fired or whether Duggan had fired.

A. Well, that was a question I asked. I asked before I arrived at the scene as to what had happened, I also asked when I arrived at the scene, but I was - nobody could ever seem to give me the answer and I was obviously present at the scene at that stage with quite a number of different officers from different departments.

Q. So you spoke to a very senior officer in relation to the operation itself, that's Mr Cundy?

A. Yes.

Q. He couldn't reassure you either about these matters?

A. No.

Transcript
4.11.13, p.13,
lines 4-8

950. On events after she had arrived at the scene, Ms Larrigan's evidence was:

- At 8.54pm, Ms Larrigan attended the scene to the outer cordon and met DCS Cundy from Trident who informed Ms Larrigan that the "gunman" had got out of the rear of a minicab, Ms Larrigan had queried in her notes whether it was in fact a minicab as she was not sure if that information was correct. She was told that the taxi driver had had no injuries and was not thought to be involved. It was an Operation Trident pro-active planned stop. HEMS had attended and there had been a fatality but it was not known when life extinct had been declared. It was not known if the suspects had fired any shots. One officer was hit and Ms Larrigan had asked "by whom?" but DCS Cundy could not tell her. DCS Cundy relayed to her that there had been "a number of shots fired". Ms Larrigan was provided with the name of the deceased: Mr Mark Duggan. "Suspects" was recorded in Ms Larrigan's note in the plural but she could not comment on why that was. It might have been because she was unsure or because it was the way she had written it down. Ms Larrigan said that her briefing lasted several minutes;
- Ms Larrigan had a conversation with DSI Mahaffey from the IPCC, A/DI Suggett and Chief Inspector Dowe, informing them of her preliminary scene overview and to make them aware of how the scene was laid out. She raised a couple of issues based on what her observations were. Ms Larrigan said that she used the time waiting for the IPCC to arrive to look round the scene. She was anticipating the IPCC would lead which is why she confined herself to an initial assessment and took no other steps before they arrived.

951. On **her observations in relation to the firearm found at the scene**, Ms Larrigan recalled noticing that the gun was some considerable distance away from Mr Duggan's body. Her thoughts about how it had got there, she said, were that it was unusual. She could not assume, she said, that the gun was connected to the incident because the firearm was not in the middle of the primary action at the scene. Ms Larrigan explained to the inquest that she considered a number of options as to how the gun may have come to be there – such as that it could have been thrown or kicked – but these were based on her own observations, rather than anything that she was told by others. Another possibility was that Mr Duggan had not had a gun when he left the minicab, however Ms Larrigan said that she had always queried this scenario in her notes. When she arrived at the scene, two scene

tents had been erected, one over the body of Mr Duggan and another over the gun. She agreed that the position of the plant pot on the laser scan that was done later was the position of where the gun had been found, save that the plant pot may have been slightly moved in order to allow access to the gun. Ms Larrigan accepted that a smaller marker, rather than a scene tent, to mark up the location of the gun might have been a better way of doing things. She had recorded in her notes, she said, an estimate of 20 feet between the gun and Mr Duggan's body, measuring in a straight line.

952. **Other matters at the scene** in respect of which Ms Larrigan gave evidence were:

- When she left the scene, Mr Duggan's body was still under the scene tent. It would not necessarily have been normal practice to mark the place of the body on the pavement, because scene photographs would show the position of the body and it might not have been the original position of the body;
- Ms Larrigan did not conduct a flash search of the interior of the minicab. She said that anyone could have done that at any time but, if it had been done prior to her arrival, she would have hoped that she would have been informed of this. She did not specifically ask about this and she was not specifically told that one had been done.

953. Ms Larrigan told the inquest that she gave **her handover to John Cockram, CSM**, when her shift ended at approximately midnight. At this stage, she said, there were still a lot of tasks outstanding. This was because the IPCC, who were present at the scene, had requested that the gun be dealt with first to see if it was actually connected to the incident and had been fired. Ms Larrigan said that, when she came off duty, she had not resolved in her own mind whether Mr Duggan had fired first, how many police rounds had been fired (she was not aware of the countback), or who had shot the police officer.

954. JMA/1 was photographed under the forensic tent on the grassed area adjacent to the pavement at Ferry Lane prior to it being recovered.

Mr John Cockram

955. Mr John Cockram attended a briefing at 12.15am given by Ms Larrigan as he was taking over as the CSM that night. His contemporaneous notes read: "*One officer fired several shots, hitting the suspect who fell to pavement, suspect firearm thrown onto grass verge blvd [sic] by Police.*" In his statement dated 13 January 2012, Mr Cockram explained he was briefed about this by Ms Larrigan as one hypothesis.

It was not a known fact because no information was known at that stage about the firearm or how it got to the location where it was found.

956. Mr Cockram gave his evidence to the inquest on 4 November 2013. He confirmed that he was the CSM who took over from Ms Larrigan in the early hours of 5 August 2011.
957. Mr Cockram said that it was not the job of the CSM to determine for all purposes what in fact had happened at the scene.
958. He confirmed that at his **briefing from Ms Larrigan**, those present were:
- Mr John Orford, a senior forensic practitioner (one grade below CSM) – he was effectively the CSM's deputy at the scene;
 - Mr Michael Vaughan, a forensic firearms expert;
 - Mr Rankin and Mr Cowley, photographers present at the scene;
 - DC Payne, an Exhibits Officer.
959. Mr Cockram said that it was his understanding that Ms Larrigan had attended the scene, assessed the things that needed to be done and he was given a list of things to consider and continue with. There was no point at which a decision was made that the contents of the minicab were to be disregarded. He progressed, he said, the things that he had been asked to progress, including the photography and the polecam. He understood the SIO to be A/DI Suggett. Mr Cockram said that he was not aware of the significance of the shoe box, nor was he aware of any significant blood spatter, but consideration of this was not identified as a specific task. The firearm had already been photographed and made safe by the time he arrived at the scene.
960. Mr Cockram said that Ms Larrigan, the DPS and the IPCC had agreed their strategy. He said that if he had thought that it needed changing then he would have done so.
961. Asked about his **presence at the scene**, Mr Cockram confirmed that he was at the scene from a little after midnight on 5 August 2011 until 7am. By 7am, he said, the PolSA team had not turned up but no one had interfered with or in any way touched the inside of the minicab to Mr Cockram's knowledge. Mr Cockram said that the weather in the early hours of 5 August 2011 was quite windy and damp, but not raining. He said that the minicab door was open. The reason, he said, that the 360 photograph was done on 5 August was that doing it in the daylight was far better when looking for tiny scraps of ballistic material.

Transcript
4.11.13, p.109,
lines 21-25

962. In relation to the minicab, Mr Cockram said that he did not get into the cab; rather he just stood outside and looked in. The minicab had not been identified to Mr Cockram as a “hot spot” arising from his briefing from Ms Larrigan, and it was not, he said, of prime importance to him because the vehicle was going to be dealt with subsequently at a later date. He said that, *“if [he] had been at the scene to start with and doing his visual assessment of the scene, as Ms Larrigan has done, [the minicab] would have been included in one of my visual assessments as a hot spot to be dealt with. But that wasn’t relayed to me.”*
963. Mr Cockram’s evidence was that, when he arrived at the scene, he knew that the IPCC had been informed and were there. His experience told him that they would take on the inquiry but he was not formally made aware of this. His main point of contact at the scene was, he said, A/DI Suggett, who he believed was conferring with the IPCC.
964. Mr Cockram said that he was under pressure to get the police vehicles taken away straightaway after his arrival at the scene but he resisted doing this because he wanted them to be photographed in daylight. If he had tried to carry out a PolSA search and a search for ballistic material in the area at night, he said that he would definitely have been criticised. This was because it would be better done in daylight due to the fact that it was a fingertip search.
965. As to his **log made at the scene**, Mr Cockram had made an observation: *“Hard stop authorised. Suspect got out of car in possession of a pistol inside a sock. Believed suspect fired a shot? Or threatened officer with weapon.”* Mr Cockram explained to the inquest that he understood this to be the evidence that Ms Larrigan had managed to assimilate during the time that she was there and she was passing on a composite briefing of what she had assimilated. Of the entry in his log, *“One officer fired several shots hitting the suspect who fell to the pavement. Suspect firearm thrown onto grass verge believed by police”*, Mr Cockram said that this was conveyed to him by Ms Larrigan as a hypothesis but, despite that fact, he did not qualify it as such in his notes.
966. Mr Cockram’s log included an entry at 4.10am when he contacted the Coroner’s office to arrange the undertakers to remove Mr Duggan’s body to Haringey mortuary. He had also recorded in his notes that, at 8.00am, A/DI Suggett was to book the PolSA team to attend after he had left. Mr Cockram said that his understanding was that A/DI Suggett would brief the PolSA team at the scene.
967. Asked about **the handover after his shift**, Mr Cockram said that he

had arranged for someone to replace him at 7am when he knew that he would be coming off duty. However, at 7am, there was no-one to hand over to. It was his intention to complete the operational briefing notes and he added to Ms Larrigan's document. He said, "*it was my intention that the things that I had left that needed doing was an instruction for a Crime Scene Manager to continue with those things.*" Mr Malcolm Nott became the CSM on 9 August, he said.

Transcript
4.11.13, p.95,
lines 7 to 10

968. Mr Cockram acknowledged that no CSM was actually managing the scene after he had left at 7am on 5 August 2011 and stated that this was "*most definitely*" a mistake on the part of the police. He said that it was a collective responsibility to ensure that a CSM was there and that, in this case, there had been a breakdown in communication. However, once a CSM had been deployed, the CSM should be the CSM all the way through to the end of the scene. It is the CSM who is responsible for ensuring that occurs.

Transcript
4.11.13, p.95,
line 21

969. Mr Cockram said, in answer to questions from Mr Mansfield QC:

Transcript
4.11.13, p.111,
line 5 to p.112,
line 2

Q. It may be that you are not able to help because you go off at 7 o'clock in the morning, but is it normal practice for a Crime Scene Manager to go off duty without knowing that there's another one coming on?

A. Yes and no. The document which has been called the operational briefing notes, which is the document I added to after Ms Larrigan had written, that is used as a handover document to Crime Scene Manager to Crime Scene Manager, if there's no handover at the scene. So I, on that document, I wrote down what I had done and what had been completed and more importantly what needed to be done, what the expectations were that needed to be done that morning later on after 8 o'clock, ie the photograph -- sorry, the 360 photography in daylight, the POLSA search for ballistic material at the scene and then the vehicles to be removed to the pound. Because I left all the vehicles in place for that to happen in daylight.

Q. Yes, I appreciate. But the question really is: do you leave the scene without in fact ensuring that there is another Crime Scene Manager there?

A. No -- sorry, yes. That's quite common, that's not unusual.

970. When he left at 7am, personnel from the IPCC were present and so were A/DI Suggett and the Exhibits Officer. He agreed that if any of these personnel, or any of the officers in charge of the PolSA team

when they arrived, had felt the need for a CSM after his departure, there was no reason why they could not have asked for one.

Mr Jonathan Orford

D854
S124
S124A

971. Mr Jonathan Orford arrived in Ferry Lane at 11.58pm on 4 August 2011 and was briefed by Ms Larrigan. Among his notes he recorded, “*Suspect weapon over fence – Police may have taken and thrown*”. In his further statement dated 18 October 2012, he said that he was informed by Ms Larrigan that the firearm may have ended up in this position after it was picked up by a police officer and thrown over the fence or railings. However, his understanding of the information was that it was only one possible explanation for the position of the firearm within the scene and not, at the time, a statement of fact.
972. Mr Jonathan Orford gave evidence to the inquest on 11 November 2013. He is a senior forensic practitioner for the MPS and was working in this capacity in August 2011.
973. Mr Orford had made an examination report, at the time, recording the steps that he took. This recorded that the information he had received from Ms Larrigan at the time was that a minicab carrying two suspects was involved in a hard stop in a preplanned operation by CO19. It was not known whether the suspect shot at the police.
974. Mr Orford said that he could recall the briefing that Ms Larrigan had given him. Ms Larrigan was in fact briefing the other CSM that had just arrived, Mr Cockram, and Mr Orford was present. Mr Orford was getting as much information as he could while the briefing was taking place.
975. Mr Orford’s note had also recorded, in respect of the suspect’s weapon, “*police may have taken and thrown*”. He said that this was explained to him as one of a number of possibilities: he did not think that Ms Larrigan actually knew for sure how the gun came to be where it ended up. She did not know whether it was thrown by police, kicked, or thrown by one of the persons of interest. It was just one of a number of possibilities she was considering. Mr Orford accepted that he had not written any other possibilities down in his record.
976. In relation to his written record, “*Not known whether suspect shot at police*”, Mr Orford said that, again, there was no certainty; it was one of a number of possible considerations.

Retrieval of other exhibits from the scene

S93

977. DC Payne seized a number of significant items from the scene. The items were photographed in situ prior to being seized, and then packaged and sealed as exhibits. Each was given a unique reference to identify it:
- one black handgun (JMA/1) on a grassy area behind the footpath at Ferry Lane;
 - one black sock (JMA/2) removed from the firearm JMA/1, by PC Green the presence of DC Payne;
 - one empty magazine (JMA/3) removed from JMA/1;
 - one live round (JMA/4) removed from JMA/1;
 - two separate shell casings (JMA/9 and JMA/13) – JMA/9 was found in the main road of Ferry Lane to the front off-side of the Bravo vehicle, and JMA/13 was found on the road behind the front near-side tyre of the Charlie vehicle;
 - one black harness and radio (JMA/10);
 - one T-shirt (JMA/22);
 - one green/light brown puffa jacket (JMA/24); and
 - one Sony Ericsson mobile phone (JMA/26) – removed from the pocket of JMA/24.

S93
D753

978. DC Payne said that he arrived at approximately 8.30pm and spoke with Ms Larrigan and that he also attended the briefing given by her at 12.15am. When questioned by the IPCC investigation about his comment about the firearm being thrown, he could not recall where he had heard this or who had said this to him.
979. DC Payne gave evidence to the inquest on 5 November 2013. He explained that he was an Exhibits Officer on 4 August 2011 and described the primary role of an Exhibits Officer as being to seize, package and record exhibits at any particular scene and, once that has been done, to keep a log of any movements of those exhibits to ensure their integrity and their continuity. He explained that, in practical terms, he would be directed to an exhibit if it was found at a scene and he would then package and record it. He did not need to know what the exhibits were likely to be, as this was someone else's responsibility.
980. DC Payne confirmed that he had been asked to attend the scene by his Sergeant and he had attended the scene from his home. He understood that a male had been shot dead by police in Tottenham. He did not recall anything specific but he did recall something about there being an exchange of fire. He did not know from where he had

got that information. He did not know that a police officer had been shot.

981. DC Payne told the inquest that he went through the inner cordon at the scene just after 10pm. He took possession, he said, of the handgun and the black sock as exhibits first. He confirmed that they were given exhibit numbers to correspond with his first three initials, JMA, so these were JMA/1 and JMA/2. He said that he then took possession of the magazine and the live round. When he got to the gun, he said, it was covered by a scene tent. To his knowledge, he said, no-one took any steps to mark where the gun and sock had come from. His recollection of how the gun was found, given in response to Mr Underwood QC, was that the gun was underneath an opened exhibits box and possibly a plastic bag, and that there was a plant pot.
982. DC Payne said that he took the jacket that Mr Duggan had been wearing as an exhibit, JMA/24. His evidence was that he had taken the jacket as an exhibit and, from the front left lower pocket, he had split off a key to become exhibit JMA/25. He had also split off Mr Duggan's mobile phone, which became JMA/26, and recorded that this came from Mr Duggan's clothing though he had not indicated where precisely it had come from. This was, he said, an oversight on his part and he could not remember now where the phone was.
983. In relation to his role on arrival at the scene, DC Payne confirmed that he worked his way around it, seizing the exhibits and noting them down and giving them exhibit numbers. He witnessed the making-safe of the gun and said that the gun was photographed although he was not sure whether this was before or after the make safe. DC Payne stated that only he had handled the gun, the sock and the magazine. The same was true for a blue t-shirt, beige t-shirt, shell casing, ammunition and Mr Duggan's jeans. He said that he dealt with the issue of contamination by changing his gloves regularly. He accepted that, to change his gloves, he would at one point have to touch with his bare hand the other glove and accepted that there was a risk of contamination.
984. DC Payne confirmed that, in seizing the exhibits, he was effectively doing this on behalf of the IPCC, as they did not have an Exhibits Manager present and it was already known that this would be an IPCC investigation.

Additional evidence relating to the question of exchange of fire

985. A number of witnesses gave evidence at the inquest in relation to the

issue of how it had come to be suggested that Mr Duggan had fired at the police.

DCI Foote

986. DCI Foote said that he was at home when he first learned about the shooting from a phone call from Z51. He passed the information that he had received from Z51 onto DCS Cundy and D/Supt Mallon. It was DCI Foote's evidence that the story that Mr Duggan shot at the police came as a surprise to him. He did not recall telling D/Supt Mallon that Mr Duggan had gone towards officers firing, even though this was recorded in D/Supt Mallon's note.

D/Supt Mallon

987. D/Supt Mallon, in her evidence to the inquest, said that she left her place of work in south London at about 6.15pm. She got a call from Z51 at about 6.20pm when she was standing just outside work. Her daybook recorded an entry reflecting Z51's call to her at 6.20pm, indicating that Mr Duggan had been shot, HEMS were on their way and one officer had been shot. D/Supt Mallon said that she went back into her building and updated DCS Cundy. She explained that the left and right hand pages of her daybook relating to this period had to be read together because she was updating the 6.20pm call after she had written up the 6.30pm entry. The update she added to the 6.20pm entry said, *"Ferry Lane near Tottenham. He's in a cab coming towards us he pulls gun as he gets out of cab, shot in chest. 19 officer shot in leg. Surveillance team briefed we're making way."*

988. D/Supt Mallon said that later entries in her daybook stated:

- 6.30: call from Mick Foote, SIO: *"Just found a gun, think it's Duggan's gun. Shot one of 19 officers by accident by another 19 officers. Apparently MD came towards officers firing."*;
- 7.00: call from Z51, *"life pronounced extinct."*

Z51

989. In his evidence at the inquest, Z51 could not remember exactly what he told D/Supt Mallon, but it would have been along the lines of *"Mark Duggan has been shot"*. He said that he did not tell D/Supt Mallon that Mr Duggan came towards officers firing and, between 6.15 and 6.30pm, no-one was saying that Mr Duggan fired. Z51 stated that he had never said that Mr Duggan came towards officer firing and he did not hear anyone else say it.

DCS Cundy

990. DCS Cundy gave his evidence to the inquest on 29 October 2013. At the time of giving his evidence, he was Assistant Chief Constable in Surrey Police, but in August 2011, he was a Detective Chief Superintendent responsible for Trident in the MPS. He was the Operational Command Unit Commander responsible for Trident.
991. He explained that, on 4 August 2011, he had been on duty at police premises in Wandsworth. He had a senior management team meeting, so he was with his Superintendents, one of whom was D/Supt Mallon.
992. DCS Cundy explained how he came to know about what had happened at Ferry Lane by reference to entries recorded in his day book:
- He was with D/Supt Mallon when she received a phone call from Z51 at 6.20pm on 4 August 2011, after which D/Supt Mallon immediately informed him that there had been a fatal shooting in an armed operation in which Trident officers were involved. It was believed at that time that the deceased male was Mark Duggan;
 - At 6.24pm, D/Supt Mallon took another phone call which was an update from DCI Foote. Following that phone call, D/Supt Mallon informed DCS Cundy that the police had found a gun and that a CO19 had been shot by accident;
 - At 6.26pm, there was a further phone call from Z51, which DCS Cundy recalled as being a phone call to D/Supt Mallon which was then relayed to him. By this point, DCS Cundy had notified DAC Hewitt, who was the Gold commander for this overall MPS response. This call led to DCS Cundy's understanding that:
 - At 5.30pm there had been intelligence that Mr Duggan was in a cab going to collect two firearms;
 - CO19 officers were briefed and deployed, and SCD11 were briefed;
 - The fatal shooting had taken place at Ferry Lane in Tottenham;
 - The minicab that Mr Duggan had been travelling in had been picked up by police officers involved in the surveillance and then followed;
 - Mr Duggan had got out of the cab with a firearm;
 - A firearm had been found nearby;

- A CO19 officer had been shot by accident in the leg;
- At 6.50pm, he spoke directly to Z51. His daybook reflected that conversation and stated “CO19 officer has shot Mark Duggan” and “CO19 officer shot – [not known] if by CO19 / MD.”

29.10.13, p.44,
lines 7-11

993. In respect of D/Supt Mallon’s written note recording, “Apparently MD came towards officers firing”, DCS Cundy said that he had no record of D/Supt Mallon ever telling him that. He said, “If she had told me that at the time I would have made a note, though equally the conversations that Fiona was having on the phone, some of them were quite lengthy and, as you can see, I’ve probably made two or three entries.”
994. DCS Cundy said that, at about 10.10pm, he briefed Commander Carl Bussey from the DPS and the IPCC investigators who had arrived at the same time (approximately 9.25pm). By the time that he gave this briefing, he said, it was his view that there was one firearm involved. Apart from the early phone call he had received at 6.26pm, he said, there was no other mention of two firearms and beyond that he was only ever made aware of one firearm. He also said that, at this point in time, his understanding was that the police officer who had been shot in the radio had been shot as a result of the actions of one of his colleagues and it was not an exchange of fire between Mr Duggan and the police.
995. DCS Cundy said he was not told by A/DI Suggett on the phone that Mr Duggan had shot at the officers, nor had he ever got the impression from Z51 that he was trying to suggest that Mr Duggan had in fact shot the police.

D/Supt Steven Williams

996. **Detective Superintendent Steven Williams** gave his evidence to the inquest on 7 November 2013. He explained that he was currently attached to the sexual exploitation team. In August 2011, he was a Detective Chief Inspector within Specialist Investigations, which is part of the DPS, and that week he was the on-call Detective Chief Inspector for DPS.
997. D/Supt Williams was taken to his decision log for the day and he explained its contents. The log recorded, “On Thursday 4 August 2011 at 6.30pm I received a phone call from DSU Evans. He informed me that there had been a police shooting and a male had shot at police and police had shot him. A police officer had been hit by a bullet and the male was seriously injured. The incident had taken place in Tottenham. Mr Evans had scant information as he had only just been

informed by a senior officer at CO19.”

998. D/Supt Williams telephoned A/DI Suggett and said that there had been, in essence, an exchange of fire between the subject and a police officer. He explained that there was a lot of information coming in those first minutes following the incident and it was not all accurate, which is quite common.
999. D/Supt Williams told the inquest that, after asking A/DI Suggett to get a team together, he went to Jubilee House where he met D/Supt Tony Evans who was on the phone to the IPCC. This was at about 7.20pm. The IPCC very quickly declared it an independent investigation, which meant it was their investigation. D/Supt Williams said that he spoke briefly to DSI Sparrow of the IPCC on the phone and gave him an update of the very scant information that he had. D/Supt Williams arranged to meet DSI Sparrow at Lemn Street. The purpose of this, D/Supt Williams said, was to facilitate any of DSI Sparrow's requests. He informed DSI Sparrow of what he had already done, to make sure he was happy with that, where the team was going and asked what extra resources he would need for his investigation. D/Supt Williams did meet DSI Sparrow at Lemn Street.
1000. D/Supt Williams said that he was involved in the post-incident procedure: he met with the officers, facilitated requests from senior officers within the organisation to the IPCC, checked the media lines for the IPCC with the officers and generally assisted DSI Sparrow in his investigation.
1001. Mr Underwood QC asked D/Supt Williams about whether his stage of knowledge that evening about what had happened changed in the following way:

7.11.13, p.14,
lines 6-18

- Q. During that evening, were you at any stage disabused of the idea that there had been an exchange of fire?
- A. From my own personal experience, I've dealt with a number of police shootings and the information does change very quickly. When I arrived there and I was updated by the Post-Incident Manager and Mr Sutherland of the officer's initial account, at that stage they didn't say there had been an exchange of fire, and from that point on, I worked on a possible assumption that it could be an unintentional discharge or it could have been a ricochet or it could have been numerous incidents. So the team were firmly of the view then they were not quite sure what was going on.

DSI Colin Sparrow

1002. DSI Colin Sparrow, lead investigator for the IPCC, told the inquest on 2 December 2013 that, at 7.32pm on 4 August 2011, he had phoned Detective Chief Inspector (as he then was) Steven Williams. DSI Sparrow stated that DCI Williams told him that there had been an exchange of fire between the police and Mr Duggan and that Mr Duggan had been fatally shot.
1003. On 5 August 2011, DSI Sparrow was informed by DCI Williams that laboratory analysis indicated that the bullet from the radio was an MPS bullet. DSI Sparrow also received information that the bullet could not have come from the non-police issue firearm.
1004. DSI Sparrow was informed on 9 August 2011 by Ms Angela Shaw, the expert in gunshot residue whose evidence is discussed below at p.386, that the ballistic evidence had indicated that JMA/1 had not been recently fired within the sock. This was confirmed in her statement dated 6 October 2011 and in her evidence at the inquest on 13 November 2013.
1005. The IPCC has since confirmed that, on the night of the shooting, it erroneously released information from which media agencies concluded that there had been an exchange of fire. The IPCC has apologised for this.

Chapter 6 – Post Incident Procedures

1006. This section outlines the Post Incident Procedures (PIP) that took place after the shooting. The ACPO Manual of Guidance Command Deployment of Armed Officers 2010 dictated that post incident procedures will commence in all situations where there has been a discharge of a weapon by the police resulting in death or serious injury.
1007. The PIP took place at Leman Street Police Station that evening (4 August 2011) for all of the CO19, SCD8 and SCD11 officers.
- S123 1008. The Post Incident Manager (PIM), Chief Inspector Neil Evans, facilitated the PIP. He was responsible for looking after the welfare of the Principal Officer and assisted the IPCC in their initial investigative process.

V53's first account at Ferry Lane

1009. In his statement dated 7 August 2011, V59 stated that *“At the conclusion of the first aid by V53 I directed him to sit in the rear of my vehicle with V70 [sic W70].”*
1010. Inspector Brian Elliott gave evidence to the inquest on 24 October 2013. He said that, on 4 August 2011, he was on duty as the late turn and overnight Specialist Firearms Tactical Advisor and duty officer. Inspector Elliott said he received a telephone call at about 6.15pm, when V59 telephoned him and explained that there had been a shooting in Tottenham. Inspector Elliott said that he arrived at the scene at approximately 6.35pm and spoke to V59 who briefed him about what had happened. Inspector Elliott said that V59 told him that *“V53 had discharged his firearm at the subject, the male subject was seriously injured and was currently being currently attended to by medical personnel and also W42 had received a gunshot injury or gunshot had shot him”*.
1011. Inspector Elliott said that he spoke briefly to W42 to check his welfare and then made some calls to make sure that the post-incident management process had been fully initiated. He said he then went to speak to V53 in the rear of the control vehicle. This was the first time that Inspector Elliott had had to attend a scene where firearms had been discharged and somebody was seriously injured.

Transcript
24.10.13,
p.175, lines 12-
17

Transcript
24.10.13,
p.177, line 7 to
p.179, line 15

1012. Inspector Elliott said that it was not normal practice to take an initial factual account from the principal officer (the person who had fired the shots). Generally, the guidelines are that you may take it from someone else who was with the principal officer. He said that, in this instance, he did not do that because he knew V53 and V59. He had previously had line management responsibility for the Tactical Support Teams for two years. He said that he was made aware that V53 was happy to speak to him and tell him what had happened. He assessed that V53 could give him a brief initial factual account to assist the investigation.
1013. Inspector Elliott noted that V53's initial account was timed and dated 6.50pm on 4 August 2011. It recorded, *"I got out of Charlie car. Subject got out of rear nearside of taxi holding gun shaped item in sock in his hand. Began to raise it up in my direction. I fired several shots."*
1014. Inspector Elliott denied that he and V53 had a more general conversation about the events. He said that they discussed the post-incident procedure that would follow and then Inspector Elliott gave instructions for V53 to be removed from the location and returned to Leman Street.
1015. At the inquest, Mr Underwood QC asked V53 why in his initial account he said that he fired "several" shots. V53 stated:

Transcript
15.10.13, p.72,
line 6 – p.73

"Because at that time, obviously I've just had a gun pointed at me, so I was -- I wouldn't say -- I wanted to give an account at the scene to help the investigation because I wanted to be open and transparent straight away but, again, you know, your head is all over the place, you've just been involved in a traumatic incident so I didn't want to tie myself down to say "Yes, I've definitely fired two", when I check later in my mind a couple of hours later, I may have actually fired more. So the reason I said "I fired several shots" was I wasn't 100 per cent sure I fired two at that time."

1016. Mr Thomas QC also asked V53 about this. V53 stated:

Transcript
15.10.13,
p.123, line 15 –
p.124, line 6

"Because, as I said at the time, you may suffer from perceptual distortion because, as I said, it's a freeze frame moment. This incident happened within a couple of seconds. So, again, by putting "several shots" down, I'm not trying to mislead anybody, I'm putting my hands up at the earliest opportunity to go, "Yes, I'm the officer who fired the shots, you don't need to look at other officers" because again, sir, in the nicest possible way, if I had to put down a number that was incorrect, I'm sure you would be – and barristers would be giving me a hard time now. So, again, I didn't want to be misleading, I didn't want to put down any false information and again by putting down "I fired several shots" I'm putting my hands up to go, "Yes, I'm the officer who

fired the shots".

1017. Mr Thomas QC asked V53 whether he was responsible for a note made by D/Supt Mallon referring to a call from Z51 from the scene, in which she had noted, "*...in a cab coming towards us. He pulls gun as he got of cab, then "shot in chest"*". V53 said that he had only given a verbal account of the incident to Inspector Elliott (W55) once he was sat in the control vehicle after the first aid.
1018. In relation to an entry in Inspector Elliott's own notebook which read, "*...firearm discarded by subject has been recovered over a wall on grass and is covered with tent*", written up at 8pm or some time after that, Inspector Elliott said he had made an assumption that the gun had been discarded by Mr Duggan because of its proximity to where the initial event took place. He said his note was a brief overview of the situation as he saw it at the time and he did not see the gun get from whatever position it was in prior to landing over the wall. He did not question V53 or Z51 about this.

Journey to Lemman Street

1019. PC Hartshorn was attached to CO19 as an armed vehicle response officer and attended the scene. He voluntarily undertook to act as the Police Federation Representative. In his notes, he recorded that he drove V53 and W70 from the scene back to Lemman Street between 6.55pm and 7.18pm. PC Hartshorn said that he was aware that Inspector Elliott had taken an initial account from V53 but he did not know what was in that account, nor did he discuss the incident with V53. PC Hartshorn said that there was no discussion about what had happened during the journey and that he felt he did most of the talking. He had noted down that he specifically informed the officers that there was to be no conferring about the shooting.
- S22
1020. W42 and W56 travelled to Homerton hospital on the advice of the HEMS doctor that W42 should be examined. V59 stated that he coordinated the rest of the team leaving the scene after W70, V53 and W42 had gone.
1021. V59 later left the scene with V72 and R68 and returned to Lemman Street. V48, W39, Q63 and R31 returned together to Lemman Street.

Attendance of the IPCC

1022. The IPCC attended Lemman Street that evening arriving at 9.40pm. The IPCC lead investigator, DSI Sparrow, accompanied Chief Inspector Evans, the Post Incident Manager, to visit the CO19 officers who were

together in one office. The ACPO Manual of Guidance Command Deployment of Armed Officers 2010, in place at the time, stated that officers should not be separated after an incident.

1023. DSI Sparrow witnessed the warning given to the officers regarding the issue of conferring prior to providing their initial accounts. This warning originates from the same ACPO Manual of Guidance and reads:

“As a matter of general practice, officers should not confer with others before making their accounts (whether initial or subsequent accounts). The important issue is to individually record what their honestly held belief of the situation was at the time force was used. There should therefore be no need for an officer to confer with others about what was in their mind at the time force was used. If, however, in a particular case a need to confer on other issues does arise, then, in order to ensure transparency and maintain public confidence, where some discussion has taken place, officers must document the fact that this has taken place; The issues discussed; With whom; The reasons for discussion.”

S123
S123A

1024. DSI Sparrow accompanied Chief Inspector Evans to another part of the building where the same warning was given to the assembled SCD8 and SCD11 officers.
1025. Supt Shaun Dowe gave evidence to the inquest on 29 October 2013. He described that, on 4 August 2011, he had been the on-call duty post-incident manager (PIM) for CO19 in the position of ‘PIM 2’. The main PIM (‘PIM 1’) was Chief Inspector Evans and he was therefore the second-tier PIM. He explained that two PIMs were on-call in relation to police shootings and his role was to be at the scene, remotely assisting the PIM at Leman Street. His function was to look after the welfare of the officers, facilitate the investigation and assist the IPCC. On arrival at the scene, he said, he reported to Inspector Elliott, who had been in effect doing his role prior to his arrival. He received the initial account of events that Inspector Elliot would have received. While at the scene, Supt Dowe said that he spoke to Ms Larrigan and passed onto her that all the vehicles involved, except the minicab, were CO19 vehicles and that it was believed that the police fired two shots. He also made the arrangements for the non-police issue firearm that had been found at the scene to be made safe.

V53

1026. In respect of the account in his Evidence and Action Book written at 10.40pm, V53’s evidence to the inquest, in reply to questions from Mr Underwood QC, was that:

- He was sure that the “*firearm*” referred to in this passage was a gun;
 - He said “*honestly believed*” not by way of qualification, but where “*honestly*” meant “*truthfully*”, as he wanted to emphasise that he truthfully believed it to be a firearm;
 - He was not worried about his sincerity being challenged and all of this was 100% accurate;
 - The colleague that Mr Duggan could have shot was W70, who was behind V53, having deployed as the Hatton gunner from the Charlie vehicle;
 - At this stage, V53 had not carried out the count-back of his bullets. In his witness statement of 7 August 2011, he had got the order of events wrong because he had stated that he had made notes in his notebook before the count-back, when in fact these events occurred the other way round;
 - At this stage prior to the count-back, V53 still wanted confirmation from the count-back that he had only fired two shots.
1027. V53 agreed that the account had taken about 10 minutes to write and that it was franked with the time at 10.52pm (it having taken him about two minutes to get to the franking machine). He said that he wrote up his account in the Police Federation office at Lemn Street and he thought that he was alone, although his solicitor may have been present. He said that no other officers were present, nor was a Federation representative. He said that he was not aware of other officers writing up their notes after 11pm.
1028. V53 said that he was not aware that his colleagues had said “*fired several shots*” or “*fired a number of shots*” in the initial notes they had written up on 4 August. The Assistant Coroner asked whether this was part of the training provided that officers should always avoid specifying the number of shots. V53 stated that it was a form of training in the sense that officers are aware they need to avoid providing evidence that is incorrect and that there is a risk of perceptual distortion about the number of shots fired. V53 also referred to the fact that officers in the past who had specified a number were subject to extensive questioning when giving evidence as witnesses at court. V53 also said,
- “I remember being told just to put in “several shots” until you’re 100 per cent sure in your head how many rounds you’ve actually fired to disclose it”.*
1029. V53 said that in the period between the shooting and the writing of his

statement on 7 August 2011, he did not talk to any of the other team members about what had happened. He explained that the team deployed on 4 August 2011 was a mixed team. Its membership was taken primarily from one team and V53 was actually from another team. He was making the required numbers up that day but he had worked with them quite regularly. He agreed that W42 was a friend. V53 said that, when he saw W42 after he got back from the hospital that night, he hugged him and was relieved to see him but that he did not discuss the incident with him. He agreed that he knew W70 but not that well as he was quite new to the team and the department.

1030. With regards to whether he discussed events with the other officers, V53 stated that he is a professional officer and that he knew the rules regarding conferring. V53 said he would not jeopardise the investigation into the shooting by discussing it with other officers.
1031. V53 was challenged by Mr Thomas QC about why he did not attend for interview with the IPCC, it being suggested to him that he had not behaved in a transparent manner. V53 denied this, saying that he had adhered to the ACPO Manual of Guidance throughout the process since the shooting and had given everything possible to the IPCC in written format.

V59

1032. V59 stated that he changed the date on his initial account to 5 August 2011 as he finished writing his notes at ten minutes past midnight on 5 August 2011.
1033. Mr Mansfield QC and Mr Thomas QC asked V59 further questions about his initial notes. V59 agreed that there was nothing in the account written on 4/5 August 2011 about the recovery of the gun. V59 noted guidance in the ACPO manual, which all firearms officers work to, that stated that officers should give a brief account for the investigative team and then provide a fuller account, which is what he said he completed on 7 August.
1034. V59 rejected the suggestion put to him by Mr Mansfield QC that the matter of finding the gun was left until the officers had “*sorted out what they were going to say about it*”. He said that, when he wrote his notes, he did consider that the use of force by other officers had been necessary but he did not note this down because he had not seen anything himself. He said that he “*completely disagreed*” with the suggestion that he was leading a team that might have shot somebody who, perhaps, did not deserve to be shot dead. To the contrary, he said he had complete faith in his officers.

W42

1035. W42 was questioned at the inquest about the Evidence and Action Book entry he wrote on the night of 4 August 2011. W42 accepted that it contained no recital at all of him seeing Mr Duggan or believing that he was reaching for something, or of shouting a warning to other officers. W42 was asked to explain why and stated the following:

Transcript
23.10.13,
p.156, line 8 to
p.157, line 15

“When I wrote up my note, I was pretty happy that when it came to giving a full and frank account, later on those were details I was quite happy that I would still remember. They were fresh in my mind. The briefness of the initial account here was just that within those two days, had I completely forgotten what had happened, I was quite happy that what I had written would enable me to then write a full and frank account”.

1036. Mr Thomas QC, asked W42 about the account given after the incident in his Evidence and Action Book. The main points emerging from this aspect of W42’s evidence to the inquest were:

24.10.13, p.33,
lines 10-11

- He accepted that to his knowledge a “*blue on blue*” incident had never happened before within the MPS but said that with “*many of the jobs we were involved in that is an inherent risk.*”;
- W42 wrote up his Evidence and Action Book after seeing the Forensic Medical Examiner (FME) and he did this because, despite having been shot, he wanted to assist the investigation. He agreed that, except for V53, the TST officers congregated at around 11pm to do their initial accounts and that he did not start his own notes until 11.30pm. He said, in answer to questions from Mr Thomas QC, that he had started his notes later than the other officers because he had arrived back at the station later and because he had then seen the doctor;
- W42 accepted that his Evidence and Action Book ran to seven sentences, most of which were relatively uncontroversial. He had recorded the subject vehicle’s colour as “*bronze*” because this was the description that he, as the Alpha vehicle operator, had been given over the radio. He had included the subject vehicle’s registration number because he was able to remember it because he said he wrote it down and stuck it on a post-it note in his car;
- W42 said that he knew at the time of writing his EAB that two shots had been fired and that they must have been fired by a police officer or police officers. He said that he did not record the specific number at the time because he thought putting “*shots were fired*” would withstand more scrutiny than being wrong in his initial notes;

Transcript
24.10.13, p.48,
line 19 to p.49,
line 8

Transcript
24.10.13, p.51,
line 16 to p.52,
line 3

- W42 agreed his evidence that he had said “*he’s reaching*” or “*shots fired*”, and his account of Mr Duggan getting out of the vehicle, were fundamental, but he did not believe that these matters needed to be mentioned in his initial note, as he was quite happy that a detailed statement was going to be written up in 48 hours;
- W42 accepted that he had finished his notes at midnight and time stamped them at 00.15am on 5 August 2011. He could not remember why it had taken him so long to do this. He thought that it was possible that a senior officer had come to speak to him, extending the time he needed. It was possible that he had not written “*notes interrupted*” by such an event because it happened at the very start of his notes, before he actually started writing. He denied that this was “*nonsense*”.

Transcript
23.10.13,
p.154, lines 16-
17

1037. During the inquest, W42 was taken to a record made by the FME which could indicate a contrary initial account given by him. He agreed that he had seen the FME between 10.50pm and 10.58pm on 4 August 2011 at Lemn Street. The text of the FME’s note said, “*Officer was shot during a targeted arrest by the suspect. The bullet went through his t-shirt and embedded into the radio.*” W42 said that the FME had got it right that he had been shot during a targeted arrest and that the bullet had gone through his t-shirt and embedded in the radio, but not that he had been shot by the suspect. He said that there was “*no way, categorically, that I would have told [the FME] that I was shot by the subject*”. W42 could only suggest that the FME had recorded this incorrectly.

W70

D838
[p. 54F-56D]

1038. At the first trial of Mr Hutchinson-Foster, W70 was cross examined about the content of his initial account written on the 4 August 2011 in an Evidence and Action Book. In particular, he was cross examined about why he had not made any record in this first account about seeing Mr Duggan with a firearm. W70 stated that he thought going into details about the use of force would form part of his statement to be completed 48 hours later. W70 stated that his initial notes were made under legal advice but that he could not remember what advice he had received or exactly what he was told to include. He could not remember whether he had deliberately not referred to Mr Duggan having a gun but he said that his notes were deliberately brief.

Transcript
23.10.13, p.21,
line 17 to p.22,
line 22

1039. At the inquest, it was again highlighted to W70 that, even though he had given quite a detailed account in his notebook, he had not mentioned seeing Mr Duggan with a gun. W70 stated that his legal advisor drew his attention to the ACPO Manual of Guidance which

indicated he should do a brief outline in the form of a duty statement and wait the 48 hour period before completing a detailed statement. He stated that he included details like the serial numbers of the weapons he had to assist the investigation. W70 said that he did not discuss what had happened with any of his colleagues before he made his initial notes.

1040. W70 said that, despite the fact that this was his first hard stop, and the outcome had been shocking, he did not have a natural impetus to talk to his colleagues as the Guidelines about conferring, on which he has been trained, are taken very seriously. He said that conversation was confined to their welfare and general chit-chat. He agreed that there had been some discussion at the scene during which certain facts had come to light while first aid was being given, such as that there had been a gun found at the scene.

1041. Mr Thomas QC asked W70 how he decided what to put in his initial account. W70 said that their Manual of Guidance and legal advice guided him through. W70 stated *"I don't remember specifically what I was told in terms of what details to not -- put in and not put in. I was certainly told to not do any detail in my initial account."*

1042. In response to further questioning, W70 maintained that there was no conferring with other officers on the evening of 4 August 2011 but he spoke to his legal advisor, Mr Scott Ingram of Slater and Gordon solicitors, and told him that he had seen a gun. Mr Ingram had advised W70 that he *"...should leave all of the detail until 48 hours later."* (i.e. not include detail in his initial account). There was a written note of the discussion that W70 had with Mr Ingram and, in the course of his evidence, W70 confirmed that he was happy to waive his legal privilege over that conversation with Mr Ingram and the note. The note stated:

"W70 – rear seat Charlie

Knew area – sight of surveillance vehicles

Onto Bury Lane – big wide road

Had to do a bit of catching up Shouting armed police

Stop put in

I exited with Hatton Gun

I got out same side as V – but behind him

Ran towards target vehicle

Saw target getting out of car

Transcript
23.10.13, p.28,
line 24 to p.29,
line 10

D1488

*Target – hands in pockets or wastband [sic]
Wearing big puffa jacket
I went to ditch Hatton gun
& get by Glock
I saw target produce gun shaped object
believed gun
heard 2 shots
Target not dropped straight away
I took hold of his left arm
restrained him
Did not know where gun had gone
Searched him
then searched
somebody else told me found other side of fence”*

Transcript
23.10.13, p.
113, line 20 to
p.114, line 23

1043. Mr Thomas QC and the Assistant Coroner asked W70 a series of questions about this note, and the main points of the evidence that W70 gave were:

- He did not recall seeing Mr Ingram’s note at the time;
- W70’s conversation with Mr Ingram took place sometime before W70 wrote up his notebook;
- The note of the conversation is a true and accurate account of what W70 told Mr Ingram;
- The advice from Mr Ingram was to produce a notebook account of what had happened as per the way that W70 in fact did and to leave a detailed account for later;
- W70 was not receiving advice as he wrote his notes but as he had not been involved in a fatal shooting before he decided to follow the advice he had been given and the Manual of Guidance.

1044. W70 said he did not include the fact that he heard two shots in his initial account because the training input he had received on the composition of initial accounts was that a more general phrase such as “*I heard a number of rounds*” should be used rather than “*I heard two shots*”. W70 was not sure whether this had been written down anywhere, but said that it had been in the training package that has been received for some time around post-incident procedures.

1045. W70 acknowledged that, if he had used force, the ACPO Guidance would have required him to include reference to this in his initial account. He did not think that, because he was standing next to the person that had used force, this applied to him at all. He said that did not realise at the time that he was the only person that saw the gun.
1046. W70 agreed that V53 was not present when the officers wrote up their initial accounts and that his initial account consisted of eight sentences and took him just under an hour to write up. W70 said there were people coming and going, that they had refreshments and it certainly was not being done under “*exam conditions*.” He denied the fact that it had taken nearly an hour to write the notes indicated that there had been conferring and he reiterated his evidence that there had not been any discussion around the content of those notes. He denied that the officers had been waiting for V53’s account before writing up their notes.

Transcript
23.10.13, p.74,
line 6

R68

1047. In his notebook written up on the evening of 4 August, R68 had recorded that “*shots were fired*”. When asked, at the inquest, about why he had said this by Mr Underwood QC, R68 said that at the time he was not entirely sure that two shots had been fired. He also said that, during training, they were told not to state the amount of shots.
1048. At the first inquest of Mr Hutchinson-Foster, R68 stated that when the CO19 officers were at the police station on 4 August 2011, after the stop, some part of the incident may have been mentioned just in passing. However, the officers were all aware of the rules regarding conferring. Nothing of note was mentioned.
1049. R68 was asked whether he had written “*shots*” in his notebook, rather “*two shots*”, because he was unaware of what V53 was going to state and did not wish his statement to be contradictory. R68 denied this. R68 denied that the officers conferred about their initial accounts. R68 was challenged about the amount of time – three quarters of an hour – it had taken him to write his initial account which consisted of six sentences. He could not recall why it had taken this long, but he said that he believed it may have been because he wanted to be sure in his head what he was writing down. R68 accepted that he did not have his notebook date-stamped until 00.15am on 5 August 2011, which was a further half an hour after finishing his notes, but he denied that the delay was because he was discussing what to write with other officers.

22.10.13, p. 58,
lines 5 – 18

Q63

1050. When questioned at the inquest about writing his initial account by Mr Mansfield QC, Q63 stated that at the time he recollected a number of shots but that he had no doubt in his mind now that there were two shots. Q63 agreed that he had written “two s” and then crossed that out and written “a number of shots”. He stated that he did so because he was not 100% sure at the time of writing his account. Q63 was asked why other officers had “a number” but then written “two shots” in the 7 August 2011 statements. Q63 stated that he could not account for what other officers had written. Q63 denied that there was discussion amongst the officers back at Lemman Street about the number of shots.
1051. Q63 said that he was aware that there was a rumour which got into the press that Mr Duggan had come out of the car firing. He said this was not started in Lemman Street but was a rumour which was started by the IPCC. Q63 was not sure, he said, when he first heard about this rumour, but thought it was when it was reported. He agreed that, when he wrote up his account at 11pm on 4 August 2011, he knew that a gun had been found on the grass. He had learned this at the scene but he did not know whether this gun had been examined or whether the gun had been loaded or fired. Q63 also agreed that, at 11pm on 4 August 2011, he did not know how a police officer had come to be shot at the scene. He denied, however, that any of these uncertainties had led him to cross out “two” shots and make it “a number” of shots in the write-up that he put in his Evidence and Actions Book (EAB). Q63 maintained that, as he was not 100% certain about the number of shots, he did not want to confirm this in his initial account.

R31

1052. Mr Underwood QC asked R31 about the initial notes he made on 4 August 2011, written at Lemman Street, in which R31 had said, “*I ran towards the man as I did so I heard a number of [shots] fired and saw the man fall to the ground.*” Mr Underwood QC asked R31 whether, on the evening of 4 August 2011, it had been R31’s recollection that he had seen Mr Duggan fall to the ground. R31 confirmed that it was not so, he said that he saw the initial process of Mr Duggan going forward but that he did not actually see him go to the ground. He agreed that he may have put two and two together as he saw Mr Duggan on the ground later but he also noted that, at the time of writing up the account on 4 August 2011, matters were quite chaotic in his mind.
1053. R31 acknowledged that he had gathered a lot of experience of writing

witness statements during his career in the police but explained that this was the first he had written in relation to a police shooting. R31 described that most of the officers present at the incident were gathered at Leman Street when they made their notes, though at least one or two were not there, including V53.

1054. R31 said that his notes record that he started making his statement at 11.05pm. His notes show that the stamped finish time on his statement was 12.15am. He said that it took him about an hour to write up, and then he went to the franking machine, which was five to ten minutes away, to have his statement franked. Mr Thomas QC pointed out to R31 that the end time that R31 appeared to have written on his notes himself was 11.40pm and asked him why it appeared to have taken him 35 minutes to get to the franking machine. R31 said that this was *“just because we’re doing other things at the time”*, which included getting some refreshments. He accepted that, with hindsight, it would probably have been better to go straight to the franking machine but, given that they had not eaten or had much to drink since coming on duty, there was a delay.

1055. R31 acknowledged that it took him 35 minutes to write a short statement. Mr Thomas QC asked R31 if he had thought very carefully about what he was writing. R31 stated:

10.10.13,
p.136, line 25
to p.137, line 9

“That is absolutely the case. There’s a lot gone on. You can’t put it in any particular order. There are some very significant events and there are some less significant events, and it is really difficult – under the circumstances of what we’ve seen that day, it’s fair to say that is not a normal day at work. So there’s actually a lot more thinking time than there is writing time to try and put stuff in some sort of perspective”.

Transcript
10.10.13,
p.138, line 20
to p.139, line 1

1056. Mr Thomas QC asked R31 about the extract of his EAB of 4 August 2011 where he referred to *“a number of shots”*, with Mr Thomas QC suggesting that R31 had made a mistake. R31 said that when he wrote the notes things were confused in his mind.

Transcript
10.10.13,
p.141, lines 14-
15

1057. Mr Thomas QC also asked R31 why he had written *“a number of shots”*, when he was in fact clear, he had said, that he had heard two shots and then had written *“two shots”* in his statement of 7 August 2011. R31 said that *“later on”* (i.e. by 7 August 2011), he *“actually [knew] that to be definitely the case”*. Mr Thomas QC suggested that this meant that R31 must have discussed the matter with others, to be sure that there were *“two shots”* by 7 August. R31 said that he was sure because *“there were two bangs from one person”*.

Transcript
10.10.13,
p.143, line 9

Transcript
24.10.13,
p.126, lines 6
to 7

1058. W56 said that at Lemn Street, after accompanying W42 to hospital, he rejoined the other officers and that he did not ask what had happened. He said there was no need to ask as “*what’s happened has happened*” and the officer themselves would be able to justify any action that had taken place at the scene.

V48

1059. V48 was taken to his initial statement in his EAB dated 4 August 2011 in which he had said, “*I was aware that shots had been fired*”. V48’s evidence was (in reply to questions from Mr Underwood QC and the Assistant Coroner) that as this was a traumatic situation he intended to use the period of 48 hours to think and to provide a detailed statement later. He also explained that their training on post-incident procedures taught them to provide only a brief account initially.

1060. V48 said that he knew at some point in the evening of 4 August 2011 who had fired the shots and that this officer was not with the rest of the team when they wrote up their initial accounts that evening. He denied the suggestion that the reason no-one on the team specified the number of shots was because no-one knew what the officer who had fired the shots was going to say. V48 was unable to say why the officers had recorded the colour of the minicab as gold rather than silver and said that, in the course of the stop, the colour “*gold*” had been referred to over the surveillance observations. When following the vehicle, the officers focussed on its index number rather than its colour.

W39

Transcript
22.10.13 p.128,
line 21 to
p.129, line 2

1061. In relation to his notebook written up after the events of 4 August 2011, where W39 had said “*a number of shots were fired*”, Mr Underwood QC asked him about this and in particular the way it was written in his notebook, which included a crossed-out word and a correction. W39 said that he thought it was two shots and he was 99% sure but that their training recommended the officers wait 48 hours to detail what had happened. W39 acknowledged that he could have said, “*I thought it was two shots*” in his notebook, but he said that he did not know how his recollection would react after the 48 hours because he had not been involved in a police shooting before.

Transcript
22.10.13,
p.135, line 22

1062. W39 denied that there had been any conferring on the writing of the notebooks on 4 August 2011 and denied that making the change in his notebook was because there had been conferring. W39 said the suggestion that he did not record the number of shots because the

officers were waiting to see what V53, would say was “*ridiculous*”.

Transcript
22.10.13, p.
133, lines 1 - 9

1063. W39 agreed that it took him about half an hour to write up his notebook and that it consisted of 11 sentences. As to why it had taken him this amount of time to write this much he said there were people coming in and out of the office.
1064. W39 agreed that the time gap between finishing his notes and stamping them was 21 minutes. W39 said that this was because there was no urgency to get his notes stamped. He did not know what had happened in that time but he recalled getting tea and getting fed and people coming in and out. He said he would have taken his notes to be stamped in the next natural pause. He denied that the gap in time was because there had been any conferring amongst the officers and he said the only person he spoke to about his account was his legal representative.

Z51

1065. Z51 told the inquest on 2 October 2013 that, after the incident on 4 August 2011, he returned to Lemman Street. Although he could have had access to his day book, he said that he would not have written anything further in his day book following the incident, because he knew he was going to be required to make a statement.
1066. Z51 said that he made a very short statement on the evening of 4 August 2011. He told the inquest that he had never been involved in an incident like this before and, in making a statement on 4 August 2011, he was doing what he had been told to do: just set out his role. He could not remember exactly who had told him to do this. He said that there were a lot of people back at Lemman Street. Z51 thought making a short statement setting out his role was authorised by the Standard Operating Practice for the MPS or by the ACPO Guidelines but he was not sure exactly what they say. He confirmed that he did have legal advice.

Count back of ammunition process

1067. At around 12.15am on 5 August 2011, an examination took place of V53's MP5 weapon and the weapon's magazine. The examination took place with an IPCC investigator present. The purpose of this examination was for V53 to account for the ammunition that he had been issued with at the commencement of his deployment. The 'count back' process revealed that V53 had two rounds missing from the original number issued to him, indicating that he had fired his MP5 twice during the shooting of Mr Duggan. The MP5 was seized and

S116
S100A
D138
D517

exhibited as AJE/6.

Completion of 7 August 2011 statements

S123A

1068. On the 7 August 2011, the PIP was reconvened again at Lemn Street Police Station. On this occasion, the officers present wrote more detailed statements about the events of 4 August 2011. Chief Inspector Evans stated that he reiterated the same conferring warning to all of the officers before they started their statements.

1069. V59 told the inquest that he wrote his more detailed statement from 12pm to 8.20pm on 7 August 2011. He said he asked one of his officers to create a flip chart (provided to the IPCC investigation) to set out the *“times, places, locations, postings and sequence of events”* to inform their statements. V59 described the process of writing up the statements as follows:

- The officers wrote their statements in the same room around a collection of tables but separately from each other;
- The statements were written in segments with each segment being discussed and then written up individually;
- If an officer finished writing a segment they could take a break until every officer had completed that segment which is why the process took a long time;
- There was no discussion about the segment covering Mr Duggan getting out of the minicab and the shooting because everyone saw this from a different angle and direction so everyone had a different account of what they saw and heard; and
- The officers did not look at each other’s statements at the end of the process.

Chapter 7 – Ferry Lane 5 August 2011

The search of the scene

1070. Inspector Mugglestone gave evidence to the inquest on 18 November 2013. She was a Police Search Advisor attached to SO20 Counter Terrorism Protective Security Command search team. She confirmed that she was on duty on 5 August 2011 at Ferry Lane and that when she arrived at the scene she spoke to A/DI Suggett from the DPS. She was there from 10.05am to about 8.35pm and recorded what happened in a search advice file, which was addressed to A/DI Suggett as he had requested the search.
1071. She explained that, at the scene, she was giving advice to the DPS, as well as to the IPCC who were also present at the scene. She said that it was a matter of making sure that both parties were happy with the decisions and the actions being taken.
1072. Inspector Mugglestone confirmed that 'PoISA' stood for Police Search Advisor, and explained that the PoISAs undertake national training given by the Police National Search Centre. This is additional training to that received by the majority of police officers. The PoISA's function in a search is typically to advise the Chief Officer of Police, and therefore the Senior Investigating Officer or whoever is in charge at the scene, to provide advice on all search related matters and then manage and control the search resources. She explained that forensic retrieval must be done before a search is carried out because the searching could destroy forensic evidence.
1073. Inspector Mugglestone's brief was, she said, to search the scene systematically for evidence relating to the incident, in light of the fact that two casings had been discovered from the scene. She was asked to search for ballistic material, ammunition and shell casings. She explained that, if her officers came across anything additional that seemed to them to be of interest, they would bring it to the attention of the team leader (the sergeant) and ultimately the Exhibits Officer. Inspector Mugglestone's own role was to facilitate the search and take the necessary decisions.
1074. Inspector Mugglestone explained that the units that she deployed on 5 August 2011 would normally have been deployed in counter terrorism searches. However she felt the circumstances of the incident warranted the deployment of this resource.
1075. At the scene, Inspector Mugglestone said she decided exactly what

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line 7 to
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should be searched in discussion with A/DI Suggett. She explained that the decision had already been made – she thought between the IPCC and A/DI Suggett – that the vehicles were going to be returned back to police premises and not forensically examined at the scene. She said that she insisted that an external search of the vehicles was carried out prior to them being moved, to make sure there was not any evidence on the outside of the vehicles.

1076. She explained that she called in further resources to enable the search to be completed in the daylight on 5 August 2011.

1077. In reply to questions from Mr Keith QC, Inspector Mugglestone gave the following evidence:

- It was her understanding that the IPCC were in charge of the investigation, which is why she had recorded the ‘Officer in the Case’ or ‘Senior Investigating Officer’ as DSI Sparrow from the IPCC;
- It was the IPCC’s decision as to whether the grass should be searched at the scene;
- It was the IPCC who gave directions in relation to electronic devices found in the minicab;
- The reason why there was no PoISA search of the inside of the minicab was because everyone anticipated it was going to Perivale for a full forensic examination. It was then IPCC who took the decision not to send it to Perivale and then decided that the minicab should be forensically recovered and taken to Perivale after all;
- Inspector Mugglestone had been told that all forensics had been completed at the scene before her team began work, with only the 360-degree camera capture which was still ongoing;
- While her team’s work was being done, Inspector Mugglestone was focussed on that, but she was aware that there may have been some IPCC representatives going from door to door and trying to find witnesses; and
- It was not unusual for her not to have a Crime Scene Manager. Although she is happy to have one, she may not as long as there is a capable and competent Exhibits Officer. She believed that she did have a suitable and capable Exhibits Officer recording things that were found.

1078. Gareth Jones, an IPCC Investigator, gave evidence to the inquest on 4 November 2013. He explained that he attended the scene on 5 August 2011 at 3.20pm and that he was there until past 11pm. He said that his

role was to be a “*presence*” at the scene rather than to oversee it. He was present during the PolSA search of the minicab (see below). It was his decision to release the cordon and to open up the scene. At the time that he left there was no Crime Scene Manager in situ.

Movement & search of the minicab

1079. From 6.13pm on 4 August 2011, and throughout the night of 4 August 2011, the minicab remained in place at the Ferry Lane scene as it had been agreed it would be removed for a full forensic examination as part of the forensic strategy. It was intended that the minicab would be lifted by a low-loader truck and forensically examined and searched at a later date at Perivale Metropolitan Police Forensic Car Pound.

S77
D742

1080. The inside of the minicab was captured on the 360 degree photography of the scene taken during the night of 4 August 2011. As shown in the photograph over the page, there was an orange Sainsbury’s carrier bag between the front driver’s seat and the first set of rear passenger seats, and a yellow cardboard box with the lid displaced between the first and second set of rear passenger seats.



S211
S211A
S211B
D363
S101A

1081. Mr David Kirkpatrick, an IPCC investigator, gave evidence to the inquest on 4 November 2013 and explained that he arrived at the scene some time around 9.50pm on 4 August 2011 and left at around 2.30am on 5 August 2011. During that time he kept a log for DSI Mahaffey who was the senior investigator at the scene from the IPCC.

1082. Mr Kirkpatrick returned at about 10.51am on 5 August 2011 and was accompanied by Ms Nicola Heley, a trainee investigator. He said that they saw the box in the rear passenger area of the minicab. Mr Kirkpatrick explained that he understood the shoebox would be recovered and exhibited when the minicab was lifted and forensically examined.
1083. During the 5 August 2011, DC Payne oversaw the arrangements for the removal of the minicab from the scene. It was sealed, put onto a low-loader, and it left the scene to be taken to Perivale.
- S164B
S164D
1084. However, in the meantime, DSI Sparrow became aware that the owner of the minicab was complaining that he had no means of earning a living without his vehicle and he was becoming angry and distressed. In light of this, DSI Sparrow asked that the vehicle remain at Ferry Lane and be searched at the scene so that, once the search was complete, the vehicle could be returned to the minicab driver that evening. DSI Sparrow did not know that the vehicle had already been lifted and the transport of the vehicle to Perivale had actually already commenced.
- S164B
S164D
1085. In light of DSI Sparrow's request, the recovery drivers returned the vehicle to Ferry Lane, placing it further down the road towards Walthamstow.
1086. Before requesting that the minicab should be searched at the scene, DSI Sparrow had taken steps to establish whether there was any relevant forensic evidence on the outside of the vehicle. He was told by police officers at the scene that an external visual search had been conducted and was negative. For that reason, DSI Sparrow was content that the internal search of the vehicle could occur at the scene with a view to expediting the return of the minicab to the driver. In his evidence at the inquest on 2 December 2013, DSI Sparrow reiterated that he was unaware that any blood spatter had been seen on the vehicle. He explained to the inquest that had he known that fact then *"I just would not even have considered taking it back to the scene. It would have gone to Perivale....On reflection, it was the wrong decision frankly and, on reflection, the best thing that I could have done was taken the taxi can back to Perivale, we would have completed the visual search of the vehicle, established the blood spatter and then carried out whatever extra work that we needed to do"*.
- 2.12.13,
p.13, lines
3-13
1087. Inspector Mugglestone explained that her understanding was initially that the minicab was to be lifted and forensically examined at Perivale. At 3.40pm, her notes then recorded that she was advised by the IPCC that the vehicle could be searched at the scene rather than be removed so as to minimise inconvenience to the owner; as it had just left the

scene, it was being brought back. This meant that the minicab would be searched at the scene. Inspector Mugglestone told the inquest that she did not take this to represent a change in the forensic strategy, rather, the change was about where the search of the car was to take place. Inspector Mugglestone contacted DS Hadfield at the DPS to ascertain what the forensic strategy would be for the vehicle, and what he might require her team to wear. She did not advise anyone, she said, that not requiring Tyvek suits to be worn might compromise any later forensic science work.

S42
S42A
S42B
S55
S55A
S106C

1088. PC Rainford and PC Nicholls were specially trained MPS search officers assigned to conduct the internal search of the minicab. They began this search at 4.52pm on 5 August 2011, breaking the seals of the vehicle to do so. DC Payne's colleague, DC Rachael Samuel, had taken over as the Exhibit Manager. The exhibits taken from the inside of the minicab were not individually photographed in situ before being packaged and sealed.

1089. Inside the minicab, PC Nicholls said that he found an orange Sainsbury's carrier bag situated between the seats in the front and the seats in the rear of the minicab. The carrier bag was handed to the Exhibits Manager, DC Rachel Samuel, and exhibited as RES/2. In the carrier bag, PC Nicholls found what he considered to be a bullet. The bullet was exhibited as RES/1. A BlackBerry mobile phone was found on the rear passenger seats and exhibited as RES/4.

S42
S42A
S42B
S55
S55A

1090. The yellow cardboard shoe box, photographed in the rear passenger area of the minicab, was not recovered from the minicab at this time. PC Rainford noticed it but he did not retrieve it as he explained that he was searching specifically for ballistic material or damage. PC Rainford moved the cardboard box to the boot to enable him to properly search the carpet in the minicab and he also moved the carpet to the boot to enable him to search the floor itself.

S64B
S164D

1091. During the search of the minicab, at 6.50pm, DSI Sparrow was contacted by IPCC investigators at the scene and informed that there was blood spatter on the nearside of the minicab, contrary to what he had previously been told by the police. DSI Sparrow immediately asked for the vehicle to be preserved and taken to Perivale for forensic examination. When the recovery drivers later attended, they would not initially take the vehicle with its door seals broken, as they operate under strict instructions only to remove sealed vehicles. The IPCC investigators at the scene gave the recovery drivers instructions and permission to remove the vehicle as it was and take it to Perivale.

1092. In his evidence to the inquest on 5 November 2013, DC Payne told the

inquest that, on the morning of 5 August 2011, he had arranged for the removal of the minicab from the scene. He described that he had arranged for the removal of the minicab from the scene and then later he received a phone call from DS Hadfield, one of his supervisors, informing him that the minicab was not to leave the scene. He understood that the IPCC had decided that they wanted the minicab searched in situ in order that the owner could have the vehicle back as it was part of his livelihood. DC Payne's evidence was that he objected to this, as he did not think it was a good idea, given the type of incident that had occurred but, despite indicating his view, he was told that the vehicle had to be returned to the scene. Accordingly he made the arrangements for this. DC Payne indicated that he left the scene at about the time that it was actually being searched or just before it was searched.

1093. DC Payne said at the inquest that it had been his understanding that the type of search to be conducted on the minicab whilst it was at the scene was a PoISA search, rather than a full forensic search. His evidence was that this was the only reasonable meaning of a "search" that was to take place at the scene, as the purpose of removing a vehicle to Perivale would have been to do a full forensic search of the vehicle.
1094. DC Payne told the inquest that:
- The benefit in taking the Toyota to Perivale would have been that it has an indoor facility specifically designed for the examination of a vehicle. Returning the vehicle to the scene was not a decision that he agreed with but he could do nothing about this as it was an IPCC decision. He did not recall whether the IPCC had directed only that there be a PoISA search of the inside of the vehicle as opposed to a full forensic examination;
 - He was still in Ferry Lane when the vehicle was returned but he did not know what the extent of the search carried out afterwards was;
 - The IPCC did not contact DC Payne to tell him that they had sent the car back to the scene; and
 - When he left, he handed the scene over to DC Samuel who was the Exhibits Officer who in fact logged what was taken from the vehicle at the time there was the PoISA search.
1095. DC Samuel gave evidence to the inquest on 6 November 2013. As to **her role**, she confirmed that on 5 August 2011 she was the Exhibits Officer on behalf of the DPS and she took over from DC Payne when she arrived at the scene. She said that her role as the Exhibits Officer was to offer support to the IPCC. Her evidence was that it was DSI

Sparrow of the IPCC who was responsible for the crime scene when DC Samuel attended as Exhibits Officer.

1096. In terms of **her briefing** that she received from DC Payne on handover, DC Samuel was told the cordon parameters, the areas which had already been searched by the PoISA teams and the areas that were yet to be searched. DC Samuel said that DC Payne explained the exact location from where shots had been fired, which was evident from the blood on the pavement. DC Samuel was introduced to IPCC representatives at the scene and to Inspector Mugglestone from PoISA. She was informed that the PoISA teams had a search strategy as decided by the IPCC.
1097. In respect of the **minicab**, DC Samuel said that she was not given any indication that a box in the minicab was of any importance. Her evidence was that she was told by the PoISA officers that there was blood spatter on the outside door of the minicab towards the end of their search of the minicab. It became obvious to her, she said, that it would be necessary to do forensic testing of this, and she passed that information onto the IPCC which is recorded in her notes. The IPCC then made the decision that the vehicle would be forensically lifted for the second time.
1098. DC Samuel said that the PoISA officers brought some items from the minicab to her attention but did not say that they had moved the seats around, or that they had moved anything from the minicab to the boot, which would have been relevant to her. Her role, she said, was not to get into the minicab but she stood on the pavement looking at the cab.
1099. DC Samuel said that an orange Sainsbury's plastic bag in which a bullet was found was brought to her attention: the bag was brought to DC Samuel's attention just outside the minicab but "*literally just at the door of the minicab*". She said that the officer lifted the bullet from the minicab to just outside it to show it to her, so that she did not have to enter the minicab. She suspected at that point, she said, that she may have been able to see a bullet in it. It was seized at that point. A BlackBerry mobile phone (RES/4) was also seized from the vehicle, she said. DC Samuel said that the Sainsbury's bag was found behind two seats in the minicab and the mobile phone was on the middle bank of seats though she could not say which way the seats were facing.
1100. DC Samuel agreed that, once it was realised that there was blood spatter around the door and sill of the minicab and the forensic tests were due to be done, it became particularly important to know whether anything had been moved around inside the minicab, like the seats or from the inside of the minicab to the boot. It also concerned her, she

said, that it was going to rain, which was why she informed the IPCC about the blood spatter.

1101. PC Steven Rainford gave evidence to the inquest on 5 November 2013. He explained that, on 5 August 2011, he had been a search officer at Ferry Lane.

1102. PC Rainford said in his evidence that:

- The search team that he is part is a specialist body;
- Whilst they are part of the investigation as they are obtaining evidence, they are separate from the investigation team;
- The team is given the facts by the investigating officer;
- The briefing on this particular occasion was the same as any other, in that there was a briefing sheet supplied with the facts as they were known and the items sought;
- The search officers do have a certain level of discretion, if they find something that may be relevant that has not been mentioned;
- An item found in the vehicle in the course of the search is flagged to the attention of the Exhibits Officer and is then looked at by him or her who deems it to be relevant or not relevant, and then it is either seized or left;
- It was his understanding that the scope of the investigation was being determined by the IPCC.

1103. In terms of his knowledge prior to commencing his search, PC Rainford said:

- He was not told at the stage of doing his initial search that the box inside the minicab was of interest and it did not occur to him that it would be;
- At the time PC Rainford did know that the minicab had been taken away and then brought back to the scene but he was not told why that had happened. He suspected that questions might have been asked by Inspector Mugglestone or possibly one of the sergeants;
- He was not shown any record or descriptions relating to the minicab before starting the search, and nothing which indicated what had happened to the minicab before;
- He was not concerned to check whether the minicab had been photographed prior to the search being commenced, as he was following instructions, and was “*almost an agent*”;
- PC Rainford did not know whether the shooting had taken place

inside or outside of the minicab. What he could recall that he had been told about the minicab was that it had been used to convey Mr Duggan to the location;

- During the briefing there was no debate at all about how the gun said to be in Mr Duggan's possession had come to be at the scene.

1104. In terms of his **work on 5 August 2011**, PC Rainford's evidence was as follows:

- PC Rainford said that he had arrived at the scene at 4.52pm, searched the vehicle until 8.35pm and left the scene at 9.00pm. He confirmed that at no stage was he told that the gun had been collected in a box and that the minicab driver had told this to an officer at the scene;
- In order to conduct the search, he and his colleague had to move the seats around in the vehicle and the seats were moved to face forwards and then backwards a number of times;
- The rug was taken out of the vehicle and placed onto a sterile sheet so the rest of the vehicle could be searched;
- The box was taken out of the car;
- After the items came out of the car, PC Rainford's team had problems refitting some of the items and, as such, they were placed in the searched boot space;
- The Exhibits Officer, DC Samuel, was kept informed about what PC Rainford's team had done. PC Rainford did not know whether she had been specifically told that the seats had been moved, but she was told that the box and rug were moved to the boot;
- In response to a question from the Assistant Coroner, PC Rainford said that what they were actually looking for when he carried out the search was bullets, fragmented pieces and any firearms related material. He confirmed that he had searched the boot for firearm related material;
- Overall, he had systematically searched the vehicle for about three hours;
- Inside the minicab, he did not recall seeing any damage to any other parts of the seats other than a view dents and he did not see any blood visible to the eye on the inside of the vehicle. He confirmed that he was looking for blood. He recalled that his colleague pointed out some blood on the external side of the doors, but he was unaware of whether any person dealing with blood spatter analysis/blood sampling had carried out any forensic work at that

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stage;

- PC Rainford and his colleague did not put the seats in the vehicle back to how they had found them. This is usual practice;
- He did find a BlackBerry in the vehicle but he could recall whereabouts, although he thought it was in the front passenger side. It was the responsibility of the Exhibits Officer to record where it was found;
- His colleague PC Nicholls found a bullet which PC Rainford thought was in the orange carrier bag. PC Rainford did not see him find it although they discussed it after it was found. The plastic bag did end up as an exhibit because it had a firearms related item in it;
- PC Rainford told the inquest that, when he carried out the search, he was wearing double layered latex gloves, which are standard, and then a Tyvek suit and overshoes. The search was carried out as normal and care was taken when moving items to ensure that there was not cross-contamination. He said that he looked inside and underneath everything. He said that he did change his gloves constantly but he would not necessarily have changed his gloves between the touching of two items, such as the box and the rug, which he thought to be irrelevant. If there had been gunshot residue on the carpet, for example, this could “*potentially*” have been transferred onto the box by PC Rainford’s gloves;
- If anyone had appreciated that the box or the carpet was significant, it would have ended up as an exhibit. There was nothing about the box that brought it particularly to PC Rainford’s attention.

1105. PC Rainford said that it was a little surprising that the vehicle was not to be searched at Perivale as that was where forensic examination was normally carried out.

1106. PC Scott Nicholls gave evidence to the inquest on 6 November 2013. He confirmed that on 5 August 2011 he was a search officer at Ferry Lane and was tasked as one of two officers to search the inside of the minicab (working with PC Rainford).

1107. In terms of **how the search was done**, PC Nicholls explained that:

- When conducting the search, he understood that he was tasked to look for items that may be relevant, which were along the lines of things like ballistics, markings, bullets etc., but things like boxes were not flagged as being significant;
- PoISA searching would normally be one of the last stages of a forensic exercise;

- The car was searched systematically – the engine, the outside, the underneath, the boot and the inside. Each one of these five stages is broken down;
- Anything that was in the car, e.g. in the plastic bag, would not have been taken round to the boot;
- He would have tried to put things back as they were when he found them but this is not always possible;
- On this occasion he was in the car or looking at the car for some two and half hours;
- When he arrived at the scene, he was aware that he was dealing with a fatal shooting but he did not know whether the shooting had occurred inside or outside the vehicle;
- When conducting a PoISA search, it is not every single item found in the car that will be brought to the attention of the Exhibits Officer, but items which he has been told to look for or which he considers are relevant;
- He could not think of anything about a box that would have brought itself to his attention as being related to firearms, shells, bullets or ballistics;
- He believed it was the IPCC who had made the decision to bring the minicab back to the scene after it had been sent off to Perivale;
- When conducting a PoISA search, it is an important part of that type of search that you must systematically search everything, regardless of changing things around in the car. Forensic searches would have been done beforehand, usually, but it appears that here no forensic search had been carried out first; and
- He was not wearing a forensic suit or anything like that – he was just doing what he was told to do in searching the car.

1108. PC Nicholls was asked in particular about **the bullet found in the orange plastic bag**. As to this, he said:

- He had noted the presence of the plastic bag before going into the minicab to conduct the search;
- He believed the plastic bag was searched just outside the minicab, as the space within the minicab was confined;
- He was in no doubt that the bullet was in the bag;
- He thought that the mouth of the bag was open before he got to it, as he could see that there were other items inside the bag. He

could not recall what those other items were, but he did remember that the bullet was the last thing he saw. He accepted that it was possible that the bullet could have been somewhere towards the top of the bag and was dislodged by him moving it; and

- He could not recall whether the carrier bag had any damage to it.
1109. PC Nicholls was also asked about **the box in the minicab**. He could not recall this. He accepted that a box in the minicab would be the sort of place to look for bullets, but he had no recollection of the box being in the vehicle.
1110. Of **the mobile phone found in the minicab**, PC Nicholls said that this was found between the two rear seats that were immediately behind the driver and front passenger seats, but not on the seat.
1111. Sergeant Christopher Hannigan gave his evidence to the inquest on 6 November 2013. He confirmed that, on 5 August 2011, he was the leader of the PoISA team. Sgt Hannigan confirmed that he had done a number of searches before this one. He acknowledged that the search did go wider than looking just for bullets or shells or firearms material, in that items such as mobile phones were found. He explained that if the search officers found something in their area of note, they would point it out either to him or the Exhibits Officer.
1112. Sgt Hannigan said that it was A/DI Suggett who gave the PoISA its powers of search and set out what they are actually looking for.
1113. He explained that he had kept a **search record** in which, under the heading "*Object of Search*", he had written, "*Bullets, shells. Firearm material.*" He explained that normally he would be given a briefing sheet from the officer in the case, but on this occasion this did not happen, so he was given the objectives of the search verbally by A/DI Suggett.
1114. As to the **cardboard box**, Sgt Hannigan said that he would have expected the cardboard box to have been brought to the attention of the Exhibits Officer if there was something in it, or if there was something otherwise significant about it, it would have been a matter for the two officers that he tasked to search the vehicle. He said that the cardboard box was not brought to his attention.
1115. Sgt Hannigan explained that it was his expectation that they should leave the search area better than when they left it, meaning that items should be put back, not taken out and left in situ. It was to be expected, he said, that the end result would look pretty much like the beginning.

1116. PC Paul Fitzgibbon gave evidence to the inquest on 11 November 2013. He was a Police Constable in August 2011 and attended the Ferry Lane scene as a search officer on 5 August 2011.
1117. PC Fitzgibbon said that he was asked to **search the road next to and the outside of the Toyota minicab**. He said that, while searching the area around it, he found on the passenger door a small blood spattering which he pointed out to DC Payne. He said that he was not asked to search the inside of the Toyota because, at that particular point in time, the vehicle was going to be removed to Perivale for a forensic search. PC Fitzgibbon said that he was looking under the vehicle to see if he could find anything, such as cartridges, and at the outside to see if there were any marks or blemishes that could assist with the forensics. This included the open rear door on the nearside.
- S95 1118. On 9 August 2011, Mr Andrew Bell, from the Evidence Recovery Unit (ERU) employed by the Metropolitan Police Service, attended Perivale to examine the blood spatter on the minicab. He conducted the examination in the presence of IPCC Investigator Gareth Jones. Mr Jones noticed a cardboard box in the centre of the boot of the minicab that day.
- S99
S99A
D765 1119. The photography carried out during the examination shows the location of the blood spatter on the nearside of the minicab, predominantly on the rear sliding door. The photography also captured the yellow cardboard shoebox in the centre of the boot.
- S95 1120. In a statement dated 30 September 2011, Mr Bell reported that he found bloodstains and spots of blood on the near side passenger doors, predominantly on the sliding door and one bloodstain on the front passenger door. He could not determine a specific action that would have created the spots of blood. However, he commented that a spot of blood indicated that the blood was airborne before being deposited. Samples AGB/1 and AGB/2 were taken of the bloodstains on the sliding passenger door.
1121. He also found a sub-millimetre stain that tested positive with a presumptive test for blood, on a plastic seal beneath the footplate of the door frame of the rear passenger section of the minicab, which would only be exposed if the sliding door was open. He concluded that the sliding door would have had to have been open at least 26 centimetres for the apparent spot of blood to have been deposited. This stain was sampled as AGB/3.
- D6
S30 1122. On 11 August 2011, the existence and the potential significance of the cardboard box were identified by the investigation team. DSI Sparrow

held a briefing for IPCC Investigators and an Investigator summarised the content of each of the CO19 officer statements dated 7 August 2011, which he had spent the previous days reading. This included a reference in R68's statement to the minicab driver telling him Mr Duggan had collected a box.

S69
S139
S142

1123. In his evidence to the inquest given on 4 November 2013, Investigator Gareth Jones confirmed he had had been asked by DSI Sparrow to seize the box for forensic examination. Mr Jones did this on 11 August 2011 when he attended Perivale and seized the box from the boot of the minicab. Mr Jones explained that he had also visited Perivale on 9 August 2011 and looked in the boot but that he could not remember the position of the box because at that stage he was unaware that it had any significance. When Mr Jones seized the box, he observed that it had been moved to the left hand-side of the boot. Enquiries established that it might have been moved by the staff at Perivale during a routine check of the content of vehicles before they are released. Mr Jones exhibited the yellow River Island shoebox as GAJ/1.
1124. Mr Paul Martin gave evidence to the inquest on 7 November 2013. He explained that, in 2011, he was a forensic vehicle pound officer working for the MPS at Perivale. He explained that the facility at Perivale is a storage site for cars that are seized by the police, so vehicles are held until they are released. Some parts of it are under cover, and some parts are not, he said. He told the inquest that forensic examinations take place there.
1125. Mr Martin told the inquest of his **first dealings with the minicab on 9 August 2011**. His task was to search the vehicle, once it had had its forensic searches done, and then move it pending release back to the keeper or insurance company. This involved, he said, searching with a colleague through the car, from front to back, looking for any sort of valuable items which they would remove for safekeeping. They would also, he said, check the identity of the car. He explained that the purpose of separating the belongings from the vehicle was because some cars are restored back to insurance companies, so the belongings can go separately back to the owner if necessary.
1126. Mr Martin confirmed that the vehicle recovery form confirmed that the forensic examination of the minicab was complete by 12.40 on 9 August 2011. Mr Martin did not know who completed that examination. His own search was not a forensic, ballistic or PoSA search; rather, he was looking for valuables, not anything to do with the investigation in this case.
1127. As to **items in the minicab**, Mr Martin said that he took out a satellite

navigation system of the Tom Tom brand that was in the front of the car. He did not recall there being a box in the car at all. He said that if it had been there, he would have looked inside it. He confirmed that he searched through all of the car, including the boot.

1128. He said that the vehicle was collected by its owner on 16 August 2011 at 7.39pm.

Examination of Metropolitan Police Vehicles

D79
D252

1129. The IPCC requested the police vehicles to be preserved and held securely so that they could be examined. The vehicles were removed from the scene. This was carried out on 5 August 2011 in the presence of an IPCC investigator. No blood or relevant damage was identified on the vehicles.

1130. The IPCC also made enquiries about any possible equipment that may have been fitted in the police vehicles. According to Chief Inspector Adams, a senior member of MPS CO19, the vehicles used in the MASTS operation were not fitted with any mobile data terminals, nor were they fitted with any cameras (see Recommendations 3 & 4).

S11B

1131. The IPCC made enquiries with the senior management of SCD8 to obtain recordings of the radio channels used during the operation. In a statement dated 14 March 2012, ZZ75 stated that the covert radio channel (named Sepura) used to communicate the command and control of the surveillance operation was not recorded. He said that no live operations had been recorded since 2007. Superintendent Dowe, who was the second PIM on duty on 4 August 2011, gave evidence to the inquest on 29 October 2013. He said that radio transmissions in CO19 vehicles are not generally recorded, partly because of expense considerations but also because of the practicalities involved (see provisional recommendation 2).

Chapter 8 – Forensic Evidence

1132. This chapter sets out the forensic evidence that has been obtained by the IPCC and by others following Mr Duggan's death. It also sets out the key points arising from the evidence given by forensic expert witnesses at the criminal trials and/or the inquest.

1133. The witnesses covered are:

- Dr Simon Poole, Pathologist;
- Professor Derrick Pounder, Pathologist;
- Mr Michael Vaughan, Firearms Expert;
- Mr Franco Tomei, Firearms Expert;
- Ms Angela Shaw, Gunshot Residue Expert;
- Ms Saranjeet Khera, DNA Profiling Expert;
- Ms Anne Marie O'Connor, Fibres Expert;
- Mr John Slaughter, Toxicologist;
- Mr Desmond Vanhinsbergh, DNA Profiling Expert;
- Dr Philip Seaman, Firearms Expert and Biologist;
- Mr Andrew Bell, Senior Forensic Scientist;
- Ms Jacqueline Landais, Finger, Thumb and Palm Print Expert;
- Mr Ian Richards, Forensic Photographer and Fingerprint Development Specialist;
- Professor Robert Forrest, Chartered Chemist;
- Professor Colonel Jonathan Clasper, Bioengineering expert; and
- Mr Clive Burchett, Imagery Expert.

Dr Simon Poole – Pathologist

1134. On 5 August 2011, Dr Simon Poole conducted the post-mortem examination of Mr Duggan at Haringey Mortuary. Dr Poole was the Home Office pathologist appointed to conduct the post-mortem on behalf of the Coroner.

D8
S166
S166B
D1032

1135. Dr Poole has provided the following evidence:

- A preliminary report, dated 8 August 2011, where Dr Poole gave the provisional cause of death as *"1a. Gunshot wound to the*

chest.”;

- His full post-mortem report, dated 6 March 2012, with a short supplementary statement dated 7 March 2012 correcting minor factual errors from the statement of 6 March 2012;
- A statement dated 19 December 2012;
- A further statement dated 24 December 2012; and
- Dr Poole gave evidence at the second – but not the first – trial of Mr Hutchinson-Foster on 17 January 2013. The IPCC has reviewed the transcript of his evidence and considers that it is broadly consistent with Dr Poole’s written statements.

S166

1136. In his full post-mortem report of 6 March 2012, Dr Poole described the gunshot wounds that Mr Duggan received. The key features of those injuries are:

- ***Injury to Mr Duggan’s chest:*** A puncture laceration (entry wound) on the front and right-hand side of the chest, 8mm above the upper margin of the thoracotomy incision (i.e. the cut to the chest made while CPR was being carried out on Mr Duggan). This was located 149cm above the height of the heel and 12.5cm from the midline. The wound was transversely oriented, ellipsoid and measured 12 x 6mm. The injury tracked front to back, right to left and downwards, for an approximate distance of 300mm. A reniform, puncture laceration (exit wound) was found on the left-hand side of the back, 124cm above the height of the heel and 7.5cm from the midline. The fourth right rib, the lungs and thoracic aorta had been damaged in the course of the wound, with the exit going through the 10th intercostal space. Dr Poole describes this as ‘injury 1.1’;
- ***Injury to Mr Duggan’s right arm:*** Two communicating wounds to the proximal upper right arm. The uppermost injury was found 144cm above the height of the heel and comprised a puncture laceration (entry wound), 16 x 9 mm with an ellipsoid appearance. The wound tunnelled superficially for 35mm and communicated with another injury, 141cm above the height of the heel, which measured 28 x 20cm. The injury tracked right to left, downwards and slightly front to back, and appeared related to a partial thickness laceration on the right lateral chest wall: that injury had two skin flaps, which measured 20 x 16mm and 12 x 2mm. The injury was 134cm above the height of the heel and 24cm from the midline. No penetration of the chest wall was found. Dr Poole described this as ‘injury 1.2’;

1137. Dr Poole commented that the wound tracks he identified were consistent with the passage of two projectiles through Mr Duggan’s

chest and right arm. Injury 1.1 was fatal and was associated with a laceration to the descending section of the thoracic aorta. In Dr Poole's view it was unlikely that Mr Duggan could have survived injury 1.1, even with immediate first aid, CPR and cardiothoracic surgery. The wounds to the right arm and chest wall (i.e. injury 1.2) were not, however, life-threatening. Dr Poole said that he was not able – from a purely pathological perspective – to indicate the order in which the gunshot injuries were sustained.

S166B

1138. The statement provided by Dr Poole on 19 December 2012 was prompted by questions from Mr Edward Brown QC, counsel acting for the Prosecution in the trial of Mr Hutchinson-Foster. Dr Poole was given the evidence provided to date by Professor Clasper and asked to comment. As will be seen below, Professor Clasper had given evidence about the position of Mr Duggan's upper and lower arm at the time that he was shot in the upper arm. It was Professor Clasper's view that, because of the nature of the wound to the side of the chest, it would suggest that Mr Duggan's right upper arm was held relatively close to the chest, and that his shoulder was rotated inwards, meaning that his hand was across his body.
1139. By contrast, Dr Poole felt that the upper arm could have been in a variety of alternative positions (i.e. not necessarily close to his chest) essentially for two reasons: first, because of the very wide range of combined movements available at the shoulder girdle and trunk and, second, because of the possibility of rotary forearm movements, and the facts that these actions have little effect on the position of the upper arm. He could not therefore predict the position of the hand and lower arm (in relation to the upper arm) at the time of injury. He concluded, *"I am not able, from a purely pathological perspective, to reliably predict the position of the lower arm in relation to the upper at the moment in question."* This was the view that he re-iterated in his oral evidence at the second trial of Mr Hutchinson-Foster on 17 January 2013.
1140. Dr Poole gave evidence to the inquest on 13 and 14 November 2013. He formally confirmed to the inquest that the cause of Mr Duggan's death was gunshot wound to the chest. On the morning of 14 November 2013, Dr Poole had discussed matters with the other Pathologist, Professor Pounder, and they had achieved a large measure of agreement.
1141. Dr Poole confirmed his qualifications and experience as follows:
- He has been a Home Office Pathologist since 2007;
 - He obtained a first class Honours Degree in Bachelor of Science

and has a Bachelor of Medicine and Surgery;

- He has a diploma in medical jurisprudence and pathology;
- Before becoming a Home Office pathologist, he practised general histopathology for 14 years, performing post-mortems for coroners;
- He has co-authored a number of publications;
- He agreed with the assessment that he is an experienced Home Office pathologist.

1142. Further to Dr Poole's statements, he explained the following features in respect of the fatal chest injury:

- Mr Duggan had been subjected to a thoracotomy and Dr Poole agreed that this would have affected one of his measurements, namely the heel height of the injury which he had given in his report as 149cm above the height of the heel. (Dr Poole had given a statement dealing with the effect of the thoracotomy on 24 December 2012). The reason that this measurement would have been affected is that, when the skin is cut and the bones and muscles of the chest walls are divided in order to gain access to the vital organs in an attempt to save somebody's life, those tissues spring apart naturally. The entry wound on the right-hand side of Mr Duggan's chest was above the level of the surgical cut, so the height of the heel would have been exaggerated as a result of that surgical intervention. In this way, Dr Poole explained, the heel height would not in fact have been 149 cm;
- The wound track of the injury to Mr Duggan's chest was right to left, downwards and front to back. An approximate estimate for the downward track, given the difficulty caused by the thoracotomy, was around 45 degrees;
- The exit wound for the chest injury was 'reniform', which is a medical term for kidney shaped. Dr Poole said that an analogy for the exit wound would be a kidney bean, with the long axis orientated upwards rather than horizontally;
- In the course of the chest wound, the structures damaged were the bone of the right fourth rib, the middle lobe of the right lung, the lower lobe of the right lung, the thoracic aorta and the lower lobe of the left lung; the exit wound was then through the tenth intercostal space. Dr Poole explained that this was the fatal wound because of the damage to the thoracic aorta. This is the major structure which was damaged in the course of the bullet track. The aorta is the largest artery in the body, conveying blood with oxygen at very high pressure. If it is ruptured, blood can leak out very quickly and loss of blood is likely to have been very rapid. The damage to the

S166C

aorta was large, in that it was in excess of six centimetres in maximum dimension;

- The bleeding would have occurred instantaneously at a high rate, though Dr Poole could not specify the rate. He thought that loss of consciousness would have ensued fairly rapidly – perhaps in the order of four to ten seconds – after the wound was sustained;
- In his view it was extremely unlikely that anything could then have been done under any circumstance to save Mr Duggan's life.

1143. In relation to the wound to the right arm, Dr Poole's evidence was:

- There were two communicating wounds on the right arm – i.e. there was an entry and an exit wound which joined up;
- This injury was 144cm up, a puncture laceration and ellipsoid;
- This injury was just under the surface of the skin and was a relatively superficial injury;
- There was then another injury on the arm, and a bridge of abrasion between the two skin wounds. This appeared related to a partial thickness laceration on the right lateral chest wall. Dr Poole's view was that each of these injuries resulted from the passage of a bullet. They can all be collectively linked to one projectile moving through the arm, so that it went in the arm, out of the arm and grazed the outside wall of the chest. It did not penetrate the chest, but just grazed the outer surface;
- He accepted it would be possible that the superficial chest injury had in fact been caused by the bullet causing a slap of the clothing against the chest.

1144. Dr Poole made the following further comments on the injuries as follows:

- The two wound tracks were consistent with the passage of two projectiles through Mr Duggan's chest and right arm;
- He had recorded in his report that he had been told that the two discharges occurred in rapid succession via a double tap. He believed that he would have been told this in the initial briefing, which is a discussion between the pathologist and the investigating personnel before an autopsy starts. This would have been, therefore, information provided to the pathologist at the start of the examination and an investigation, and is of course of a very preliminary nature by its timing;
- From a purely pathological perspective, he was not able to indicate

the order in which the gunshots were fired.

1145. Dr Poole was asked about a number of matters which came out of the trials of Mr Hutchinson-Foster. This touched upon other experts' evidence, which is set out further below. Dr Poole's evidence was:

- Dr Poole considered whether it was possible to make an accurate reconstruction of where Mr Duggan's upper arm and lower arm were each positioned at the time that V53 shot Mr Duggan in the upper arm. Dr Poole's view was that, due to the very wide range of combined movements available at the shoulder, girdle and trunk, the upper arm could have been in a variety of positions and not necessarily close to his chest when the bullet made contact with the skin. This was in contrast to Professor Clasper's view that the upper arm was close to the chest at this point and that the elbow was bent;
- Dr Poole acknowledged that he did not dissect the upper arm and that, in a post-mortem conducted on behalf of the family by Professor Pounder, there was such a dissection which discovered that the bicep muscle was actually rather more damaged than it appeared to be. He recognised that it was Professor Pounder's view that the damage demonstrated that the muscle was in tension when it was shot, suggesting in turn that the elbow was crooked, but that this was not his view. Dr Poole said that he did not understand Professor Pounder's reasoning on this particular point. Dr Poole's evidence continued:

Transcript
13.11.
13,
p.181,
lines
21-25

THE ASSISTANT CORONER: What is your view?

A. My view is that I simply don't know how you can tell with any degree of certainty what the state of tension or otherwise of that particular muscle would have been at the point of injury.

Transcript
14.11.
13,
p.29,
line 12

- In response to a later question from Mr Mansfield QC, Dr Poole agreed it was "*possible*" that the muscle was contracted at the time;
- Dr Poole said he was unable to predict the precise position of the hand and the forearm in relation to the upper arm at the time the injury was sustained. The reason for this was because the degree of movement around the elbow joint is very large.

1146. In response to questions from Mr Mansfield QC, Dr Poole's evidence in relation to the chest injury was as follows:

- If Mr Duggan had a gun in his hand and was shot in the chest, Dr Poole was not able to say whether he would have continued holding the gun or dropped it – he did not know. He accepted that,

if Mr Duggan was holding it at the point at which he was virtually collapsing forward, then one of the most obvious repercussions would have been that it was dropped there and then;

- He agreed that the downward track of the chest injury in Mr Duggan's body meant that either the firer was firing down or Mr Duggan's body was bent forward. Given that the shooter was on the same pavement as Mr Duggan, Dr Poole accepted that Mr Duggan was substantially bent forward and suggested that the weapon was directed downwards slightly as well and that Mr Duggan being upright was not consistent with the injury;
- When Dr Poole conducted the post-mortem, Mr Duggan's body had been stripped away for him to look and so, considering also the emergency surgery to the chest, the body was not in exactly the same shape as it was originally once Dr Poole looked at it.

1147. Still in answer to question from Mr Mansfield QC, Dr Poole's evidence in respect of the arm injury was as follows:

- Dr Poole agreed that the track of the arm injury was very different from the track of the chest injury and that, for the arm injury to have occurred as it did, Mr Duggan must have been pretty well standing up as the track runs parallel to the pavement;
- He acknowledged that Professor Pounder measured the distances slightly differently from the way that he measured them. Dr Poole often referred to heel heights and he believed that Professor Pounder used the top of the shoulder;
- Dr Poole agreed that, if the arm muscle was contracted at the time that Mr Duggan was shot in the arm, one of the repercussions would be that his arm was bent, to some degree. However, he stressed that it is hard to predict what the functional result of the injury would be on the movement of the arm. He could speculate as to the margin of the bending of the elbow;
- To be able to line up the entry and exit wounds on the arm, the arm would have to rotate medially, i.e. in towards the body, but not necessarily in front of the body. The two natural positions would be either with the arm to the rear of the body or with the arm to the side of the body; and
- Mr Duggan's clothing had been removed when Dr Poole conducted the post-mortem. He agreed it was a reasonable inference that Mr Duggan's puffer jacket would have had an effect on the ability to move the arm in the usual way and he agreed that the result of the arm injury would in normal circumstances be "*severe pain*".

14.11.
13,
p.33,
lines
13-14

1148. In response to questions from Mr Stern QC, Dr Poole's evidence was:

- He found Mr Duggan's height to be 178cm tall (5 ft 10) and of slim build, weighing just under 11 stone;
- The shot to Mr Duggan's arm would in his opinion have been survivable;
- The height of the entry wound of the chest injury was 149cm measured from the height of the heel with the body supine but, given the effect of the thoracotomy, the height of the chest wound may have been somewhere between 136.8cm and 149cm (between 4 ft 6 to 4 ft 10 or thereabouts);
- The exit wound for the chest injury was less prone to error because the thoracotomy was at the front of the chest and the anatomy at the back was relatively undisturbed. This was 124cm (4 ft 1). He agreed that if the entry wound was in fact 4 ft 6 and the exit wound was 4 ft 1 then the angle would not be quite as deep as 45 degrees. He could not put a precise degree on it but it would be less steep if the entry wound was lower. He could not give any sort of estimate but agreed that the difference of about five inches as opposed to nine inches was a considerable difference;
- The injury to the arm was at a heel height of 144cm (about 4 ft 9) and this would have been relatively unaffected by the thoracotomy. The communication with the other injury took place at about 141cm or about 4 ft 8 from the heel. He agreed that the injury to the bicep had a slight right to left track and he accepted the downward angle suggested by Professor Pounder of about 15 degrees for this injury;
- He agreed that, because the entry and exit wounds for the arm injury and the chest graze were all related, the reasonable inference was that the upper arm must have been close to the chest graze. He also agreed that there could have been a slight drop in the shoulder, to align up the arm injury to the graze, and the upper arm could have been slightly forward of the chest graze;
- In relation to the muscle in the bicep, Dr Poole agreed that what had been found would be consistent with the lower part of the arm being horizontal across the chest to some extent. It would be more consistent if the muscle in the bicep was in a state of tension, for it to be across or horizontal to the body, rather than vertical;
- The extent of the effect of the gunshot wound to the arm is unknown and cannot be decided pathologically. He accepted that survivors in an adrenaline state have described not knowing that they have been shot;

- It would still be possible to move the arm, albeit that the arm injury would be painful;
- Dr Poole considered it beyond his realm of expertise as a pathologist and beyond his state of experience to be able to give evidence in relation to the order of the shots fired and the order of the injuries. He could not comment on what Mr Duggan was doing and whether he could have thrown the gun or not.

Transcript
14.11.
13,
p.45,
line 4
to
p.46,
line 7

1149. In respect of the position of Mr Duggan's arm, the exchange between Mr Stern QC and Dr Poole continued as follows:

Q. You've told us, I think, that it is not possible to make or provide a reliable answer to the question of where Mark Duggan's lower arm was once he had been shot in the arm?

A. Yes. I can't give a precise indication as to his posture.

Q. What we can say is that the top part, or the upper arm, was rotated more inwardly --

A. Yes, I accept that.

Q. -- that it's likely that he was down, to some extent --

A. Yes.

Q. -- or the arm was slightly down --

A. Yes.

Q. -- and that if the muscle -- I'm using the wrong word -- if the muscle was -- tension -- then it's likely that the arm was across the -- in some way, across the body?

A. Yes, that would be consistent.

Q. But the lower arm, how independent -- and the hand -- you demonstrated the hand but what about the lower arm?

A. The lower arm -- it's purely on pathology, it's not possible to be dogmatic about the relative of the joints. As I indicated yesterday, the elbow, or rather the lower arm and the hand has a large degree of independent movement from the upper arm, so purely on a medical perspective it's very hard to indicate the positions.

Q. No, I understand that. Did you say it's independent?

A. Well, they are obviously joined and linked but the degree of functional movement is quite independent.

Transcript
14.11.
13,
p.48,

1150. As to Mr Duggan's movements after being shot, Dr Poole's evidence, still in answer to questions from Mr Stern QC, was:

lines 1
- 23

- Q. Would it have been possible for him to continue moving in a fairly ordered fashion following having been shot in the chest?
- A. I think in general terms, a surprising degree of post-injury activity is recognised. From a pathological perspective, it's actually quite unusual for people to die instantly following a wound, even of that severity. So perhaps I can say in my answer that a degree of post-injury activity such as movement, voluntary movement, would be possible after a wound of that kind, although I would always defer to any witness evidence with respect to the degree of activity or collapse after injury. I think that would be a far better indication.
- Q. Witness evidence, as opposed to expert evidence, do you mean?
- A. Yes, eyewitness evidence.
- Q. Eyewitness evidence, yes. So you said that someone would not begin to lose consciousness, if I have understood your evidence correctly, somewhere between four and ten seconds?
- A. They might not do.
- Q. They could carry on presumably for longer?
- A. Yes, yes.

1151. Dr Poole was shown a photograph marked with a black spot by a blood spatter expert to indicate where they thought Mr Duggan was located when he was shot. Dr Poole agreed it was a reasonable inference that Mr Duggan was level with where the black spot was. In relation to the distance from the black spot to where the first aid was given, Dr Poole said that this appeared to be a very short distance which somebody could potentially stagger after having been shot or take a few voluntary steps.

Professor Derrick Pounder - Pathologist

1152. Professor Pounder conducted a second post-mortem examination on 19 August 2011 at the request of Mr Duggan's family.

1153. The IPCC provided material to assist Professor Pounder with his examination. The IPCC was not informed of Professor Pounder's preliminary findings nor provided with any material originating from him until 13 May 2013.

D1204

1154. On 13 May 2013, the IPCC provided a draft copy of this IPCC report to

the Coroner via his legal team. At this meeting the Coroner's legal team informed the IPCC that it possessed a copy of a letter, dated 9 October 2012, from Professor Pounder and addressed to the family's solicitors (Birnberg Peirce and Partners). Following the meeting, the Coroner's solicitor forwarded a copy of the letter to the IPCC. The letter gave Professor Pounder's initial findings and opinions flowing from both post-mortems, his viewing of the place of death, the police statements and other ancillary information. In particular the letter included his views about the positioning of Mr Duggan's right arm when struck by a bullet and the possible effect of this bullet on the arm. It gave Professor Pounder's view on the positioning of Mr Duggan's body when a bullet struck his chest. The content of the letter suggested that Professor Pounder may have useful expert evidence of value to the IPCC investigation that needed to be finalised in evidential form.

D1340

1155. The IPCC contacted Professor Pounder, provided him with further material that he requested (such as all the statements from the CO19 officers) and he provided the IPCC with a copy of his post-mortem report. On 5 July 2013 Professor Pounder finalised a detailed statement and on 9 July 2013 the IPCC received a copy via the Coroner's legal team. This detailed statement has been provided to other experts (such as Professor Clasper and Dr Poole) for comment and these comments are reproduced in the respective sections of this report for these experts (see above for Dr Poole and below for Professor Clasper).

1156. Professor Pounder is a professor of forensic medicine at the University of Dundee. He has performed medico-legal autopsies since 1975 and has expertise in the forensic pathology of gunshot wounds and in scientific death investigation but is not an expert in firearms or ballistics.

D1340

1157. Professor Pounder explained in his statement that all death investigations require the integration of evidence obtained from the body (including clothing), the scene of death and witness accounts. *"...In particular, injuries to the body must be interpreted in the context of the other evidence. In this case there has been considerable 'contamination' of evidence as a result of the necessary emergency medical treatment and the securing and search of the scene immediately following the death, and this fact needs to be kept in mind."*

1158. *"In gunshot fatalities the questions usually to be answered include, but are not limited to, :- the number of gunshot wounds, the type of weapon and ammunition used, the direction of fire, the range of fire,*

the position of the deceased at the time, the effects of injury and the survival time.”

1159. Professor Pounder outlined his understanding that Mr Duggan exited the nearside sliding passenger door of the minicab and that, after he was shot, his body was lying on the pavement near railings and a wall beyond the rear of the minicab he had exited. He noted that the precise location of the body was unclear because Mr Duggan was moved by medical services staff to facilitate attempts at resuscitation. Professor Pounder noted that Mr Duggan's general line of movement was along the pavement, in the direction of the rear of the minicab and from the kerbside to the inside of the pavement, where there were metal railings with bushes behind and then a contiguous brick wall. He noted that Mr Duggan's overall line of travel was diagonally along the pavement and that the pavement was relatively wide allowing 4 or 5 people to walk abreast.
1160. Professor Pounder stated, *“I understand that within a very short time of exiting the mini cab Mark Duggan was shot twice by one of the police (V53) who were attempting to detain him. The interval between the two shots was thought to be about a second or less.....The ammunition used was 9mm Parabellum jacketed hollow point (JHP) which before adoption by the police had been the subject of extensive ballistics testing with the specific weapon used. The wound ballistics of this type of ammunition (JHP) differs from that of full metal jacket (FMJ) ammunition, which is the type that the military are required to use.”*
1161. *“Two bullets struck Mark Duggan. One of the bullets entered at the front of the chest on the right side just above the nipple and exited at the back on the left side in the area of the lower ribs.”* Professor Pounder made reference to a fired bullet having been found within the mini cab that showed features on ballistic testing which indicated that it was the bullet which had passed through the chest. Professor Pounder referenced the ballistic tests carried out by Dr Seaman (see below). Professor Pounder stated that, *“...The other bullet struck the inside of the right arm in the area of the biceps muscle and exited again close by to then continue on its trajectory beyond and behind Mark Duggan.”* Professor Pounder stated that if only two shots were fired then the bullet that struck the arm must have been the one which struck and embedded itself in the radio worn by W42 who was behind Mr Duggan, *“...There are other reasons to conclude that the bullet which struck the arm of Mark Duggan was the bullet which struck the police radio but the result of ballistics testing makes it unnecessary to elaborate on them.”*
1162. Professor Pounder detailed the effect of the bullet that struck the

chest, *“...The bullet that struck the front of the chest on the right side and exited the left lower back passed downwards in the body at about an angle of 45 [degrees] relative to the upright (vertical). The bullet punched through and fractured a rib but this would not be sufficient to cause such a marked downwards deflection of the bullet. In the general circumstances in which the shooting has taken place (with the shooter, V53, and Mark Duggan with their feet on the pavement), the markedly downward path of the bullet within the chest can only be accounted for by Mark Duggan being bent forward when the bullet struck him.”*

1163. In relation to the bullet that struck the arm, Professor Pounder stated, *“...The bullet which entered the inside of the right upper arm and continued on to strike the radio of the policeman (W42) behind was said to have been fired by a shooter (V53) who was upright (notwithstanding that his knees may have been slightly bent) with the weapon raised to shoulder level. After passing through Mark Duggan’s arm just below the armpit the bullet struck a radio worn in the armpit area by a policeman (W42) who was also standing upright (notwithstanding that his knees may have been slightly bent). The overall trajectory of the bullet implies that when this bullet struck Mark Duggan’s right arm then he was upright also (notwithstanding that his knees may have been slightly bent).”*
1164. *“The policeman (W42) whose radio was hit by the bullet and who was positioned behind Mark Duggan describes seeing Duggan’s jacket exploding, being winded by the bullet striking him, and hearing the gunshot almost simultaneously. This is to be expected since the speed of the bullet is slightly faster than the speed of sound and over the short distance which both the sound of the gunshot and the bullet had to travel there would be a time difference of only a few thousandths of a second between them. The policeman (W42) does not describe hearing another gunshot before this event and such a gunshot would be so loud as to be unmistakable. Therefore it seems reasonable to conclude that it was the first of the two gunshots which struck the arm of Duggan and then the police radio. (As the details of the entire incident are reconstructed it is apparent that only this sequence of shots can be satisfactorily reconciled with the eyewitness evidence.)”*
1165. Professor Pounder goes on to state that, *“...If it is accepted that Mark Duggan was upright when he sustained a first gunshot to the arm and a second or less later he was bent forward when he sustained a second gunshot to the chest, then he was bent forward after the first gunshot and before the second gunshot. The sequence corresponds in general with the information provided in the police statements that he was initially upright and moving along the pavement before being shot*

and then collapsing bent forward.”

1166. In relation to the right arm, Professor Pounder stated, *“The gunshot wound to the right arm was over the biceps muscle and this muscle had been torn by the passage of the bullet. The bullet entered at the front of the inside of the upper arm, passed out at the back of the upper arm and continued under the armpit so that the bullet did not enter the chest. Nevertheless there was an area of injury to the adjacent chest wall involving the full thickness of the skin and exposing the underlying fat, but not extending any deeper. Embedded in this chest injury were fragments of dark fabric corresponding with the clothing (T-shirt). It is unclear whether or not the bullet had ‘grazed’ the skin of the chest, but a likely explanation for this chest wall injury and the damage to the clothing (the T-shirt and puffa jacket) is as a result of the “cavitation effect” produced by the passing bullet with resultant violent movement of the clothing and slapping of the clothing against the chest wall. This “cavitation effect” could account for the “explosion” of the puffa jacket observed by the policeman (W42) positioned behind as well as by others.”*
1167. In relation to the positioning of the right arm when the bullet struck, Professor Pounder stated as follows: *“For both the injury to the biceps muscle and to the adjacent chest wall to have been produced by the passage of a single bullet then the upper arm had to be by the side of the chest, and close to the chest, allowing for the fact that there was a puffa jacket worn. To permit the bullet to pass through the inner side of the upper arm without then striking the chest the position of the entry and exit wounds indicate that the upper arm must have been turned in a specific way, namely medially rotated. The upper arm is medially rotated in a person standing upright with the arm hanging by the side when the back of the hand rather than the palm of the hand faces forwards. However, the arm was not necessarily hanging by the side since the elbow could have been bent in any position so long as the back of the hand was facing more forwards than backwards.”*
1168. Professor Pounder said when the bullet passed through the arm and damaged the biceps it not only produced a localised area of tearing of the muscle but also produced extended tears. He stated, *“The extended tears strongly suggest that the muscle was contracted at the time the bullet struck. The biceps muscle contracts to bend the elbow and therefore and there is an inference that the elbow was bent at the time the bullet struck, although how much it was bent cannot be said. The inference is that the right forearm was across the body with the back of the hand facing relatively forwards at the time the bullet struck. This tends to corroborate the police statements, including that of the shooter (W53) [sic], that Duggan had his right hand across the front of*

his body at the time the first gunshot was initiated. Whatever the precise position of the right arm, Duggan could not have been pointing a weapon forwards when he sustained his gunshot to the arm.”

1169. Professor Pounder continued, *“Thus the evidence suggests that the gunshot to the right upper arm occurred first and that Duggan was upright with the right arm more or less vertical and close to the chest, the elbow bent with the forearm across the body and the back of the hand facing relatively forwards.”*
1170. He stated, *“The effect of the gunshot wound to the arm was to tear the biceps muscle which would have made any further use of that muscle painful. The associated injury to the right side of the chest would have been painful and may have temporarily winded him.”*
1171. *“If it is accepted that the second gunshot was to the chest and that this occurred a second or less after the first gunshot to the arm, and when he was now bent forward, then the bending forward could be accounted for as a response to the chest wall injury. The ballistics examination [Shaw, Tomei and Seaman] of the puffer jacket show that the left lower front corner of the jacket was folded over the area of the right upper chest when the second bullet struck. One possible explanation for this position of the clothing is that Duggan brought his left hand up to the right side of his chest as he bent forward, dragging up the corner of the jacket in the process. (This might account for the impression gained by the shooter – W53 [sic] – that the first bullet struck the chest). The policeman (W70) who brought Mark Duggan to the ground after the two gunshots had been fired describes both the arms as being over the chest immediately before he grabbed the arms to take Duggan to the ground backwards.”*
1172. *“Within the body the gunshot wound to the chest not only passed markedly downwards but also markedly from right side to left side, since it entered above the right nipple but exited in the area of the left lower back. The trajectory of this bullet through the body which is markedly right to left is very different from the trajectory of the bullet to the arm which was more or less front to back under the armpit. By contrast, the overall trajectories of the two bullets from the weapon to their final resting places are closely similar. The first gunshot passed from the shooter (V53) through the arm of Duggan and into the police radio of a policeman (W42) who was standing near the open door of the mini cab. The second gunshot passed from the shooter (V53) through the chest of Duggan and presumably through the open door of the mini cab since the bullet was found inside the undamaged mini cab. All of this suggests that the marked right to left trajectory of the bullet within the chest of Duggan is likely accounted for by his body*

position. One possibility is that when he bent forward he did so markedly to his left turning his torso, or that he stumbled placing his right foot directly in front of his left foot which twists the torso, or a combination of both. This would tend to corroborate information in the police statements that he was bent and stumbling forwards and then falling onto his knees towards the policeman to his left (W70)."

1173. *"The position of Duggan's right arm at the time of the first gunshot can be established to some extent. At the time of the second gunshot the position of the right arm is unknown although it appears that he must have been bent forward and his torso turned or twisted so that his right shoulder was leading. At this time it can be inferred from the damage to the puffer jacket that his left arm was likely over his chest. The injury to the biceps muscle of the right arm may have caused him to move his right arm. If there is acceptance of the statement of (W70) that he had both arms across his chest immediately prior to then being grabbed to bring him to the ground then at some time after the first gunshot he brought his right arm up over his chest."*

1174. Professor Pounder stated, *"A handgun, which was said to have been in the mini cab with Duggan, was found some 10-14 ft away from where his body came to lie, with an approximately 6ft high brick wall or 5ft high railings with associated patchy vegetation up to 7ft in height separating the gun from the body. Assuming that the recollection of the police is correct and that Duggan had a gun in his right hand at the time the first and second shots were initiated then he would need to have thrown the gun to its final resting place more or less contemporaneous with the second shot being initiated or after the second shot. It is not clear whether he had to throw the gun over the brick wall, over the railings or between the railings. He was not observed to throw away the gun by the policeman (V53) who shot him or the policeman (W70) who grabbed him and took him to the ground, although both appear to have been closely observing his hand movements. As reconstructed, it appears that he was bent forward with his torso turned or twisted and leading with his right shoulder at the time of the second gunshot"*.

1175. *"Although the chest wound was inevitably lethal he would not have lost consciousness as a result of blood loss for a period of at least four seconds and possibly as long as ten seconds. During that period of consciousness he could theoretically throw away a gun. The first gunshot wound had torn his right biceps muscle which would have made bending the elbow and turning the hand palm up (supination) painful, but on the evidence of the police statement (W70) he was able to bring his right arm across his chest which would require bending the elbow. The pain of the first gunshot wound, which appears to have*

caused him to bend forward and to move his left arm across to the injured right side of his chest, would have been dwarfed by the second gunshot wound to the chest and the damage caused by the “cavitation effect”. This cavitation effect had produced damage to both lungs along the bullet track and this damage was about 9cm in diameter. While the first gunshot may have winded him the second gunshot made it effectively impossible for him to breathe.”

1176. *“The intent of the weaponry which was used is to produce “immediate incapacitation” but nevertheless individuals can and do summon the willpower to commit physical acts despite the presence of severe and even lethal injuries. Duggan had MDMA, a stimulant drug, in his bloodstream at the time and this may have influenced his behaviour. Overall the medical evidence and the police statements do not suggest that after being shot Duggan engaged in determined physical activity. After the first shot he was bent over likely with his left arm over his injured chest and possibly stumbling forwards. After the second shot he was said to continue to fall forwards bent over with both arms on his chest”.*
1177. Professor Pounder said, *“Taken in the round I cannot conceive of how Duggan might have thrown the gun to the place it was found, unobserved by the police, given his body position as reconstructed, his injuries and the evidence suggesting he was collapsing to the ground. Since there are many factors to be considered in reaching such a view and since their evaluation is in some areas subjective I recognise that others could come to a different view when weighing this evidence”.*
1178. Professor Derrick Pounder gave evidence to the inquest on 14 November 2013. He confirmed his key qualifications and experience as follows:
- He is a Professor of Forensic Medicine at the University of Dundee, a post which he has had since 1987;
 - He has a medical degree and specialist qualifications in the field of pathology;
 - He has performed medico-legal autopsies since 1975;
 - He has been a specialist consultant since 1980;
 - He was a member of the Forensic Advisory Group of the International Committee of the Red Cross;
 - He has assisted Amnesty International, the Council of Europe, the UN and the Organisation for Security and Cooperation in Europe;
 - He has participated in investigations of police and military

shootings in a large number of countries; and

- He has expertise in the forensic pathology of gunshot wounds.

1179. Professor Pounder confirmed that he was initially asked to advise solicitors acting for Mr Duggan's family, out of which arose a request to perform a second autopsy which he did on 19 August 2011. He had produced a first report accordingly. Professor Pounder had then produced a second report as a result of a joint request from the Coroner and the IPCC.

1180. Dealing firstly with the injury to Mr Duggan's right upper arm, Professor Pounder described finding a wound in the inside of the mid-part of the upper arm over the biceps muscle. He found two wounds, one where the bullet went in and one where it came out. These were very close together, just going underneath the skin and damaging the underlying muscle. He also found an associated wound on the chest, which he described as a "*somewhat unusual wound*". This was about 4cm in diameter, compared to 2cm in diameter for the largest wound on the arm, but it was superficial. By this, he meant that it had taken off the surface of the skin but it had not gone deeper into fat, had not exposed the muscle and had not exposed or damaged bone.

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13,
p.54,
line 19

1181. Professor Pounder explained that he found the exit wound was slightly lower than the entry wound, when compared with a person standing up, so the trajectory was slightly downwards. The wounds to the arm were, he said, much higher than the wound to the chest if following the line between the entry and the exit. Lowering the shoulder brought the entry, exit and chest wounds, into alignment. He said that the equivalent would be dropping your shoulder if you were simply standing or sitting: this natural position would bring the wounds into alignment. He estimated the drop of the shoulder to be approximately 15 degrees.

1182. Professor Pounder then explained the relationship between the arm and the chest in terms of abduction, in answer to questions from Mr Underwood QC:

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p.55,
line 23
to
p.56,
line 20

Q. Could you also tell the relationship between arm and chest in terms of abduction?

A. Yes. When we look at the body after death, the arms are lying by the side and in a natural position. As you looked at the body, the entry and the exit wound, if you follow them through, would mean that the bullet would have gone into the chest. So clearly the arm wasn't in that position at the time of the shot. Since the bullet went across the chest

and grazed the chest. The upper part of the arm is a bit like a rolling pin and it rolls (indicates). It's possible to roll it inwards and if you did that to the arm, which I did, then the entry wound and the exit wound would align with the wound to the chest. So it means that at the time the shot was received Mark Duggan's upper arm was reasonably close to the chest and his upper arm was turned in the way it would be if you were standing upright and you let your hand hang by your side with the back of the hand facing forwards.

Q. At that stage -- we'll come to your opinion later on -- did you give any consideration to whether the elbow was crooked?

A. At that point, no.

1183. In relation to the chest wound, Professor Pounder said that, given the timing of his post-mortem, the effect of the thoracotomy had almost been reversed. After the first post-mortem conducted by Dr Poole, the technicians in the mortuary had reconstituted the body and sewn up all of the injuries produced by the autopsy and thoracotomy, so he was able to look at the body almost as if there had not been a thoracotomy. He had the opposite problem to Dr Poole, as the heights were shortened by the thoracotomy having been stitched up.

1184. Bearing in mind the difficulties presented by the thoracotomy, Professor Pounder estimated the downwards angle in the wound to Mr Duggan's chest to be 45 degrees. The way he established this was by putting Mr Duggan's body on his side and putting one hand on each of the exit and entry wounds, so that he could ascertain the angle between them. In light of Dr Poole's report, he had tried to calculate the angle and had arrived at the figure, based on Dr Poole's examination of 30 degrees. He therefore felt able overall to give a broad guideline of between 30 and 45 degrees. He felt it was closer to the 45 degrees than the 30 degrees.

1185. Professor Pounder had produced a supplementary opinion based on ballistics tests which had been carried out by Dr Seaman (Dr Seaman's evidence is outlined later in the report). Arising from this, he explained to the inquest:

- He was aware of Dr Seaman's work that the bullet found in the minicab was responsible for the chest wound to Mr Duggan and the bullet found in the officer's radio was responsible for the arm wound. He had previously deployed some of his own expertise on that issue and reached the same conclusion as Dr Seaman for a variety of reasons unrelated to the forensic science reasons which

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13,
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to
p.64,
line 10

Dr Seaman developed. In reply to questions from Mr Underwood QC, he said:

- Q. Can you tell us what your reasoning was, please?
- A. Well, based on two essential issues: the first, the trajectory of the bullets and, secondly, the amount of energy or expected energy, the bullets would have after they exited Mark Duggan. So, first of all, the trajectories. I know that the court has seen the mannequins with the rods in place. They are a good representation of the trajectory of the bullet before it hit Mark Duggan, passing through Mark Duggan, and then where it went after exiting Mark Duggan. So one of them, the one to the arm, is fired by someone in a standing position with a rifle more or less at shoulder level (indicates). It passes under the shoulder of Mark Duggan and the police officer behind was hit in the radio, which was under his shoulder. So the natural inference would be that would be a best bet to go for first as the bullet that struck the radio.
- Q. Can I just interrupt you there and ask you about something we've been hearing from a ballistics expert, about whether the arm wound and the strike of the chest would have taken much energy from the bullet?
- A. It would have taken a substantial amount of energy from the bullet but far less than half the energy. I can't say precisely how much but I can give you a way of gauging it. When the bullet is fired into ballistic gelatin, and this is what Dr Seaman did, it travels within that gelatin for a little under 40 centimetres before it comes to a natural stop. So the inference is, if a bullet struck a body, it would travel for about 40 centimetres and then it would come to a halt, having used up all its energy. The bullet wound to the arm has a depth of about four centimetres and then there's the additional injury to the skin, which wouldn't use up so much energy, since it's gone across the surface of the skin rather than penetrating. So we're looking at considerably less than half the energy of the bullet, but how much precisely I wouldn't like to put a figure on.
- Q. Is there anything else you want to say on your reasoning about which bullet caused which wound?
- A. Yes. If we were then to turn to the chest wound, the

chest wound is markedly downwards and, irrespective of whether we talk 30 degrees or 45 degrees, when the bullet is coming out the back, it's going down, at quite a marked angle. Even if Mark was bent over, as he must have been, the bullet would still be going down. It's come out of the chest, if he was in an upright position, at about 4 foot 1 inch. Then it's going down quite markedly. It would have to ricochet off the ground or ricochet off some object to come up again to strike somebody under the radio. There's no evidence of any ricochet. So there's a natural inference that one bullet is a good fit for hitting the radio, the other bullet would be a very difficult fit indeed, and also, that bullet has passed through 30 centimetres of Mark Duggan, and, if you remember, I said that the bullet in the ballistic gelatin travels just under 40 centimetres before it comes to a stop. So that bullet would have very little energy left indeed, and probably wouldn't do any serious damage to anyone who was hit by it.

1186. Professor Pounder's view on the trajectory of the chest wound and whether it might have been deflected by striking a rib was that, as a general rule, a bullet striking bone is not deflected substantially. In Mr Duggan's case, the bullet did not strike the rib full on but just nicked the edge of it and caused the rib to fracture, and this would not deflect the bullet at all. He said that the experiment conducted by Dr Seaman using a piece of pork with pig ribs in confirmed this. A bullet which nicked a rib in the pork, and caused it to fracture, did not deflect.

1187. In respect of which bullet was fired first, Professor Pounder agreed with Dr Poole that they could not tell which wound was received first from a purely pathological perspective. It would be necessary to put the pathological information together with other information, particularly the eye witness statements such as the statements of the police officers. As to this, Professor Pounder said, still in answer to questions from Mr Underwood QC:

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line 14
to
p.69,
line 1

- Q. What is your conclusion about the order of shots?
- A. My conclusion is that the first shot it to the arm, that is the non-lethal shot, and the second shot was to the chest, that is the lethal shot.
- Q. That's contrary to what V53 says, as you appreciate, the shooter. Which of the witnesses is that consistent with in your view?
- A. Well, first of all, I should say, in looking at what

the witnesses are saying, I've been looking at the statements which they made, I think, two days after the event, and some subsequent statements made to the IPCC. So I developed my opinion based upon those statements. I appreciate that accounts are somewhat different at the present time, so there has been a change. However, in fairness to the shooter -- I'm sorry, I forget --

- Q. V53 we're calling him.
- A. In his initial statement, he said that the shot went to the chest but he was asked to clarify that by the IPCC in November of last year and he wrote what I thought was a very fair and frank statement where he said he couldn't be 100 per cent sure but that's what he thought. I took the view that he had simply got it wrong.
- Q. Is there anything in W42's account, the man who was receiving the bullet in the radio?
- A. Yes. Again, I appreciate that what's in the initial statement to the IPCC, two days after the event, is not precisely the same as his evidence to this Inquest, since I have read the transcript of it. But, sir, if we start with what was in his initial statement, he essentially says that there was a simultaneous event. He heard the gunshot, he saw Mark Duggan's jacket explode and he felt the pain and it all happened at the same time, he couldn't distinguish the sequence, it was instantaneous. Two shots were fired and, on the evidence, there was a gap between the shots.

1188. Professor Pounder gave further evidence on this point:

Transcript
14.11.
13,
p.69,
line 16
to
p.75,
line 17

- MR UNDERWOOD: Professor, you have told us you have taken account in part of the witness accounts you've read, including transcripts of the evidence given to the jury. Are there any other factors in your professional opinion which lead to a conclusion about the sequence of shots?
- A. Yes. Pathology, because I'm linking the witness statements with the pathology. The first shot -- let me start again. The shot to the arm is a shot which occurred when he was more or less upright. He may have been leaning forward slightly, as a person might be doing if they're running, but he wasn't significantly bent forward. So the second -- the other shot, the chest shot, certainly occurred when

he was significantly bent forward. If we look at what the witnesses say, in terms of his overall body position throughout the brief sequence of events, he starts more or less upright, moving off. After the shots, he's crumbling to his knees.

Q. Sorry, scientifically, is it more likely that a person who's been shot once or twice in this form will be going down or up?

A. It's much more likely that someone who's shot will collapse rather than rise up. That's not to say that someone couldn't rise up, physically, and, if they were determined to do so, then they could do so. It's not something that one can exclude.

Q. Can we consider the shot to the chest, the chest wound. It struck both lungs, I think, is that right --

A. That's correct.

Q. -- as well as the aorta --

A. Yes.

Q. -- amongst other things. We have discussed the effect of the wound to the aorta and how quickly that would make somebody lose consciousness, as you have heard, and light-headed and so on and so on? What about the effect to the strike to the lungs?

A. It's necessary to appreciate that the mushroom bullet is about -- just under two centimetres in diameter when it's mushroomed so the bullet starts at nine millimeters in diameter and when it mushrooms it becomes twice the size. But the damage that occurs is not simply a hole two centimetres in diameter. The bullet is travelling so fast, it's going at 870 miles an hour, that it does so much damage in terms of energy release. It pushes the tissues aside and it creates a cavity much larger than the size of the bullet and it crushes those tissues and destroys those tissues. So at the end when we look at the wound at autopsy, the wound itself may be four centimetres in diameter but even that is less than the diameter of the wound that was produced when the bullet passed through the body. That damage is extensive to the lungs and it disturbs the air passages, so someone trying to breathe in now has a hole in both lungs and the air that they take in passes outside the lungs and between the lungs and the chest wall, effectively they can't breathe. This is pneumothorax and I think

that probably you heard about it from clinicians who attended the resuscitation.

Q. Would this be a bit like being winded?

A. It's more like being suffocated than being winded, you just can't breathe. In other words, it would be like someone who had such a severe asthma attack that they felt they couldn't get air into their lungs and literally, in this situation, you cannot get air into your lungs. They won't function. So that is combined with the pain from the damage to all of the tissues as the bullet is passed. Not only the damage to the skin and the muscle but also to the lungs themselves and the surface to the lungs, so it would be the kind of pain someone has when they have pleurisy, a lung infection with irritation of the surface of the lung.

Q. In your opinion, in terms of -- let's take which of the shots was first for the moment. If the chest shot was the first shot and Mr Duggan was leaning forward somewhat, is it more likely than not that he would go further down than up?

A. It's much more likely that he would go forward and it would be much more common for someone with a breathing problem or a chest pain to spontaneously bend forward.

Q. Again, let's talk about the effect of the arm wound, if we may. First of all, just how much damage was there to the bicep?

A. The damage to the biceps muscle was on the surface of the muscle, and it was about four millimetres deep, so relatively shallow, but over a wide area. So the area, total area covered was a maximum of about three centimetres in width and about seven centimetres in length, although not a square, more a triangle, seven centimetres in length, with the base three centimeters in width.

Q. Would there have been a cavitation effect there?

A. Yes. This damaging effect, where the bullet releases so much energy that it pushes the tissues aside, would have occurred in the arm as well. That's almost certainly the reason why, between the two bullet holes on the arm, there's a graze. You will have seen it in the pictures as a brown mark. That graze is from the tissues being pushed away so that the skin is pushed away and has struck against the clothing and the impact is so severe that it's

grazed the skin.

- Q. Still on the question of that wound, can you draw any reasonable inferences about how the elbow was bent and what the hand was doing?
- A. Yes. My view is this: the wound to the muscle has torn the muscle where the bullet has passed. The cavitation effect has produced further damage to the muscle around that. But beyond that, there are small strips of muscle which are also damaged and have retracted, like a piece of elastic being released. That suggests to me that the time the muscle was struck, it was contracted, in other words it was shortened and bulkier. The bullet has struck it and it's released the muscle, like releasing pieces of elastic, and that that's what we're seeing. So the inference is that the biceps muscle was contracted at the time the shot was sustained.
- Q. So we established earlier on from your first analysis that, even if the arm had been straight downwards, then the back of the hand would be facing forwards in order for you to have the rotation of the arm, which was consistent with the bullet holes; is that right?
- A. That's correct.
- Q. Now, if you add some degree of flex at the elbow, what does it do to the hand?
- A. Well, we have fixed the position of the upper arm, so it's close to the chest, and turned. In that position, we can then bend the elbow to any extent we like, so the range of possibilities is the hand to the chin or perhaps the hand in front of the thigh, and I think the -- the issue that was put to Dr Poole was is it consistent with being across the waistband and, yes, of course it is.
- Q. You are gesturing with the back of your hand facing forward there. Is that because that's your finding or is that pure chance?
- A. No, that's the finding but, in fairness, I should say that there is some possibility to turn the palm slightly upwards. What you can't do is turn the palm forwards and still maintain the position of the upper arm. So the back of the hand has to be more or less forwards.
- Q. Could the gun have been pointing forwards?
- A. Well, in that position, no. Because in order to - if someone was holding a gun in that position

(indicates), in order to move the arm forward, you have to rotate the upper arm. You simply can't point forward without rotating the upper arm.

Q. Theoretically, could it just have been a movement of the wrist?

A. Well, you can get it 45 degrees, I think. You wouldn't be able to point the weapon at a person to whom you were face to face.

1189. Professor Pounder's view was that it would be physically possible for Mr Duggan to have thrown the gun after sustaining the wounds. Professor Pounder said that Mr Duggan would not have lost consciousness for four to ten seconds after the lethal wound, so there was an interval of time in which it could be achieved. Damage to the biceps muscle of the right arm would make bending the arm painful and turning the hand up painful. However, it would still be possible to hurl a weapon, palm down, with an extended arm, albeit that the pain would make it unlikely that someone would do this.

1190. In relation to the location of the bullet holes in Mr Duggan's jacket, Professor Pounder said that it was relevant that the folds of the lower left part of his jacket were presented over the upper right chest when the bullet passed through the jacket. This suggested to Professor Pounder that not only was Mr Duggan significantly bent forward at the time but that Mr Duggan's body was twisted to get the alignment.

1191. Professor Pounder explained that he observed the ballistics testing. What he observed did not change any of his views but reinforced his opinion that the bullet that caused the damage to the police radio could not have gone through Mr Duggan's chest and instead went through his arm.

1192. In response to questions from Mr Stern QC, acting on behalf of the CO19 officers, Professor Pounder gave the following evidence:

- He has not practised clinical medicine since 1975 and he has not examined and treated people in the sense that a GP or physician in a hospital would;
- He is not an expert in firearms or ballistics;
- On the basis that the bullet hit W42's radio at about 4 feet from the ground and W42 was standing upright but side on to Mr Duggan, and was standing looking at the back of Mr Duggan, and on the basis that the arm wound to Mr Duggan was at about 4 foot 9 inches, Professor Pounder agreed "*there must have been some forward bending*" from Mr Duggan during the course of sustaining the arm wound. Professor Pounder indicated that there were other

factors – including the dip of the shoulder – and also the rise of the ground, meaning that W42 was slightly higher than Mr Duggan. He also said that, if the ground were flat, in order to strike Mr Duggan in the arm, the shot had to be downwards, but if it were a sloping ground, Mr Duggan was raised because of the slope, and the angle that the shot is fired at is less of a downwards angle;

- The angle measured by Professor Pounder within the arm wound of 15 degrees is not necessarily representative of the situation in life, because the shoulder sits on muscle and ligaments which attach it to the main part of the torso, and the arm and shoulder can be lifted and lowered without moving the chest itself. That leeway has to be taken into account, although Professor Pounder continued to accept that Mr Duggan was leaning forward;
- Based on the location of the gunshot holes to Mr Duggan's body, the shooter was in front of Mr Duggan and approximately to his right. Mr Duggan's right, lower arm was not necessarily hanging by his side, since the elbow could have been bent in any position, so long as the back of the arm was facing more forwards than backwards. The extended tears strongly suggest that the muscle was contracted at the time that the bullet struck, which is consistent with the arm being across the chest in some form;
- He did not see any differences between his evidence and that of Dr Poole's, although there were nuances and strengths of emphasis and degrees of certainty where they would differ;
- The chest injury associated with the arm shot would have had a winding effect on Mr Duggan, which Professor Pounder described as like "*being hit on the side of the chest by a baseball or a bat*". The natural reaction to this would be to bend over and perhaps clutch the chest; and
- Professor Pounder agreed that adrenaline can have an important effect, but its effect is relative in relation to the injuries suffered by Mr Duggan. It would not overcome the severity of pain caused by the principal chest wound. Most people would succumb to the pain in less than ten seconds, the average being in the order of five to six seconds.

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14.11.
13,
p.92,
lines
15-16

1193. In response to questions from the Assistant Coroner about the raising of the right arm, continued by Mr Stern QC, Professor Pounder gave the following evidence:

Transcript
14.11.
13,
p.94,
line 7

THE ASSISTANT CORONER: Can I just go back to what Mr Stern was talking about, the raising of the right arm, the hand. Could you help us about that --
A. After being injured?

to p.
96,
line 3

THE ASSISTANT CORONER: -- after being injured?

A. Yes. The biceps muscle does two things. It bends the elbow, but it's not the only muscle that bends the elbow, so that without the biceps muscle you could still bend the elbow. So the amount of stress imposed on it by bending the elbow might not be sufficiently severe in terms of pain that would prevent somebody from doing it. It also, when the elbow -- also when the elbow is bent it allows you to turn the palm of your hand upwards, and it's the principal muscle that does that when the elbow is bent. So you can actually feel this on yourself. If you hold the biceps, put your arm out (indicates), right arm out, left palm on the inside of the upper arm, that's the biceps, you can bend it, you can feel the biceps contract and now, if you turn the palm of your hand toward yourself you feel it contract even more so it's very easy to demonstrate on oneself. So that movement would be really painful because it's mobilising the entire strength of the biceps. So in the issues before the court, someone would not then attempt to perhaps throw a weapon like that. However, with the arm fully extended, the biceps plays little or no role in turning the palm upwards, other muscles do it (indicates). So its role has some nuances. I don't think, despite all of that, that it's really helpful in terms of in resolving the physical possibility of throwing the weapon.

THE ASSISTANT CORONER: Not so much on that, as this one witness talking about the two hands coming up.

A. The arm coming up, yes. I mean, there's nothing -- there's nothing in the damage to the biceps muscle which would cast doubt on that statement.

1194. In response to questions from Mr Mansfield QC, Professor Pounder's evidence was:

- Having felt the weight of a replica weapon to that which was found near Mr Duggan's body, his view was that the weapon was sufficiently heavy that it would require considerable muscular effort on his own part without an injury to throw it any distance. It would, he thought, impose a great deal of pain on someone with a biceps wound. He said that it was extremely unlikely that Mr Duggan would have been able to throw the weapon a distance of 7.34 metres. He said, "*personally I can't see how it would have*

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lines
14-15

happened.”;

- Professor Pounder demonstrated to the inquest the position that he considered Mr Duggan would have been in at the time that he sustained the arm injury – bent forward, twisted to his left and leading with his right shoulder and his right arm;
- At the time of the second shot when he was shot in the chest, it was impossible for Mr Duggan to have been standing more or less upright. In reply to Mr Thomas QC’s later question on the same point, Professor Pounder confirmed that this was his view from a pathological perspective;
- He agreed that a fair summary of what can be inferred to have happened is that Mr Duggan, standing more or less upright, was shot under the armpit. He was winded and his right arm began to drop. He began to fold his arms across his body because the next shot went through his chest and, from there on, he was collapsing.

1195. In response to a question from the Assistant Coroner, Professor Pounder considered that the pain from the chest injury, but not the arm injury, would cause an instinctive reaction to move his hand up to his chest, i.e. to the area of pain.

1196. In reply to questions from Mr Thomas QC, Professor Pounder again explained his view on the pathology of the arm injury:

14.11.
13,
p.108,
line 20
to
p.109,
line 13

- A. Well, with the arm injury, you can't point forward.
Q. Just explain to the jury why.
A. The key is the gunshot to the upper arm. We know that when that exited the upper arm it just grazed across the surface of the skin towards the back of the armpit. So we know the position of the upper arm when that gunshot was sustained. In order to achieve that, we have to turn the upper arm inwards, in the same way as if you were standing upright with your thumb forward, you would turn the back of your hand forward and that turns your the upper arm (indicates). The upper arm has to stay in that position. Once it's in that position, if you then grip it yourself and hold it still, you simply can't move your forearm towards the front. In order to get the forearm to the front, you have to also rotate the upper arm, and that would mean that the bullet would have gone into the chest rather than grazed the chest.

1197. In response to further questions from Mr Stern QC, Professor Pounder confirmed that the upper arm pathology indicated what happened

when the bullet hit Mr Duggan, which was not instantaneous with the decision to shoot. In respect of the ability to throw a gun, Professor Pounder said that he had not carried out any tests in relation to this and did not have any physics knowledge of the velocity of throw that would be required. He denied, however, that his opinion on whether Mr Duggan could have thrown the gun was purely subjective. He said it was based on the damage to the chest and the damage to the arm. He was asked in general terms of Mr Duggan's physical ability. He said that if someone was absolutely determined and had the physical strength then they might be able to achieve a throw. He said further on this, in reply to a question from the Assistant Coroner:

14.11.
13,
p.111,
lines 5
to 23

THE ASSISTANT CORONER: Might achieve a throw? What would happened if they had the determination to shoot the firearm that they had in their hand, they had time to do that, didn't they, before they passed out, four to ten seconds?

A. Yes. I mean, this whole issue of what someone is able to do after being shot and sustaining an inevitably lethal wound, which is extremely painful, is an important one for the police, because there are instances in North America where people have sustained these kinds of wounds and then gone on to assault the police in their dying moments. That's also well described on the battlefield as well. So these things are possible. I mean, for example -- I should say in this case, if Mark Duggan had the willpower to do it, and the determination to do it, he could have moved forward and assaulted the police officer who shot him. It's physically possible.

S225

1198. After the conclusion of the inquest, the IPCC requested Professor Pounder to provide further opinion on *“whether the evidence given by Witness B concerning the body and arm position of Mr Duggan when he was shot, is consistent or inconsistent with the pathology/physiology evidence obtained by the IPCC investigation and the inquest”*.

1199. Professor Pounder provided a further report dated 23 April 2014. He stated that from his reading of the inquest evidence, interview and statement of Witness B he understood Witness B to be saying that Mr Duggan's arms and body were as follows when he was shot:

“At the time he was shot, Mark Duggan was located on the sidewalk at the back of the people carrier, nearer to the vehicle than to the railings, so that the people-carrier was obscuring Mark Duggan's lower body from view of Witness B, but the upper body, namely the upper part of his chest and head could be seen. At this time Mark Duggan

was upright and facing towards Blackhorse Road; a police officer was standing in front of him, and Mark Duggan had paused. Mark Duggan had what looked like a mobile phone in his right hand. He had both his hands raised above his shoulders, with his hands near to his face, at the level of his ears with both palms facing forwards (ie palms towards the police officer standing in front of him). In this position the upper arms of Mark Duggan were close to his body and his forearms were raised. Two shots were fired and Mark Duggan went straight down (collapsed to the ground).”

1200. Professor Pounder clarified that, *“For the purpose of this opinion I make no assumption as to which of the two gunshots was fired first, although it is my opinion, as previously stated, that the gunshot to the arm was fired first”*. His report continued as follows:

“Professor Clasper and the author have independently concluded, from the pathology evidence of the positions of the entry and exit wounds to the right upper arm and the associated chest wall injury, that the right upper arm was medially rotated at the time that the arm wound was sustained. Consequently it is anatomically impossible that the arm was raised and positioned as stated by Witness B at the time of the wounding, since the arm position described by Witness B would require the arm to be externally rotated, the opposite of internal rotation.

Furthermore, the arm position described by Witness B would place the forearm and the puffa jacket covering the forearm in front of the entry wound to the upper arm, so that the bullet would have had to pass through and through the puffa jacket covering the forearm and the forearm itself before passing through the puffa jacket covering the upper arm and through and through the upper arm. In brief the right arm position as described by Witness B is incompatible with the autopsy evidence and the forensic science clothing evidence with respect to the right arm wound.

The position of the left arm at the time of the gunshot to the right arm cannot be inferred from the available evidence, so that it is possible that the left arm was raised in the position described by Witness B. The undisputed evidence is that Mark Duggan was upright at the time this gunshot wound was sustained, as described by Witness B.

At the time of the fatal gunshot which passed through and through the chest, the position of the right arm cannot be inferred from the available evidence, other than for the obvious fact that it could not have been in front of the chest entry wound. Therefore it is possible that the right arm was raised in the position described by Witness B at that time. The undisputed forensic science evidence relating to the position of the clothing at the time the fatal chest wound was sustained

indicates the left lower front corner of the puffa jacket was folded up over the area of the entry wound to the right upper chest. At the same time, the autopsy and clothing evidence indicates that the right back of the puffa jacket was pulled across to the left back of the body so that the gunshot exit to the left back of the chest was aligned with the exit through the left back of the T-shirt and the exit through the right back of the puffa jacket. The twisting of the jacket around the body was very likely caused by a movement of the left upper and lower arm across the front of the body, which is incompatible with the left arm position described by Witness B.

The trajectory of the gunshot wound through the chest indicates that Mark Duggan was bent forward and twisted to his left at the time the fatal gunshot to the chest was sustained. The degree of certainty attached to this conclusion varies between experts but at a minimum is expressed as likely, and in my own view is certain. Such a body position is incompatible with the upright body position described by Witness B”.

1201. Professor Pounder concluded:

“In summary, the body and arms position of Mark Duggan as described by Witness B is inconsistent with the autopsy and clothing evidence relating both to the gunshot to the arm and to the fatal gunshot to the chest. Mark Duggan could not have been upright with both arms positioned as described by Witness B at the time of either the gunshot to the arm or the fatal gunshot to the chest”.

Professor Colonel Jonathan Clasper - Bioengineering expert

1202. Professor Colonel Jonathan Clasper (referred to here as Professor Clasper) is a consultant orthopaedic surgeon and a Colonel in the Royal Army Medical Corps. He was instructed by the IPCC to provide an expert opinion in the field of biomechanical engineering, in order to explain the effects of the trauma caused to the body of Mr Duggan when he was shot and to consider the location of the firearm found at Ferry Lane.

1203. Professor Clasper was asked to prepare his report working on the basis of a hypothesis that Mr Duggan was in possession of the non-police firearm, exhibit JMA/1. This was in no way intended to pre-judge the issue, but to allow Professor Clasper to give an opinion on the biomechanics if that had been the case. Professor Clasper was provided with the CO19 TST statements and other relevant material as it became available.

S172
S172A
S172B
S172C
S172D
S172E

1204. Professor Clasper has provided the following statements:

- 4 May 2012;
- 21 July 2012;
- 25 September 2012;
- 3 October 2012 ;
- 16 April 2013;
- 2 August 2013.

S172

1205. In his first statement, Professor Clasper was asked to address the following matters:

- Is there a medical or physiological explanation for where the firearm was found, relative to the position of Mr Duggan's body?
- In particular, could Mr Duggan, through voluntary or involuntary movements, have thrown the gun before or after he was shot, including after he was shot the second time?
- What other possible physiological explanations could there be for the distance between the firearm and Mr Duggan's body?
- Based on the evidence provided to Professor Clasper by the IPCC, can any conclusions be reached concerning the position Mr Duggan's body was in when he was shot, both the first and second time?

1206. In relation to the first question, Professor Clasper's opinion was that the weapon was thrown and could not have merely been dropped by Mr Duggan. His definition of "thrown" was "*propelled with some force through the air in a particular direction*". He based this opinion on the witness statements of V53 and W70 who state that they saw what appeared to be the same weapon held by Mr Duggan in his right hand, and that this weapon was subsequently found approximately 10 to 14 ft from the body.

1207. Professor Clasper's view was that Mr Duggan did not throw the gun through involuntary movements, as these would have required a spasm or sudden involuntary muscle contraction, which would have had to involve muscles of the shoulder. Nothing in the post-mortem records suggested an injury that would cause involuntary movement. He said, "*Assuming that the firearm was in Mr Duggan's possession, and he was solely responsible for the stated final position of that firearm, in my opinion he threw it voluntarily.*"

1208. Based on the nature of both gunshot wounds that Mr Duggan

sustained as described in the post-mortem report and Professor Clasper's own experience of what the consequences of those wounds would have been for Mr Duggan, it is Professor Clasper's opinion on the balance of probabilities that Mr Duggan did not throw the firearm after he was shot.

S172A

1209. Professor Clasper was later asked to clarify whether it was more likely that Mr Duggan threw the firearm before he was shot or whether he was in the process of throwing it when he was shot. In his statement of 21 July 2012, he confirmed that, based on the fact that loss of consciousness occurs 6 to 7 seconds after the complete loss of a blood supply to the brain, Mr Duggan could have been in the process of throwing the firearm and could have been capable of completing the throw. He also said that it was more likely that Mr Duggan was in the process of throwing it when he was shot.

S172C

1210. In his statement of 3 October 2012, Professor Clasper expressed the view that it was very unlikely that an involuntary movement was responsible for the final position of the firearm.

1211. The only other suggestion that Professor Clasper could offer to explain the stated final position of the non-police issue firearm, in the circumstances he was considering, was that Mr Duggan was moved from the final position of the firearm to where he subsequently died. He observed that there was nothing in the evidence he saw to support this and added that his knowledge of the consequences of the gunshot wound to his chest led him to the opinion that it was unlikely that Mr Duggan moved away from the final position of the firearm after he was shot.

S172

1212. Professor Clasper was not able to say with certainty which of the two wounds was the result of which shot. He said in his statement of 4 May 2012, *"Based on both the Post-mortem report and the pictures provided to me it is evident that the wound to the chest resulted in a fracture of a rib almost immediately after the bullet penetrated the skin. In my experience when a bone is struck and fractured by a projectile it can be deflected, and therefore it is not possible to be certain about the position or orientation of Mr DUGGAN'S body when he was shot in the chest, other than to say it entered from the front."*

1213. Professor Clasper agreed with Dr Poole's view that the superficial wound to the right upper chest appears to be related to the right upper arm wound.

1214. Given that the post-mortem report had stated that the wounds to the upper arm communicated and the track was superficial, it was

Professor Clasper's view that (a) it is less likely that this projectile was deflected and (b) based on this, *"Mr DUGGAN's right upper arm was held close to his chest when he was shot."* Further, he said, *"In addition it is my opinion that, on the balance of probabilities, Mr DUGGAN'S right arm was held in a rotated position such that the palm of his hand was facing relatively posterior or backwards, rather than anteriorly. I am unable to give an opinion on whether his elbow was bent or straight at the time Mr DUGGAN was shot."*

D1107
D1033

1215. Professor Clasper gave evidence at both trials of Mr Hutchinson-Foster, first on 3 October 2012 and second on 22 January 2013. He was called as a witness for the Defence.

1216. Generally, Professor Clasper confirmed the opinions set out in his written evidence to the IPCC. He was asked in detail about his opinion that Mr Duggan's upper right arm was held close to his chest when he was shot and he maintained his written opinion that Mr Duggan's right upper arm was held close to his chest when he was shot. Under cross examination in the first trial, he explained that he was providing an opinion about the rotation of the arm which affects the whole arm but that he could not give an opinion on the exact position of the elbow, wrist and hand.

D1107

1217. In re-examination in the first trial, Professor Clasper reiterated his view that Mr Duggan's arm was in front and across his body when he was shot.

D1033

1218. In the second trial, Professor Clasper was asked questions by Defence counsel about the difference in heel height identified by Dr Poole in relation to the chest wound. He had described a heel height of 149cm for the entry wound and 124cm for the exit wound, leaving a difference of 25cm or approximately 10 inches. Professor Clasper was asked whether in his opinion:

- a) contact with a rib would have caused such deviation – Professor Clasper said that, given that Mr Duggan seemed to have sustained a relatively simple fracture to his rib, this would not have resulted in as much as deviation as had in fact occurred;
- b) In terms of alternative explanations for such deviation, Professor Clasper said one explanation would be if the bullet had entered above, i.e. come from in front of Mr Duggan and above his head, or alternatively if Mr Duggan was bent over, in a stooped posture. Professor Clasper felt that a moderate stoop would be required, not bending double, to result in this deviation.

1219. Professor Clasper maintained his view that the nature of the wound to

the side of the chest would suggest that the arm was down relatively close to the chest and that the right shoulder was rotated inwards when Mr Duggan was shot in the arm.

1220. Under cross examination, Professor Clasper:

- Agreed that movements of the body in this sort of scenario could be very quick;
- Disagreed with the suggestion that Dr Poole was correct in his opinion that the movement of the lower arm is to a degree independent of the movement of the elbow-to-shoulder part of the arm;
- Agreed that, in certain circumstances in relation to the arm injury, small differences in the position of the wound in respect of the related wound might make a reasonably significant difference to the positioning of the upper arm;
- Agreed that, if V53 was to Mr Duggan's left at an angle, and his arm was over his left-hand side of his stomach, the right-hand part of the chest could be exposed to V53. Professor Clasper agreed that, if a stoop was added to that, this could account for the trajectory of the bullet that struck Mr Duggan's chest from right to left and downwards (which matches Dr Poole's tracking of the chest injury).

S172D

1221. In his statement of 16 April 2013, Professor Clasper was asked by the IPCC to further detail any conclusion he was able to reach regarding (1) the position/posture of Mr Duggan's right arm at the time he was shot, and (2) the location of Mr Duggan and/or V53 on the pavement and their relative position to each other and/or the minicab at the point Mr Duggan was shot.

1222. Based firstly on the trajectory of the gun shot to Mr Duggan's chest and the findings in the post-mortem, and secondly on the basis of Professor Clasper's view that the bullet hitting the rib would be unlikely to cause all of the deviation between the entrance and exit wounds in the trajectory, Professor Clasper was of the view that:

- a) if Mr Duggan was standing upright and facing forward at the time he was shot in the chest, then he was shot by someone who was above him and to his right;
- b) if the person who shot Mr Duggan was at the same approximate height and facing Mr Duggan, then Mr Duggan was stooped or crouched over, and his chest was turned to face the left relative to Mr Duggan.

1223. Professor Clasper acknowledged that there were other possible scenarios. However he noted that he had been asked at court particularly about whether Mr Duggan was directly facing the person who shot him and his opinion was that this was not the case. Professor Clasper continued to hold that opinion.
1224. Professor Clasper was unable to give an opinion on the positions of Mr Duggan and/or V53 in relation to the minicab.
- S172E 1225. Professor Clasper was asked to comment on the opinion given by Professor Pounder in his report of 5 July 2013. In a statement dated 2 August 2013, Professor Clasper stated *“I note that Professor Pounder’s opinion on the position of the arm and body when the bullets hit Mark Duggan are similar to opinions I have given in written statements, or as oral evidence at the second Kevin Hutchinson Foster Trial. I therefore have no further comment to make on this aspect.”*
1226. Professor Clasper stated,
“Professor Pounder has given his opinion on a possible scenario, this is based on the premise that Mark Duggan was shot in the arm first, and this opinion appears to be based on witness statements. As I have stated before I can find no medical evidence to confirm which bullet struck Mark Duggan first, and I am therefore unable to agree with Professor Pounder. However, based on his statement, he has considerable experience in the analysis [sic] police and military shootings. As this aspect of the case is outside my area of expertise, whilst I cannot agree with Professor Pounder, I do not disagree with his analysis”.
1227. Professor Clasper gave evidence to the inquest on 14 and 18 November 2013. He confirmed his qualifications and experience as follows:
- He is a Professor and a Colonel in the army;
 - He is a consultant in orthopaedic surgery at Frimley Park Hospital;
 - He is a Professor of Trauma and Orthopaedics and a visiting Professor in Bioengineering at Imperial College London;
 - He qualified as a doctor at Glasgow University in July 1986;
 - He became a Fellow of the Royal College of Surgeons in October 1997 in Edinburgh in orthopaedics;
 - He obtained a DPhil at St Peter’s College, Oxford in 2001;

- He has various other qualifications;
- He has written a range of publications, including Field Surgery Pocket Book; Limb Injuries in Ballistic Trauma; Military Trauma; Blast and Ballistic Injury; and Management of Extremity Injuries in Ballistic Trauma.

1228. In terms of his military experience, he stated this included:

- Basic military training at Sandhurst;
- Additional medical training at Millbank in London;
- Regimental Medical Officer on an operational tour of Northern Ireland for just over 18 months between 1988 and 1990, being solely responsible for providing general practice, basic emergency and accident care for about 1,000 men;
- In 1991, in the Gulf War, he was for five months a resuscitation officer in Saudi Arabia;
- In 1992, in Bosnia, he worked for six months as a resuscitation officer and assistant surgeon to the British forces;
- He has completed operational tours as the sole orthopaedic surgeon in Kosovo, Bosnia and Sierra Leone;
- He deployed to Oman and Afghanistan in 2001, conducting advanced, life saving surgery to deployed British forces;
- He served in the 2003 Gulf conflict in charge of the orthopaedic division of 202 Field Hospital;
- In September to October 2008, he was the sole orthopaedic surgeon in Afghanistan, dealing with not just orthopaedics but also with thoracic and abdominal surgery;
- In August 2011, he returned to Afghanistan as the senior orthopaedic surgeon in a joint US and UK team of five orthopaedic surgeons. This involved the assessment and management of casualties who had suffered gunshot wounds.

1229. In terms of his relevant research experience, Professor Clasper stated:

- He was the first Defence Professor in Trauma and Orthopaedics and was responsible for the orthopaedic research focus of the armed forces;
- He has established links with Imperial College to study high strain biometrics, and is one of the founding members of Imperial Blast which is a multidisciplinary group of clinicians, scientists and

engineers collaborating to study affects of high strain rates on biological structures.

1230. Professor Clasper explained that bioengineering uses engineering principles on biological tissue, particularly the body, so looking at the effects of forces and strains, and how they might produce injury or fracture or how they might produce arthritis. The “*high strain rate*” is how high forces are dealt with, so involves looking at explosive injuries and high speed gunshots.
1231. Professor Clasper explained that he was asked to provide an opinion in the case by the IPCC. He operated on the premise that Mr Duggan was holding a pistol and everything on which he had opined was based on this assumption. Professor Clasper said that he was instructed that the firearm was found approximately 14 ft from Mr Duggan and he was not told whether that was from where Mr Duggan was shot or where he subsequently lay. He was asked if he could come up with an explanation as to how the gun managed to get to 14 ft if no-one else touched it or was involved. He said that it would not make a big difference to his findings if the distance between Mr Duggan when he was first shot and the location of the firearm was in fact about 21 or 22 feet.
1232. Professor Clasper’s view in evidence at the inquest was that the weapon could not have arrived at its location through an involuntary movement such as a spasm. In this sense, the weapon was thrown, which he defined as propelled with some force through the air in a particular direction. His exclusion of involuntary movements on the part of Mr Duggan was largely based on post-mortem results rather than witness statements and the extent of Mr Duggan’s injuries. Spasm may occur in cases of a head or spine injury, or perhaps a significant limb injury around the shoulder, and Mr Duggan did not have any of these injuries. If Mr Duggan had the weapon and he did throw it, the act of doing so was a voluntary movement. Professor Clasper confirmed that he had maintained this view through and after the trial of Mr Hutchinson-Foster where he was called for the defence.
1233. Professor Clasper’s opinion was that Mr Duggan could have been throwing the gun when he was shot and then continued to throw it, but he could not have been shot and then made a decision and thrown the gun.
1234. Professor Clasper identified no other possible physiological explanation for the distance between the firearm and Mr Duggan’s body.

1235. Despite what other experts had told the inquest, Professor Clasper maintained his views that:
- it was not possible to say which of the two wounds was the result of each particular shot;
 - the wound to the chest resulted in the fracture of a rib almost immediately after the bullet penetrated the skin; and
 - it was not possible to be certain about the position or orientation of Mr Duggan's body when he was shot in the chest, other than to say it entered from the front. Professor Clasper explained that this was because, in his experience, when a bone is struck and fractured by a projectile, it can be deflected. He told the inquest that he had seen bullets strike bone and be deviated by 90 degrees.
1236. Professor Clasper also maintained his view that it was less likely that the bullet which hit Mr Duggan's arm was deflected. Based on this evidence, it was his opinion that Mr Duggan's right arm was held close to his chest when he was shot. He also maintained the view that, on the balance of probabilities, Mr Duggan's right arm was held in a rotated position, such that the palm of his hand was facing relatively posterior or backwards, rather than anteriorly. He was unable to give an opinion on whether Mr Duggan's elbow was bent or straight at the time that he was shot.
1237. In relation to the wound to the bicep and the muscle contraction, Professor Clasper noted that he was not present at the post-mortem but he has treated a considerable number of biceps and muscle injuries. He thought that the muscle injury described by Professor Pounder, and the pictures showing the injury, do not show a significant muscle injury but a relatively low energy transfer injury, such that it was unlikely that the bullet lost much energy. He considered that the muscle could still work afterwards and it is probably on the basis of that damage that it is very difficult, if not impossible, to predict what position the elbow was in when it was struck.
1238. Professor Clasper's evidence on this point continued, still in answer to questions from Mr Underwood QC:
- Q. Can we just clarify this, because Dr Poole didn't see the muscle. It's only Professor Pounder who saw that at the autopsy. The specific evidence is that in a man who died within some seconds of that injury being inflicted on him that there is this, as it were, retraction. Is that something which you've, first of all, seen in living patients?

Transcript
14.11.
13,
p.128,
line 4
to
p.129,
line 4

- A. I've seen muscle retraction but the bullet has then entered the muscle. This bullet didn't particularly enter the muscle. Professor Pounder talked about a four-millimetre depth of injury, that's a graze across the muscle, that's not significant damage to the muscle, so there cannot have been that many fibres of the muscle divided, based on his written postmortem finding.
- Q. Would there be a difference in retraction between somebody who has dies within seconds of this and somebody who has survived and you are operating on them?
- A. It would depend on what they had done. If they haven't moved the arm, if you partially damage the arm and you continue to use it and you can continue to use it, it's not as painful as has been suggested, then you can damage it further.
- Q. I think, to be fair, the painful part of this was suggested to be the slap, if you like, on the chest, the winding; would you accept that?
- A. Again, that may not be that painful, initially.

Transcript
14.11.
13,
p.129,
line 10

1239. In response to a question from the jury, Professor Clasper confirmed that the design of the bullet did not make any difference to the questions of deviation and hitting the bone. He explained that police bullets are designed to release energy “*very, very quickly*” once they enter the body, so they would give out more energy, but it is the actual energy deposited in the person or in the tissue which is important, not the weapon or the bullet itself.

Transcript
14.11.
13,
p.133,
lines
10 to
21

1240. Professor Clasper confirmed the view that he had given in his statement dated 21 July 2012 that, based on the assumption that Mr Duggan started with a gun in his hand, he would not have lost consciousness immediately after being shot and therefore could have been in the process of throwing the firearm and could have been capable of completing the throw. He explained that the loss of consciousness is due to an interruption of the blood supply to the brain and if this is completely cut off someone may lose consciousness in about five seconds. He said that, having looked at the photographs of Mr Duggan’s wounds, Mr Duggan may have maintained a blood supply to his brain for up to five seconds meaning that it may have been between five and ten seconds after Mr Duggan was shot in his chest before he lost consciousness.

1241. Professor Clasper confirmed that his view was not based on witness statements but on the injuries sustained by Mr Duggan, what he might or might not have been doing and what could happen about the time

of his shooting and his death.

1242. In his report dated 3 October 2012, Professor Clasper had stated that, at the time that Mr Duggan was shot in the arm, he was not pointing the firearm forwards. When asked to expand on that by Mr Underwood QC, he said:

Transcript
14.11.13,
p.135,
line 4
to
p.136,
line 13

A. It's to do with the entry and exit wound to the arm and the rotation, some of which had been raised today. The important thing is not the dimensions and the measurements, it's the actual appearance of the wound. The entry wound to the upper arm is approximately in the middle with the hand facing forward, approximately in the middle, in terms of top to bottom and in terms of side to side. That's the entrance wound. It's oblique so it's coming in at that side. The exit wound is on the inside of the arm so, more or less in the middle. So the angle created relative to a forearm is approximately 45 degrees. So if you shot from the front of his arm rather than his body it has to be turned in 45 degrees to get that. So therefore he couldn't have been pointing a gun at someone when he was shot in the arm.

THE ASSISTANT CORONER: 45 degrees or 90 degrees.

A. 45 -- the angle of the bullet was 45 -- if you bend the arm to 90 degrees -- and I am not saying the elbow was bent to 90 degrees, I'm merely using that to illustrate the angle -- it's 45 degrees to that. So therefore you have to turn it 45 degrees. When it sits here as 45 degrees, you would have to bring the arm forward 90 degrees so it's about 45 to 60.

MR UNDERWOOD: So if your hand is across your chest, that's 45 degrees of rotation there, is it?

A. The hand across there is about 45 to 60, but a lot of it depends on where the shoulder is because the shoulder has got such a large amount of movement -- that's why I say measurements are actually relatively immaterial. It's about angles and positions.

Q. You arrived at that by a completely independent route to Professor Pounder?

A. Yes. By looking at the wounds and my knowledge of what the arm does.

1243. Professor Clasper had listened to Professor Pounder in the witness box at the inquest demonstrating the twist and bent forward position in

which Professor Pounder said Mr Duggan was in at the time he was shot in the chest. Professor Clasper said this was a reasonable position but that *“the problem I have is it could be deviated, so I don't think you can be exact and say it was this much.”* He continued:

Transcript
14.11.
13, p.
138,
line 16
to
p.139,
line 4

“I think he was slightly stooped, possibly 30 to 60 degrees relative to the waist. I think he was slightly twisted. But I don't believe there's any evidence, either in this case or in the literature or in any experiment, to be more exact than that angle of about slightly stooped but not pointing right down and turned slightly to the left. I would say about 30 to 60 degrees. I would accept 45 degrees as -- is that possible -- but I don't think you can be that accurate.”

1244. Professor Clasper maintained the view that:

- Mr Duggan was not directly facing the person who shot him at the time he was shot in the chest; and
- There were inconsistencies in the evidence that he had received which made it impossible for him to give an opinion on V53 and Mr Duggan's position relative to the minicab.

1245. In response to questions from Mr Mansfield QC, Professor Clasper's evidence was:

- It was very unlikely that Mr Duggan threw the gun, if he had one, after he had been shot;
- The injury to Mr Duggan's chest was not incurred when Mr Duggan was virtually standing upright;
- When Mr Duggan sustained the arm injury, he was not pointing a gun at anyone;
- He did not agree that, as a result of the arm injury, one of the most likely effects would be a dropping of the arm. As to what happened next, Professor Clasper said:

Transcript
14.11.
13,
p.149,
lines 9
to 18

A. I don't think anyone knows what happened after that. I've seen lots of people who have been shot, I've treated lots of people who have been shot, they have often -- they have commonly continued what they were doing. So if he was raising his arm when he was shot, he could continue to raise his arm. If he was bending down when he was shot he could continue to bend down but if he was coming up when he was shot he could continue to come up. But the moment you're shot you don't tend to collapse, you tend to

continue the movement.

- He reiterated that he did not know the order of the shots, but even if the first shot was the shot in the arm, he did not consider that anyone could say that Mr Duggan was unlikely to point a gun at a later stage. In Professor Clasper's opinion, Mr Duggan could have continued what he was doing, which might have been movement or it might have been a static position, for possibly five seconds. Although Mr Duggan would stumble forward and collapse, that may have been a few seconds after he had been shot, so if he was running, for instance, he may have been able to continue to run before collapsing. Professor Clasper agreed that the process was one of continuous and rapid collapse over a period of five seconds;
- Asked about the injury to the rib and whether this would make a fundamental difference to the track of the wound from the chest to the rear, Professor Clasper stated that it was impossible to be certain. When the bullet struck the rib, he said, it did not lose a lot of energy, but it could still have been deviated. He continued, "*I suspect it was not deviated a great deal but no one can say for certain it wasn't.*"

Transcript
14.11.
13,
p.151,
lines
24-5

1246. In response to questions from Mr Thomas QC, Professor Clasper's evidence was:

- If Mr Duggan had possessed a gun, then to get the gun from where he was standing to where it ended up would have required a reasonable degree of force; and
- If Mr Duggan were in the position where his arm was low – near the waist, but out – it would be very difficult to explain how the gun ended up where it did.

Transcript
18.11.
13,
p.11,
lines
11 –
18.

1247. Professor Clasper's evidence in response to questions from Mr Stern QC in relation to the arm injury was:

- Professor Clasper explained what he had meant by his description of the arm injury as "*a relatively low energy transfer injury*" – he said that bullets damage tissue either by directly impacting on tissue or by the transfer of energy and this causes cavitation. In turn, he described the cavitation effect as when energy is passed from the projectile to the tissue beside it and it causes the tissue to rapidly accelerate out of the way, so that there is a swelling outwards instead of having a tract. This creates a cavity which then collapses as the bullet passes through. A reasonable degree of energy transfer is required to get a cavity: the arm injury was not a high energy transfer wound;

- The arm wound was unlikely to have had significant cavitation;
- The arm muscle could still work after Mr Duggan was shot;
- The arm shot may not have been as painful as Professor Pounder and Dr Poole had suggested because adrenaline means that wounds are often not felt. He explained that this meant someone may not realise that he had been shot, something which he had seen frequently in soldiers. How long this continues depends on the amount of damage that has been done by the bullet;
- The reason why he did not accept that the arm injury would most likely effect a dropping of the arm was that there would not be immediate severe pain from the injury. This was because of the adrenaline explained above and because it was a relatively low energy transfer wound. It would not cause someone to automatically drop anything they were holding and they could continue with the movement that they were doing.

1248. In relation to the penetrative chest injury, Professor Clasper said, still in response to questions from Mr Stern QC:

- Mr Duggan's stoop at the time that he sustained the chest injury could have been anywhere between 30 and 60 degrees. He was probably slightly twisted, so that his left side was facing the minicab, but Professor Clasper did not believe that one could look at the wound tract angles and then line them up with the shooter, because of the bullet potentially being deviated by the bone;
- Professor Clasper explained his misgivings about the use of trajectory rods to determine exactly where the bullet had come from:

Transcript
18.11.
13,
p.14,
line 24
to
p.16,
line 1

MR STERN: There is a danger, isn't there, in looking at sort of trajectory rods, that you may have seen in this case --

A. Yes.

Q. -- and trying to quantify exactly where the bullet may have come from by virtue of the point of entry and the point of exit?

A. Yes, I believe that's taken subjective evidence and making it objective.

Q. Just explain that if you will, so everyone can understand that.

A. Objective evidence is something that anyone can look at and it's the same no matter how you look at it: if a car is red, a car is red. Subjective is your impression of it, so to take something that varies between a number of angles then put a single pointer

through it and say that was it is effectively taking quite wide-ranging arcs in my screw and a large area where that bullet had come from and giving the impression is came down that tract.

Q. So do you warn us to exercise real care in relation to those trajectory diagrams?

A. I would warn people to exercise great care on looking at wounds and looking at tracts and stating where things came from, particularly when there's confounding factors like the bone being struck. It's easier with the arm because the wounds are smaller, less things were hit. The chest, I think, it's potentially dangerous to make too much into the tract.

1249. Professor Clasper stated that, in relation to the chest wound, there is no certainty as to what happened, although there was less uncertainty about the arm wound in his view. The certainty about the arm was, he said, the angle it created relative to Mr Duggan's body, but not about position relative to body or height of shoulder, as these would depend on what Mr Duggan was doing at the time.

1250. Professor Clasper explained that, after he had been shot, Mr Duggan would have been able to move his hand from the wrist and raise a gun a few inches, two or three inches from his body. He confirmed that his view was that if Mr Duggan was throwing the gun and then shot, he could continue to throw the gun. If he was not throwing the gun, Professor Clasper considered it unlikely that he could then decide to throw the gun and end up with it 21 feet away.

1251. Professor Clasper stated that there was some evidence in the statements that he had seen in the course of preparing his report which could be consistent with Mr Duggan throwing a gun, including V53's evidence himself. Professor Clasper had noted that V53 had described a flinching movement as the first bullet hit Mr Duggan. Of this, Professor Clasper said:

Now actually, it is -- people just don't tend to do that. The bullet -- there's a perception that you shot and you get sent six feet backwards. Bullets tend to go straight through you. So the most likely thing with that flinching movement is he was doing something, rather than the bullet caused the flinching movement, in my opinion.

Q. I see, yes. You mean like the throwing?

A. Potentially like throwing.

1252. Professor Clasper said that he frequently saw situations exemplifying

the concept of “*looking but not seeing*”, whether it is sports injuries, military trauma or road traffic accidents. He did not think that this was traumatic amnesia, but rather human nature. He then said, in reply to a question from Mr Stern QC:

Transcript 18.11.13, p.30, lines 5-14

MR STERN: Do you find that with soldiers as well, so that if you're focused for example -- if you were focused on a waist level and a gun there, it may be that you would be focused in on that; is that what you found?

A. Yes, if you are focused in on something you will tend to ignore the periphery. The more peripheral it is to you the more likely you are to ignore it. As I say, I think that's human nature and the way the brain functions rather than any specific military or shooting or anything like that.

1253. Professor Clasper then said that questions of whether it is easier to track something visually that is nearer or further away was outside his area of expertise and he did not understand the term “*perceptual distortion*”.

1254. In reply to further questions from Mr Underwood QC, Professor Clasper did not believe that it could be said – as Professor Pounder had done - the glancing blow to the side of Mr Duggan’s chest (associated with the arm injury) could well have winded Mr Duggan. By contrast, Professor Clasper believed that Mr Duggan may not have noticed this injury. He did not know what Professor Pounder had meant by “*winded*”.

1255. Professor Clasper was asked to explain what sort of movement of his arm would be necessary to get the weapon that Mr Duggan may have had a distance of 10 to 20 ft. He demonstrated his view to the jury and was asked to explain it in narrative terms, which he did thus (in response to a question from Mr Underwood QC):

Transcript 18.11.13, p.36, line 19 to p.37, line 25

Q. What I was asking you about is what you think is the likely movement, assuming that Mr Duggan had it in his hand and it started off somewhere down by his belt and he was in the course of throwing it, what the likelihood was of his arm movement.

A. I do not think you can say likelihood, if you say “Well, what is possible?” If he had the gun here and he wanted to throw it to the right he would rotate his arm mainly (indicates), so he would bring his arm out from the side but it would mainly be a rotation movement. He would keep his fingers and rest -- I'm assuming he had his fingers there or

there it's difficult to say. His wrist would be still, his arm would be approximately – his elbow would be approximately 90 degrees but could be there or there, but most likely about 90 degrees, and the main action would be a rotation action as well as bringing his arm away from his body (indicates).

Q. So he is flinging his forearm, basically?

MR THOMAS: Raising it?

A. Yes, he would raise it.

MR UNDERWOOD: Raising his arm, moving his forearm away?

A. Then it would come across the front.

Q. Sorry, I'm trying to get this on the table. So he's raising his forearm and bringing it out towards to the side of his body?

A. He's taken his upper arm away from his chest and probably forward and he's rotating his arm at the shoulder. Probably with the elbow about 90 degrees. His wrist would be fixed with the hand pointing into the chest and he would have what's called a power grip, which is why, again, you can tell this hand would be pointed in.

1256. After the conclusion of the inquest, the IPCC requested Professor Clasper to provide his opinion on the evidence given by Witness B about the position of Mr Duggan's arms at the point he was shot. Professor Clasper was provided with the evidence of Witness B but stated that this did not change the opinion he had already given and that he did not wish to provide any further written report.

Forensic Submissions

1257. The Forensic Science Service (FSS) was the forensic service provider used by the IPCC until it closed in October 2011. Following this Key Forensic Services carried out additional forensic analysis for the IPCC and were further instructed by the inquest team.

1258. The FSS was engaged on 4 August 2011 when an FSS firearms expert, Mr Michael Vaughan, attended the scene that evening. Another firearms expert, Mr Franco Tomei, attended the post-mortem and the IPCC immediately began to submit various exhibits to the FSS. The investigation liaised with an FSS forensic specialist advisor to agree the forensic strategy and to co-ordinate the order of the examinations by the different FSS experts to ensure no forensic opportunities were missed.

1259. The IPCC submitted the following material for the FSS experts to

interpret and report on what had happened at Ferry Lane based on their scientific findings:

- Photographs of the scene and a photo of the inside of the minicab;
- Photographs of the post-mortem examination;
- Statements from the CO19 officers dated 7 August 2011;
- JMA/1 - the non-police issue firearm;
- JMA/2 – one black sock removed from JMA/1;
- JMA/3 - one empty magazine removed from JMA/1;
- JMA/4 - one live round removed from JMA/3;
- JMA/9 - a shell casing located in the middle of Ferry Lane at the scene;
- JMA/13 - a shell casing located behind the front, nearside tyre of the Charlie car at the scene;
- JMA/10 - the black police radio harness and radio;
- RES/1 - the bullet recovered from the orange Sainsbury's carrier bag from the minicab;
- RES/2 – one orange Sainsbury's carrier bag;
- AJE/6 - V53's Heckler & Koch MP5 firearm;
- AJE/8 - one magazine containing 23 rounds from AJE/6;
- AJE/3 - one 9mm round from the chamber of AJE/6;
- JMA/16-19 - two pairs of gloves recovered from Ferry Lane;
- JMA/20 - one pair of Gucci jeans and belt removed from Mr Duggan;
- JMA/22 - one T-shirt with the word "Ringspun" removed from Mr Duggan;
- JMA/24 - one green/light brown Stone Island puffa jacket removed from Mr Duggan;
- JRO/1 - one gunshot residue sampling kit used on the hands of Mr Duggan;
- SMP/9 - blood (preserved) of Mr Duggan;
- SMP/10 - urine (preserved) of Mr Duggan;
- GAJ/1 – one River Island shoebox.

Mr Michael Vaughan - Firearms Expert

1260. Mr Michael Vaughan, a forensic scientist specialising in the examination of firearms, reported the following.
- S111,
S111A 1261. JMA/1 was a BBM Bruni Mod 92, blank firing, self-loading pistol. Its original blocked dummy barrel had been replaced with a smooth-bored metal tube. It was originally chambered to fire 8mm blank calibre ammunition but was now adapted to fire 9mm ammunition which had been modified by the addition of projectiles.
1262. He found the gun to function with potentially lethal effects. It was therefore a firearm for the purposes of section 57(1) of the Firearms Act 1968. Owing to its dimensions, it was also a prohibited weapon as defined in section 5(1)(aba) of that Act as amended by section 1(2) of the Firearms (Amendment) Act 1997.
1263. JMA/3 was identified as a double column box magazine suitable for use in JMA/1. Its magazine lips had been spread. In his opinion this widening of its charging aperture had been done to accommodate larger, modified 9mm PAK calibre cartridges in place of the original 8mm blank calibre ones for which it had been designed. JMA/4 was live ammunition subject to restriction under provisions of section 1(1)(b) of the Firearms Act 1968. In Mr Vaughan's opinion, "*...it had been adapted in a way that would allow it to be fired from the weapon, JMA/1 above, with potentially lethal effect.*"
1264. JMA/10, the bullet recovered from the radio harness, was an impact damaged, expanded, jacketed hollow-point, 9mm Parabellum calibre projectile. He compared marks produced on this with marks on the other bullet RES/1 and with the barrel of the gun AJE/6, seized from V53 at the PIP process. Significant detailed agreement in the marks that he saw led him to conclude, "*... that both bullets had been fired from the same weapon.*"
1265. Similarly, he microscopically examined the two 9mm Parabellum calibre cartridge cases recovered from the scene as exhibit JMA/9 and JMA/13. Detailed agreement in the marks produced on these when they were fired led him to conclude that, "*... they too had been fired from the same weapon.*"
1266. He added, "*The fired material from FERRY LANE demonstrated that two shots were fired from the police MP5 carbine submitted as item AJE/6.*" He concluded he had found nothing to indicate any further shots were fired from any other gun or guns.

Mr Franco Tomei - Firearms Expert

S35
S35A
S35B

1267. Mr Franco Tomei, a forensic scientist specialising in the examination of firearms, ammunition and related items, specifically examined Mr Duggan's *Stone Island* puffa style jacket with his colleague, Ms Angela Shaw. He found it to be bloodstained and extensively cut about along the sleeves and the front. He identified areas of bullet damage on the right upper arm and armpit area, the back, the left and the lower front.
1268. Having carried out various tests to determine the direction of travel of the bullets and to assess their locations in relation to the wounds sustained by Mr Duggan, Mr Tomei concluded the following:
1269. The damage to the right upper arm and armpit area was coincident and due to the same bullet that caused the wounds to the upper right arm, with the bullet having exited the jacket in the armpit area. He commented that the jacket was "*quite disrupted*" in part due to the cutting.
1270. The hole to the back of the jacket was the exit site for the bullet that exited Mr Duggan's back.
1271. The holes to the front of Mr Duggan's jacket were due to a single bullet passing from the inner surface of the lower left front of the jacket, exiting the outer surface. The bullet then re-entered the outer surface of the jacket at the second damage site further up the left front. He found that the lower left part of the jacket must have been folded up and over the left front for this to happen.
1272. Mr Tomei considered that the same bullet must have been responsible for the upper right penetrating chest wound. He found that this meant that the left front of the jacket, folded as described, must have been pulled up and over the wound site at the upper right chest at the time the injury was inflicted.
1273. Mr Tomei explained that his assessments and findings were predicated on the assumption that only two shots were fired and the damage seen had occurred as a result of the incident during which the wounds were inflicted.
1274. Mr Tomei was additionally asked to examine the two bullets recovered from the scene to assist in determining which bullet caused which wound to Mr Duggan. He observed, "*the evenly and extensively expanded (or 'mushroomed') bullet RES/1 had caused the almost circular exit wound to the right arm and most likely the adjacent and circular non-penetrating wound to the right chest. The size and form of*

this latter wound and the relatively large exit wound to the arm would be due to large frontal area of this expanded bullet.”

1275. He concluded, *“Consequently, the penetrating chest wound and its associated exit site to the back of the deceased would have been due to the damaged bullet JMA/10, recovered from the radio. This is supported by the relatively small size of the exit wound to the back.”*

1276. Mr Tomei gave evidence to the inquest on 12 November 2013. He is an expert in forensic science and in particular in firearms examination. By way of his background, he confirmed that:

- He has worked continuously and exclusively in this field since 1976;
- He started as a forensic scientist in December 1973 and was employed in the MPS forensic science laboratory and then the Forensic Science Service after that;
- He has been a visiting lecturer for King's College at the University of London in the MSc course in Forensic Science.

1277. In relation to the radio holster (JMA/10), Mr Tomei's evidence was:

- There was a bullet entry hole in the pouch;
- The bullet had struck the handset of the radio itself. It was not in the handset but it had caused damage from the front all the way through to the back;
- On an initial view, the radio's damaged site appeared to include a lead projectile but this proved to be part of the internal workings of the radio;
- A fired bullet was found in the pouch itself. This was a nominal 9mm bullet consistent with being fired from a MP5.

1278. Of the two bullets involved, the bullet found in the holster, which was JMA/10, was not given a separate exhibit number. The bullet found in the plastic bag was RES/1. Mr Tomei was aware that both bullets were fired from the MP5. Mr Tomei's confirmed his view that RES/1 was associated with the arm wound and the holster bullet was associated with the chest.

1279. Mr Tomei was taken through the work done by Key Forensics, and Dr Seaman. Mr Tomei was asked by Mr Underwood QC to comment on six key findings made by Dr Seaman in respect of which bullet was associated with which wound.

1280. Firstly, Dr Seaman had reported that RES/1 had a pattern on it that it

had picked up from somewhere, and it was Dr Seaman's view that it had been picked up from Mr Duggan's t-shirt because there was embroidery on the back of that. Mr Tomei said that, if the bullet had struck the area of the garment hard enough to pick up the pattern, then it should have penetrated the garment and thus he did not agree with Dr Seaman. It was Mr Tomei's view that the hole in Mr Duggan's t-shirt was not in the embroidered part of the garment and so it could not, in his view, have picked up the impression in this way. He did not see that the bullet could just move sideways.

1281. Secondly, Dr Seaman took casts of the interior of the minicab to see whether any pattern to the material in the minicab could match the indentations on the bullet RES/1. Having seen the report, it was Mr Tomei's view that leaving aside an area of damage in the vehicle, in every other sense, the vehicle could have been ruled out.
1282. Thirdly, Dr Seaman took into account the power left in a bullet having gone through either the arm or alternatively through the chest, and conducted tests with ballistic gelatin to replicate the force. His findings were that a bullet replicating the chest wound in Mr Duggan's case would have almost no force after coming out of the back. In respect of this, Mr Tomei expressed reservations about the ballistic gelatin used to carry out these tests. He queried whether it corresponded in the way that was first thought, and pointed out that it the ballistic gelatine depends on the temperature at which it is used. It is only by using and storing the ballistic gelatin at a particular temperature that its performance can be guaranteed.
1283. Fourthly, Dr Seaman had pointed out that both RES/1 and the bullet in the holster had lost some weight, but RES/1 had lost less weight, and he said it was therefore reasonable to assume that the additional weight lost corresponded to a fragment left in Mr Duggan's chest. Mr Tomei thought that Dr Seaman was in fact saying that he could not rule out the possibility that the fragment left in Mr Duggan's chest came from either bullet, and the same level of probability was applied to either.
1284. Fifthly, Dr Seaman had tested through five centimetres of gelatin to replicate the bicep wound and found this allowed enough residual energy from the bullet to cause damage to a replica of the radio and holster. Mr Tomei's view of that was that it did not take account of the chest injury associated with the arm wound.
1285. Finally, Dr Seaman had found some fibres attached to RES/1 which he tested and found to be consistent with the t-shirt, whereas the bullet in the holster had no such fibres. He said that this supported his

theory that the arm bullet went on to hit the radio. As to this, Mr Tomei said that he would have expected that the fibres on it would have been from the t-shirt if the last thing that the bullet had struck had been the t-shirt.

1286. Mr Tomei's opinion was not initially changed by the information that fibres from Mr Duggan's t-shirt had been found on RES/1, because he did not know to what extent the t-shirt was being twisted or how tightly it fitted Mr Duggan. Both of these factors would have changed the position of the logo in relation to Mr Duggan's body.
1287. Mr Tomei however then looked at a picture of Mr Duggan's t-shirt, which contained a bird logo. One of the relevant bullet holes was within the bird logo, from which the fibres on RES/1 appeared to have come. He was asked by Mr Thomas QC whether this caused him to change his opinion. He agreed it weakened his original conclusion but stated that the other factors that had led him to reach his original conclusion remained relevant.
1288. Mr Tomei's view in relation to RES/1 was that it was perfectly symmetrically mushroomed and expanded, which he found to be inconsistent with the suggestion that it had struck a rib and then expanded in the way that it had.
1289. Mr Tomei stated that he had not seen a hole on the right part of the jacket that matched that hole on the right part of Mr Duggan's chest.
1290. In respect of the chest wound, Mr Tomei stated that the bullet exited the back of Mr Duggan's jacket on the right-hand side of the jacket whereas the exit wound on Mr Duggan's body was on the left-hand side. Mr Tomei agreed that the bullet hole in back of Mr Duggan's jacket was consistent with the jacket being pulled round from the left to the right and the lower part of the jacket covering the right part, or side, of Mr Duggan. The right part of the back of the jacket would then have moved over to the left hand side of Mr Duggan's body. This would be consistent with the position of the exit wound on Mr Duggan's body.
1291. In respect of the chest injury, Mr Tomei said that Mr Duggan would have had to be leaning forward, otherwise the muzzle of V53's weapon would have had to be in an unnaturally high position and then pointing downwards.

Ms Angela Shaw - Gunshot Residue Expert

S103

1292. Ms Angela Shaw, an expert in the field of gunshot residue (GSR)

interpretation, was asked to determine whether or not:

- the non-police issue firearm (JMA/1) had been inside the box recovered from the minicab;
- Mr Duggan had been in possession of the non-police issue firearm; and
- there was any ballistic damage to the carrier bag (which was found in the minicab with the bullet RES/1 inside it).

1293. Ms Shaw concluded the following:

- The absence of all but a single particle of Type 3 GSR on the skin, hair and clothing of Mr Duggan was inconclusive in determining whether or not he was in possession of the gun (JMA/1) in the sock (JMA/2). Type 3 GSR would have been the type present from the non-police issue firearm.

1294. The GSR evidence indicated the firearm had not been recently fired in the sock.

1295. The absence of Type 3 GSR within the cardboard box (GAJ/1) was inconclusive in determining whether or not the gun (JMA/1) or the sock (JMA/2) had been inside the box.

1296. The deposition of GSR on the jacket (JMA/24) and the T-shirt (JMA/22) supported the view that Mr Duggan was shot twice, once to the right arm and once to the chest. It appears the shot to his chest passed through an extra intervening layer as the GSR findings on his T-shirt indicated this was not the first layer struck by the bullet.

1297. The GSR findings around the inner surfaces of the two holes to the left lower front of the jacket indicated to her that these were more likely to be the bullet entry holes and the bullet had struck the inner surface of the jacket first. Ms Shaw explained that one bullet could have caused the two holes if the jacket was in some orientation enabling the fabric of the two holes to be overlaid. She also said that, if the two lower holes were caused by one bullet, the lower left of the jacket would have to be pulled up and folded over Mr Duggan's chest wound, as Mr Tomei had concluded.

1298. Ms Shaw found that there was nothing visually to suggest that the plastic carrier bag, RES/2, had been struck by a bullet.

1299. Ms Shaw gave evidence to the inquest on 13 November 2013. She confirmed she was an expert in the field of forensic science, in particular in gunshot residue. She confirmed her qualifications and

experience as a Bachelor of Science Honours Degree in forensic and analytical chemistry and 11 years working for the Forensic Science Service specialising in the examination and recovery of gunshot residue. Upon the closure of the Forensic Science Service, she co-founded her own Forensic Firearms Consultancy.

1300. Ms Shaw explained what gunshot residue (GSR) is by reference to a model and in answer to questions from Mr Underwood QC:

Transcript
13.11.
13,
p.112,
line 24
to
p.114,
line 20

Q. So the action of firing the bullet will create gunshot residue out of the slide mechanism, out of the muzzle, and it will be propelled some distance, will it?

A. Typically up to approximately three metres from the end of the barrel of the gun and up to approximately a metre on the other side of the gun. But it was a number of variables: it depends on the gun, it depends on the ammunition.

Q. So it would follow that if I fire the gun into the woodwork here, the bullet would hit it, assuming my aim was any good, and, as long as that's less than three metres away from me, a degree of gunshot residue would also hit the wood, would it?

A. That's correct, yes.

Q. Would you expect gunshot residue to hang around a gun after it had been fired?

A. Typically it will settle, it will just settle under gravity so --

Q. Do you characterise gunshot residue by type?

A. Yes. So the primer formulation, the manufacturers of ammunition will put in different chemicals but there is three main different types of primer gunshot residue that we will find. They are typically based on lead, barium and antimony.

Q. So I can keep away from the science, can I ask you simply: is ammunition the police use tended to be given a type number?

A. Yes. So there's the three fairly common types of residue that we see in crime and these are referred to simply as types 1, 2 and 3. The type of residue that the police ammunition produces is types 1 and 2.

Q. In short terms, was the residue associated with the gun associated with Mr Duggan Type 3?

A. That's correct.

Q. So in order to associate that gun with him, you were

looking for Type 3, were you?

A. Yes, that's right.

Q. Going over to your page 4, our page CS488, just under halfway down the page you say: "Amounts of residue are defined by the FSS as Low (1-3 particles of residue), Moderate (4-12 particles of residue), High (13-50 particles of residue) and Very High (more than 50 particles). These values are based on case work experience." You applied those formulae, did you, in your assessment?

A. Yes, that's right.

1301. Ms Shaw confirmed and explained some of the tests that she conducted as follows:

- She had swabbed the barrel of the gun and found Type 3 GSR, which is what the gun would have produced on the last occasion that it was fired;
- She found moderate levels of Type 3 GSR on the inside and outside of the sock. There were 10 particles on the outside, four on the inside and one particle of police Type 1 GSR;
- She found a particularly high level – 40 particles – of Type 3 GSR in the toe area of the sock;
- The GSR sampling kit from Mr Duggan consisted of tapings from Mr Duggan's skin and hair showed moderate levels of Type 1 (i.e. police) GSR on his left hand with 8 particles, 5 particles of the same on his right hand, 9 particles of the same on his face and 20 on his hair sample;
- So far as Mr Duggan's hands, face and hair were concerned, there was no type 3 gunshot residue;
- In relation to Mr Duggan's jeans, t-shirt and puffa jacket, Ms Shaw did a joint examination with Mr Vaughan, the firearms examiner. Mr Tomei, the ballistics expert, was also involved. They took samples from around the holes in the t-shirt and the jacket, then from the remainder of the surfaces as well and inside any pockets. Having taken a range of samples, they found a whole range of GSR around the jacket, jeans and t-shirt. Taking the jeans as an example, this included some Type 1, some Type 2 and one particle of Type 3. As single particles have been found on public transport and on unarmed police officers who are not connected with firearms, no weight is put on single particles found in casework. Apart from that single particle, no Type 3 GSR (i.e. the type connected with the gun and the sock) was found in the areas sampled on Mr Duggan's clothes. If there was nothing found on

the areas sampled, it is unlikely that there would have been any there at all;

- In relation to the hole in the right arm of the jacket, there was a very high range of Type 1 GSR. This did not assist in determining how far away the muzzle of the gun was because residue will transfer onto the bullet and can then travel much further distances than approximately three metres. It will then be wiped off onto any surface it passes through;
- In respect of the shoe box, all that was found was two particles of the police type of GSR and there was no Type 3 GSR relating to the gun;
- In relation to the Sainsbury's bag, this was just visually examined. There was no ballistic damage seen and therefore no samples were taken. There was no reason to believe it had been struck by a bullet as opposed to a bullet falling in.

1302. Ms Shaw then explained her evaluations:

- She concluded that the gun had not been fired because she would have expected far more GSR around the gun if it had been recently fired;
- She said that the absence of all but a single particle of Type 3 GSR on the skin, hair and clothing from Mr Duggan is inconclusive in determining whether or not he was in possession of the gun with the sock. Mr Underwood QC asked Ms Shaw further about this:

Transcript
13.11.
13,
p.123,
lines 1
- 24

Q. Can I just ask you, on your discipline at the moment, before we go onto anyone else's, if Mr Duggan had held the gun and if he had either had it inside his jacket and had some friction between the jacket and him, or if he had had it in his waistband and pulled it out of there, would you have expected some transfer between the GSR and the sock and his clothing?

A. It always depends on the amount that's originally present. So on the sock, when it was examined there were only ten particles of the Type 3 residue. Experiments have shown that you only get a 10 per cent transfer between surfaces that come into contact, so in essence we would only really be looking at one particle to be transferred. So given we're starting off with a fairly low amount, the chances of transfer are low and it would also depend on the amount of contact so in this instance, no, you wouldn't necessarily expect a transfer. But

teasing that apart a little bit, if there had been the sort of use of the gun that I have just described, logically there would have been a particle --

A. Yes.

Q. -- somewhere on the clothing; is that right?

A. Yes.

1303. She concluded that the absence of Type 3 GSR within the cardboard box is inconclusive in determining whether or not the gun within the sock had been inside the box. As to whether or not there could have been a transfer if the gun had been in the box, Ms Shaw said this again depended on how much contact there was and over what period of time.

1304. Ms Shaw said that, bearing in mind the collaboration between herself and other colleagues, there was some level of surprise that no fibre transfer, no GSR transfer and no DNA transfer between Mr Duggan, his clothes and the gun was found.

1305. In response to questions from Mr Straw, Ms Shaw's evidence was:

- On Mr Duggan's hands, hair and face, there were about 45 particles in total of police GSR;
- There were about 48 particles of police GSR on Mr Duggan's trousers and about 330 on the jacket, which included the residue on the bullet holes.

1306. Mr Straw asked Ms Shaw what these factors meant for the distance from which Mr Duggan was shot:

Transcript
13.11.
13,
p.127,
line 25
to
p.129,
line 1

MR STRAW: Is that consistent with him having been shot by the police twice from about three metres, within three metres?

A. It's very difficult to put a distance on it, as I explained earlier, because the residue will transfer on the bullet and then be wiped off and onto the edges of the perimeter of the bullet hole and the clothing, so the majority of the residue on the jacket is actually around the bullet holes, so it's very difficult to estimate a range of fire from the results, and also, given that the jacket received extensive intervention, so it was cut to allow medical access. It was heavily bloodstained, there was a very, very large number of feathers which had come out of the lining of the jacket and then

obviously had undergone examination as well.

Q. It could well have had even more gunshot residue on it before all of those first aid, blood particles --

A. Yes.

Q. Is that what you would expect, if someone is shot from fairly close range, that they would have a number of gunshot residue particles on them?

A. When you say "fairly close range", I assume you mean less than three metres.

Q. Yes.

A. Then you would expect the residue not only to be distributed around the bullet entry hole but also spread more over the surface of the garment.

1307. Ms Shaw said that the sock had one police GSR particle on it, on the outer surface of the sock. The Assistant Coroner and then Mr Straw asked Ms Shaw further about this:

Transcript
13.11.
13,
p.130,
line 5
to
p.132,
line 6

THE ASSISTANT CORONER: If that sock was being held in front of the jacket at the time that the bullets were expelled would you expect to find more Type 1, Type 2 gunshot residue?

A. If it was within the range of approximately --

THE ASSISTANT CORONER: You use your hand going around like this, we know where the bullet holes were and where the concentration of gunshot residue Type 1, Type 2. If, within that, someone is holding a gun with a sock, so that much of the sock is protruding, would you expect to find more Type 1, Type 2 residue on that sock?

A. As I was about to say, it will depend on the range of fire. So if the gun is being held within approximately three metres, so it's actually been exposed to the cloud of residue as opposed to the residue just being deposited from the surface of the projectile. So if the gun is not within that range then no you wouldn't necessarily expect it to be deposited from the firing.

THE ASSISTANT CORONER: If it isn't within that range --

A. Then yes, possibly, yes.

THE ASSISTANT CORONER: -- then you would expect?

A. Yes.

MR STRAW: A similar question then. Assuming the gun is held like that at the time he's shot (indicates), so there's exposed surface of the sock to the line of the fire and assuming it was held like that at the time when all of those other particles that have

attached to Mr Duggan's hands, his face, his hair, his jacket, his jeans, when they arrived on him, assuming the gun was held like that at that time, you would expect there to be more gunshot residue particles on the gun, would you not?

A. I think we need to distinguish, in that quite a lot of the residue on the jacket will have come from contact with the officers so it's transferred directly from their hands and from their clothing, from their body armour directly on to him so not actually on the firing because they had a lot of contact with him afterwards to give him first aid, so the residue could actually have arrived that way, as opposed to from the discharge of the gun.

Q. You are not saying, are you, that the 330 particles on the jacket, 48 on the trousers, 45 on Mr Duggan, that that was all transferred onto him by handling by police?

A. A lot of it would have been. The 137 obviously around the bullet hole wasn't, but the vast majority of the rest of it, yes, could possibly have come from contact with the officers.

THE ASSISTANT CORONER: That might especially be the case if the person who had done the shooting was doing the preliminary first aiding?

A. Yes, correct.

1308. Ms Shaw agreed that the Type 3 GSR particles found on the sock could have been deposited by someone putting it in their pocket. She confirmed that the only Type 3 GSR found on Mr Duggan was the one particle in the back right pocket:

13.11.
13,
p.134,
line 22
to
p.135,
line 23

Q. The only exception then for all of this was the one particle in his back right hand pocket; is that right?

A. Yes, that's right.

Q. But you said of that one, in your report you talk about that as follows, CS494, or page 10 of your report. You say this: "... single particles of [gunshot residue] are easily transferred and have been found occasionally on environmental surveys and therefore no significance can be placed on this finding." Is that correct?

A. That's correct?

Q. We have heard from an Exhibits Officer called Mr Payne. He said that he handled the gun and the sock while he was putting them into a bag at the scene

and then later he handled the jeans. He accepted himself that there was a risk of contamination between the two because of that. That could account, couldn't it, for the single gunshot residue particle in his back pocket?

A. If he didn't change his gloves between handling the gun and then the jeans, possibly. But it would require that he had put his hand into the jeans as well, so there are various steps there --

Q. He did?

A. -- he did. So if that was the first pocket he put his hand into, then, yes, that could have possibly could have transferred the particle.

1309. In response to questions from Mr Thomas QC, Ms Shaw agreed that if the firearm had been put into an ordinary pocket in jeans, it would likely have been put in with the barrel down, and if the gun had been in Mr Duggan's possession, then the likelihood is that something would have been found, whether it was DNA, fibres, GSR or fingerprints.

1310. In response to questions from Mr Stern QC, Ms Shaw's evidence was:

- The length of contact is an important variable in respect of the degree of expectation that one has for forensic material to be on the individual;
- The other main variable is the amount of any residue that is present;
- Although the one particle of Type 3 GSR in the rear right pocket of Mr Duggan's jeans is inconclusive, it is the same GSR type as in the handgun itself;
- The Type 3 GSR could have come from the body armour of the officers, it could have been physically on their person or it could have been from their vehicles. GSR can remain indefinitely if not disturbed;
- From the scientific evidence in relation to the case of which Ms Shaw was aware, no-one can draw any definitive conclusions one way or the other as to whether Mr Duggan had a gun; and
- The findings suggested the gun was not fired recently, but Ms Shaw was not able to put a time on it.

1311. Asked about the chances of getting gunshot residue in the location of a back pocket, Ms Shaw answered as follows:

Q. But the chances of getting gunshot residue of Type 3 in one's back pocket from a bus or something like

13,
p.157,
line 10
to p.
158,
line 12

- that; what are the chances of that?
- A. Well, I mean -- so the reason we don't put any weight on single particles is because you can pick them up on clothing but it also depends on the background of the person as well. If they circulate in an environment where there's firearms or they've been into police custody, the likelihood of residue on their clothing increases, so it might be that a particle was transferred into a back pocket if they had been taken into custody. It all depends on the background of the individual as well.
- Q. Does it depend if you have recently been in contact with a gun as well --
- A. Yes, of course.
- Q. -- and you're travelling in the same vehicle as one?
- A. Yes.
- Q. So can we just distinguish, as it were, the scientific evidence from the social background, if you like? So far as you're concerned, gunshot residue is of significance but it may have got there some other way?
- A. Correct. At some other time.
- Q. At some other time, obviously. But that's really a question of fact, isn't it?
- A. Because of those reasons, because it could have got there some other way at some other time, we cannot put any weight on a single particle.

1312. Ms Shaw explained the distribution of the GSR on the jacket and confirmed that she would generally expect to see higher GSR at the point of entry of a bullet rather than the exit. She explained further about the GSR distribution on the jacket as follows:

Transc
ript
13.11.
13,
p.162,
line 6
to
p.164,
line 7

- THE ASSISTANT CORONER: What conclusions do you draw from that?
- A. The -- well around the entry holes where we have a high distribution of gunshot residue, that suggests that the projectile has gone through and transferred the residue to the surface of the clothing, that those are entry holes. The fact that we have less on the remainder of the jacket, if you like, away from the holes, suggests that the shots possibly were fired greater than three metres, but that is very difficult to say because, obviously, we've had transfer from surface to surface from the armed officers, et cetera, afterwards.
- THE ASSISTANT CORONER: What about if it was closer,

therefore you have much more concentration by the hole and hardly any around?

A. Yes, you would expect more to be deposited around the holes, on the surfaces in general.

THE ASSISTANT CORONER: So could this mean actually it was fired quite close to Mark Duggan?

A. No, no, no, sorry, it would be further away.

MR STERN: She's saying the opposite.

THE ASSISTANT CORONER: I know. You give the answers, don't worry, Mr Stern will -- One explanation could you be, as you say, further than three metres, so the gunshot residue is not getting to the other parts.

A. That's correct.

THE ASSISTANT CORONER: Then if you are within two metres or so you would have some spreading across the front.

A. (Nods)

THE ASSISTANT CORONER: We have heard some points being made about whether that was on the sock or the gun or whether it wasn't, and where it was on the jacket.

A. Yes.

THE ASSISTANT CORONER: What happens if it's actually close so that the gun may only be inches away from where it's shot, then you would get the still concentration around the hole, wouldn't you, but there again not so much around the body?

A. You would also expect to see visible deposits, so you would see unburned, burned material, sooting, so there would be black deposits immediately around the hole. This is more of a firearm's expert area, but you would expect to see -- there would be visible deposits that would alert you to the fact it was close range.

MR STERN: They were absent here?

A. Correct.

Q. That is what leads you to say it is likely, obviously you can never be sure, as I say everything in science is possible, but likely that it was beyond three metres?

A. Three or beyond, yes.

1313. Ms Shaw said she could not say how Mr Duggan's jacket was held and there was nothing that helped her with the location of his hands.

Ms Saranjeet Khera - DNA Profiling Expert

S85
S85A
S85B

1314. Ms Saranjeet Khera specialised in DNA profiling. She was provided with the reference DNA profile of Mr Duggan to assist her.
1315. The purpose of her examination was to establish if DNA evidence assisted in determining whether or not Mr Duggan had handled the black firearm JMA/1, the black sock JMA/2, magazine JMA/3 and live round JMA/4. Ms Khera's findings were:
1316. No DNA directly attributable to Mr Duggan was found on the black handgun, the black sock, the magazine or the live round. In her opinion, given that it is possible to handle an item without depositing detectable quantities of DNA on it, the scientific findings do not assist in determining whether or not Mr Duggan had handled the black handgun, sock, magazine or the live round.
1317. Blood with a DNA profile matching that of Mr Duggan was found on the bullet RES/1 (located in the minicab) and on JMA/10, the bullet located in the radio and harness.
1318. A DNA profile from Mr Hutchinson-Foster was identified on the gun, JMA/1. A DNA profile from Mr Peter Osadebay, (the victim of the assault by Mr Hutchinson-Foster on 29 July 2011) was identified on the sock, JMA/2.
1319. Ms Khera gave evidence to the inquest on 13 November 2013. She has been a forensic scientist since 2000. She confirmed that she has a Bachelor of Science degree in cell and molecular biology and a Master of Science degree in forensic science. She confirmed that she specialises in biological evidence, including analysis of body fluid staining, interpretation of blood patterns and the interpretation of DNA profile results.
1320. Ms Khera explained that her task had been, in particular, to look at whether Mr Duggan could have handled the gun in the sock. Her broad conclusion was that the DNA results did not assist her in determining whether he did handle the sock or the gun. She outlined to the inquest that, in theory, DNA could get onto the sock or the gun by either handling the sock, wearing the sock or bleeding onto the items. In respect of the handling, the DNA would transfer through the shedding of skin cells, which varies from individual to individual. If the item is handled for a shorter period, the handler is less likely to leave more DNA and vice versa. If somebody else handles the item, there could then be mixed DNA results. There could also be secondary transfer results, where a handler has shaken hands with someone

else and then touched the item and the DNA is transferred on to the item via the handler. She said that, if someone had handled a gun in a sock, picked it up out of a box and then thrown it or held it in his hand for a few seconds or half a minute, she would have low expectations of finding DNA from the items. This is because a short amount of time was involved. It would depend also on how that person sheds DNA.

1321. Ms Khera then explained that she looked at the following and tested for any DNA that may have been deposited by a handler, i.e. by shedding:

- The outside surface of the ankle area of the sock – this gave a weak DNA result indicating the presence of DNA from at least three people. This result was unsuitable for robust comparisons;
- All of the outside surface of the main body of the sock, avoiding any visible bloodstaining. This gave a weak DNA result indicating the presence of DNA from at least two people. It was Ms Khera's opinion that the DNA components from Mr Osadebay's profile were present within this result. Given the other DNA results that Ms Khera already had from the bloodstaining, she did not evaluate further for Mr Osadebay's DNA because his DNA components were to be expected to be present within this result. The remainder of the result was not suitable for robust comparison with reference profiles;
- All of the inside surface of the ankle area of the sock. This gave a weak DNA result indicating the presence of DNA from at least three people. This result was unsuitable for robust comparisons;
- All of the inside surface area of the main body of the sock. The DNA result here indicated the presence of DNA from at least three people and this consisted of a major DNA profile which matched Mr Osadebay. The remainder of the result was not suitable for robust comparisons;
- A small area from the ankle area. She explained that, originally, the inside ankle area was sampled and the DNA results obtained gave mixed DNA profiles, so a smaller area on the sock was targeted to see if the result would be improved. The testing on the small area from the ankle indicated the presence of DNA from at least three and perhaps four people with no prominent contributor of DNA present. It was not suitable for robust comparison. She was asked to explain this further, in response to questions from Mr Underwood QC:

Transcript
13.11.
13,
p.21,
line 20
to
p.22,

- Q. Now, again, taking this one with particular care, if I may, what were you able to discern here?
- A. When we're looking at mixed DNA results you may have

line 5

a prominent DNA contributor where the peaks are much higher than everyone else, so you can say that's from one source of DNA. Within this result there was no prominent contributor, it was a mixed DNA result of at least three people and there could be many different combinations of those numbers. So I wouldn't be able to pick out a DNA profile to compare to anyone. That's why it's too complex to do the comparisons.

1322. In response to questions from Mr Thomas QC, Ms Khera said that she could not say that the samples were Mr Duggan's DNA to either the criminal (beyond reasonable doubt) or civil (on the balance of probabilities) standard of proof.
1323. Ms Khera said she did not do any tests to see whether there was DNA on the sock or on the gun from any of the CO19 officers, because she did not have any of their DNA reference profiles. She was not sure if new police recruits leave their DNA profiles on a central database but thought that, if they do, this is a recent development and people who have been in the police for longer would not have left their DNA profiles in this way. Ms Khera told the inquest that she had not been told of a suggestion that an officer went into the taxi and took the gun from the taxi. She had known that it was not clear how the gun had got over the fence and had noted "*thrown over the fence*" but not by who. She agreed that she had not done any tests to determine whether the police might have done that.
1324. In response to questions from Mr Stern QC, Ms Khera stated that the absence of DNA does not mean no contact occurred between a person and an object, and an object coming into contact with something, such as a sock rubbing on grass, could remove the DNA.

Ms Anne Marie O'Connor - Fibres Expert

D306

1325. Ms Anne-Marie O'Connor conducted fibre analysis in order to determine whether or not the non-police issue firearm in the sock could be shown to have been inside the cardboard box and similarly whether it could be established whether the non-police issue firearm in the sock had been in contact with Mr Duggan or not.
1326. Ms O'Connor stated that, given the descriptions in the statements of Mr Duggan producing the non-police issue firearm wrapped in a sock with his right hand from his left side, she would have had a reasonable expectation of detecting fibres from the sock on the fibre taping samples taken from the lower left pocket (inner and outer) of Mr

Duggan's jacket, his left waistband or the front pockets of his jeans.

1327. Ms O'Connor found no evidence from the areas searched to show the sock had been in contact with Mr Duggan. She said that this could indicate that the sock had not been in these areas but it remained possible the sock had been concealed elsewhere within his jacket or on his person. In conclusion, she said the fibre work did not assist in definitively addressing whether Mr Duggan had contact with the sock.
1328. With regards to the River Island cardboard box, she said that if the sock (with or without the firearm) had been inside the box, she would have expected to find fibres from the sock. She did find two black fibres in the box. They matched in colour microscopically with fibres from the sock but she explained they were very common in the textile fibre population and therefore might not have specifically come from this sock.
1329. As part of the investigation regarding Mr Hutchinson-Foster, the MPS opted to commission further fibre work involving Mr Duggan's boxer shorts and these came back as negative for fibres from the sock.
1330. Ms O'Connor gave evidence to the inquest on 13 November 2013. She confirmed that she has a Bachelor of Science Honours Degree in applied chemistry and was a forensic scientist in 2011. Her expertise is in the identification of body fluids, the interpretation of DNA results and the analysis and interpretation of textile fibre evidence. She confirmed she had been asked to consider fibres in relation to the sock and transfer between the sock, Mr Duggan and his clothes.
1331. Ms O'Connor explained that, prior to her involvement in the case, her colleague had completed a form which set out a consideration of what might be expected to be found when the assessment of fibre transfer evidence was done. This was done prior to looking at the items in order to assess where the best place was to look for evidence.
1332. Ms O'Connor also commenced her work on the premise that it was believed that Mr Duggan had drawn the gun, covered by the sock, from his front left side waistband and that he held it in his right hand. She agreed that it would, therefore, follow that there was a possibility of some transfer of fibres between the sock and the waistband of the jeans.
1333. She said that cotton fibres from the sock were found to shed well. This was done by again putting a piece of Sellotape onto the fabric and pulling it off to see how readily the fibres shed from the item itself.

1334. In respect of Mr Duggan's jacket, Ms O'Connor noted that the jacket was in a bad state by the time it reached her team. It had, she confirmed six pockets, from all of which tapings were taken. These tapings were, she said, searched for fibres that could have come from the sock, and none were found.
1335. Ms O'Connor's team looked at Mr Duggan's jeans – a standard five pocket pair of jeans – and confirmed that tapings were taken from the inside front and back waist of the jeans, the inside of the two main front pockets, the outside front and back of the jeans and inside the four main pockets (i.e. the front and back pockets). Again these were searched for fibres that could have come from the sock, and none were found.
1336. In relation to the cardboard box (GAJ/1), Ms O'Connor confirmed that two grey cotton fibres were found there which matched microscopically and had the same colour characteristics as the sock.
1337. In her report Ms O'Connor said that, given the information that Mr Duggan appeared to have produced a firearm wrapped in a sock with his right hand from his left side, if the sock had been in the lower left pocket of his jacket, she would have had a reasonable expectation of detecting fibres that could have come from the sock on the tapings taken from the pockets. She explained this further in her evidence to the inquest, in answer to questions from Mr Underwood QC:

Transcript
13.11.
13,
p.81,
line 4
to p.
82,
line 4

- A. The sock shed its fibres reasonably, well so if it were to come into contact with something, what I would expect to find would depend on how long it was in contact and the extent and duration of contact, yes. The outer surfaces of the jacket were anorak type and so some fibres retain -- some fabrics retain fibres more readily than others in the same way that some shed more readily than others. So if it had been placed in the pocket and removed very quickly it may be that there would be fibres staying there unless they were removed by some other means or if there was very little opportunity for transfer.
- Q. Assume nobody has Hoovered it or anything, again let's keep it as simple as I could --
- A. Okay.
- Q. -- this particular sock with a gun in it, in this particular jacket, in the pockets, the fabric you tested, is it more likely than not or less likely than not that the fibres would be left if I put the

gun in there and pulled it out?

A. There's an opportunity for fibres, yes, if the sock were placed into the pocket.

Q. Can you give us any degree of likelihood?

A. I can't really. I mean it shed reasonably well but - - and there may have been some transfer but it's difficult to make an assessment of how likely it would be.

1338. In her report, Ms O'Connor had said, in relation to the jeans, that if the sock had been in recent direct contact with the inside left waistband of the jeans or inside the two front main pockets, she would have had a reasonable expectation of detecting fibres that could have come from it on the samples of these areas. She explained that, given that the sock sheds fibres reasonably well, it was possible that there would be a transfer, and then that action would encourage fibres to transfer by the friction of the items rubbing together. Ms O'Connor said that if Mr Duggan had had the gun in his waistband, it would be reasonable to expect that some fibres would have been found there, but that expectation is countered by what happens to the items after the contact has taken place.

1339. Ms O'Connor confirmed her view to the inquest that there was no evidence that there was any contact between the sock and the areas she looked at on the clothes because no fibres were found.

1340. In respect of the box, Ms O'Connor said it was more difficult to make an assessment of what to expect when a fabric is in contact with an inanimate object such as a box. This would be further affected by what happened to the box in terms of being moved around and who did what with it. The two matching fibres found in the box, she said, are very common in the textile fibre population and therefore may not have specifically come from this sock. She explained this further thus:

Transcript
13.11.
13,
p.85,
lines
6-18

A. We know from tests that fibres are popular -- can be popular in the population, so many of us here are wearing dark coloured clothing. There may be many dark grey cotton fibres in the room at the moment, so some fibres are considered to be more common than others. Grey cotton is quite a common fibre. In order to show evidence of direct contact you would need to find fibres in large numbers and if you find fibres in small numbers, then you have to consider the possibility that those fibres are there just by chance and that they just match microscopically by chance and haven't necessarily come specifically from the item in consideration.

1341. Ms O'Connor also considered the possibility that the fibres in the box may have got there by secondary transfer and took into account the fact that what happened to the box between the shooting and when it was recovered was not known. She said that these factors make interpretation very complicated.
1342. Her overall conclusion, she said, was that in her opinion the fibre findings to date did not assist in addressing whether Mr Duggan had any contact with the sock.
1343. In response to questions from Mr Straw, Ms O'Connor's evidence was:
- She agreed that she was essentially looking for a trail, so she is trying to find if the sock has dropped anything on an item of clothing which indicated that the sock was actually in that item of clothing;
 - She recalled being told that Mr Duggan was thought to have reached to his left side and not necessarily specifically inside;
 - She tested to see whether the sock could have had contact with the left side of Mr Duggan's clothing. She tried to consider the areas where Mr Duggan may have had contact and was not able to establish how he had been dressed and whether his t-shirt was tucked inside or outside his jeans;
 - She agreed that certain surfaces retain fibres better than others and agreed that a cotton surface like a waistband or the inside of his jacket pocket would retain fibres better than a plain cardboard surface;
 - She agreed that something enclosed like a pocket is more likely to retain fibres than something which is not enclosed. She said that if fibres were transferred into a pocket, it is possible that they may stay in the pocket and even fall into the pocket by the nature of the movement of the item, so it is possible that they may be retained there;
 - Although her original report says tapings were not taken from Mr Duggan's t-shirt, she found a note on her file that says they were taken. She said that a shed test was done for the t-shirt, and the result of that was that it had a "*fair shedability so the fibres shed reasonably well.*"
 - There were a small number of green coloured fibres removed from the taping of the sock which did not match Mr Duggan's t-shirt. She did not test whether those fibres came from one of the CO19 officers;

- In addition to the two fibres in the shoe box that matched microscopically to the sock, there were a number of other fibres in the box that did not match the sock. No tests were carried out to see if these fibres came from the CO19 officers.

1344. In response to a question from the Jury, Ms O'Connor confirmed that she did not test to see whether on the sock there were any fibres that may have come from Mr Duggan's clothing.

Transcript
13.11.
13,
p.96,
line 6
to
p.101,
line 1

1345. Ms O'Connor was asked questions by Mr Thomas QC. He raised the fact that the sock shed fibres easily and Ms O'Connor had stated that, if the sock had been in Mr Duggan's pocket, she would have had "a *reasonable expectation*" of detecting fibres that could have come from the sock. Further, she said that she might expect to find fibres from the sock in the jacket and the jeans if the sock had come in to contact with those areas. The same reasonable expectation applied to the inside left waistband of the jeans or inside the two front main pockets. Mr Thomas QC pointed out that the jacket had been "crawled over" looking for fibres and none had been found that matched the sock. Mr Thomas concluded in questioning to Ms O'Connor (A.):

MR THOMAS: That's astonishing, is it not?

THE ASSISTANT CORONER: Is that a scientific word that you would use or would you say it's not matching your expectation?

A. Yes. I would consider my expectation of finding fibres, as I have said, based on what I would expect to find, given a direct contact and given what I know to have happened to the items.

MR THOMAS: Ms O'Connor, let's turn it on its head. You say that there would be a reasonable expectation of finding fibres. The fact that no fibres were found, turning it on its head, it's unreasonable. Bearing in mind the account that you had been given, it's unreasonable to have conducted all these searches and not to have found one single fibre.

A. There are no fibres found matching the sock and therefore there's no evidence to support that there had been a direct contact with the sock and the area searched.

Mr John Slaughter - Toxicologist

S80

1346. Mr John Slaughter, an expert in forensic toxicology, was asked by the IPCC to determine whether or not alcohol or certain commonly abused or prescribed drugs were present in Mr Duggan's blood, urine and

vitreous humour samples. Mr Slaughter reported:

1347. The absence of alcohol from the blood sample showed Mr Duggan was not under the influence of alcohol at the time of his death or the time of the incident. Additionally, he stated the absence of alcohol in the urine sample also indicated that Mr Duggan had not consumed alcohol in the several hours prior to his death.
1348. He detected MDMA, one of several compounds commonly known as Ecstasy, in both the blood and urine samples, which showed Mr Duggan had used this drug prior to the incident. However, he was unable to say when or how much of the drug was ingested. He said the level detected in his blood was a high abuse level, stating that similar or lower blood MDMA levels have been seen in fatalities where MDMA was deemed a factor. He was able to state that, given the high level of blood MDMA, it was likely that Mr Duggan took MDMA at some time during 4 August 2011 and experienced some effect of MDMA at the time of the incident. He stated that it was possible Mr Duggan's judgment, behaviour or responses were affected by MDMA at the time but he was unable to say definitively that this was the case or, if so, in what way he would be affected.
1349. He also detected MDA in Mr Duggan's blood sample but this was low and consistent with it having arisen as a metabolite of MDMA. The ratios identified between MDMA and MDA of slightly higher than 10 to 1 did not assist in identifying the pattern or time of use.
1350. Mr Duggan was not under the influence of any other common drug of abuse or other prescribed drug, as tested for, at the time of the incident.
1351. Mr Slaughter's evidence was read to the inquest.

Professor Robert Forrest – Chartered Chemist

S167

1352. Professor Robert Forrest is a registered medical practitioner, chartered chemist and chartered scientist, as well working in independent practice in the medical and forensic toxicology and chemistry fields.
1353. The IPCC instructed Professor Forrest to report on the medical and scientific issues arising from the death of Mr Duggan, especially concerning Mr Slaughter's finding that he had used MDMA. This was commissioned in order to determine what effect, if any, the MDMA might have had on Mr Duggan's response to the police on 4 August 2011.

1354. In his report of 25 April 2012, Professor Forrest explained, having considered the relevant material, that it was difficult to calculate the likely blood level of MDMA very shortly before Mr Duggan's death, but he was able to say that it was probable that Mr Duggan was under the influence of MDMA at the time of his death.
1355. Professor Forrest said that, in normal social doses, MDMA acts as a stimulant like amphetamine and can also create a feeling of euphoria and well being. Professor Forrest said that it was possible for Mr Duggan to have suffered impairment to his thinking process. He may have had an inappropriate euphoric mood for the circumstances and an impairment of judgment as to the right action to take. Professor Forrest stated that long term use of MDMA might have increased the chance that Mr Duggan could react impulsively to a challenging situation. However, the specific effects, if any, on Mr Duggan could not be determined.
1356. Professor Forrest gave evidence to the inquest on 5 November 2013 and was asked questions about findings in his report.
1357. In terms of **material available to him for his report**, Professor Forrest confirmed that he had sight of Mr Slaughter's report containing the base toxicology results.
1358. Dealing with his **findings in relation to MDMA**, Professor Forrest confirmed that the only drug found in Mr Duggan's blood was MDMA. This was the only thing which was present in his blood at a detectable level, including medicines, together with its major metabolite, MDA. Professor Forrest then made reference to some material from Mr Duggan's GP, namely a consultation in January 2011 where Mr Duggan had told him that he had used a lot of MDMA during a holiday. Professor Forrest had inferred from this that Mr Duggan was likely to have used MDMA in the past but confirmed this says nothing about his use in the days leading up to 4 August 2011.
1359. Professor Forrest explained the way that MDMA is dealt with in the body. It is absorbed from the gut, circulates in the blood, starts to be broken down and then eliminated. One of the main breakdown products is MDA. Professor Forrest explained that data as to the level of MDA found in Mr Duggan's blood was more rather than less likely to suggest that Mr Duggan had MDMA in his body for perhaps a couple of hours before he died. This did not, however, exclude the possibility that he may have taken more than one dose at different times. Professor Forrest said that the amount of MDMA found was fairly typical of the figures obtained in a blood sample from somebody who has said that he has taken an ordinary social amount of MDMA (one

or two tablets in a club, for example).

1360. Professor Forrest said that all information had to be taken into account, including the taxi driver's description of Mr Duggan, that he was speaking to him nicely and that his mood was good. Professor Forrest explained that the weight to be attached to such factors is a judgment call. It could be someone's natural disposition to speak nicely to taxi drivers or that person's mood could be influenced by MDMA. MDMA often makes people appear to be in a good mood and interact positively with people to whom they are talking.
1361. Professor Forrest compared the concentrations of MDMA found in Mr Duggan's blood to those who have been involved in road traffic accidents. He said that the concentrations were fairly typical of the sort of levels that would be seen when people have been stopped for driving while apparently impaired or people who have been involved in a road traffic collision and died. He concluded in relation to Mr Duggan that he would have been stimulated, experiencing relief from fatigue, that he would have been feeling relaxed and fairly good about things in general.
1362. In terms of the timing of when the MDMA was taken by Mr Duggan, Professor Forrest explained his view that it was taken about two hours, plus or minus 50 per cent, before the stop was the best that he could say. Professor Forrest agreed that some time between 3pm and 4pm on 4 August 2011 was the likely time for it to have been taken. He made the point that this was not a typical time of day to be taking MDMA.
1363. Professor Forrest then explained the **drugs found in Mr Duggan's urine** by reference to the work that Mr Slaughter had done on the toxicology:
- Benzoyllecgonine: the principal breakdown product of cocaine;
 - Ecgonine methyl ester: another breakdown product of cocaine, formed by a different metabolic pathway;
 - Ethylecgonine: formed by another metabolite of cocaine which is called cocaethylene. This is only found in the body if someone has used cocaine with alcohol (i.e. ethyl alcohol, the alcohol in alcoholic beverages).
1364. Professor Forrest agreed that based on Mr Slaughter's analysis, "*you can be more sure rather than less sure*" that Mr Duggan had taken a dose of cocaine a day or two prior to his death, the amount of which in his view corresponded to "*a typical misuse of cocaine*".

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Dr Desmond Vanhinsbergh - DNA Profiling Expert

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1365. Dr Desmond Vanhinsbergh was an expert in the interpretation of DNA profiling results employed by Key Forensic Services. He examined the swabs exhibit AGB/2 and AGB/3, taken from the blood spatter as described by Mr Andrew Bell. A full DNA profile, which matched the profile of Mr Duggan, was obtained from both samples. He confirmed that these samples of blood spatter from the minicab therefore contained the blood of Mr Duggan.
1366. Dr Vanhinsbergh gave evidence to the inquest on 19 November 2013. He confirmed that he is an expert in DNA profiling.
1367. He reiterated that he had obtained a full DNA profile from AGB/2 and AGB/3, the bloodstains matched the DNA profile of Mr Duggan, and the probability of obtaining a full matching DNA profile, if the blood had come from someone else other than and unrelated to Mr Duggan, would be in the order of one in a billion.
1368. Dr Vanhinsbergh confirmed that he had then been asked by the Coroner to produce a further report on 14 August 2013 in relation to DNA testing in general in respect of Mr Duggan.
1369. For the purposes of his 14 August 2013 report, Dr Vanhinsbergh stated that he had taken receipt of Mr Duggan's jeans, belt, sock (JMA/2) which had been around the gun, the shoe box and packaging relating to that box. He was asked to review the forensic DNA work carried out to date on the sock and the firearm, and to evaluate the potential for further DNA tests. He was then asked:
- Whether Mr Duggan had had any contact with the sock or the firearm;
 - Whether there was DNA evidence to indicate that Mr Duggan may have opened the shoebox or touched the contents or inside of it;
 - Whether there was any DNA evidence to link the firearm with the sock;
 - Whether the firearm or sock had been inside the shoebox;
 - Whether there was DNA evidence to link the shoebox with the gun and the sock;
 - Whether Mr Duggan had placed the firearm inside the waistband or pocket of his jeans, or inside his belt;
 - Dr Vanhinsbergh was also asked to try and provide an overview of the DNA results obtained from the firearm and sock and to

comment on the scientific meaning of these results in relation to the case circumstances.

1370. Dr Vanhinsbergh confirmed that he tested two samples of blood from the gun which did not, in his opinion, originate from Mr Duggan. Ms Khera, working for the Forensic Science Service, had sampled a further eight, non-bloodstained areas of the gun, including several areas that would have come into contact with a user of the firearm, such as the grips, slide, trigger, muzzle and hammer. He stated that there was no indication from the results that he reviewed that Mr Duggan was a contributor to the DNA profiles obtained.
1371. In respect of the sock, five non-bloodstained areas had been sampled by Ms Khera from the foot, ankle, inside sole and outside sole. All of the samples produced DNA profiles, containing a mixture of DNA from at least two or in some cases three people. It was Dr Vanhinsbergh's opinion that Mr Duggan could be excluded from being a likely contributor to three of the mixed profiles. The remaining two profiles – from the inside ankle and upper left side (near the opening) of the sock – contained DNA from at least three individuals, with many of the components present in Mr Duggan's DNA also present in these mixed profiles. It was possible that he was a contributor to them but it was also possible that these DNA components simply matched his profile by chance due to the presence of a mixture of DNA from other individuals. He stated that in his opinion, it was an inconclusive result and the result did not assist in determining whether or not DNA from Mr Duggan was present on the sock.
1372. Dr Vanhinsbergh did not consider that any further analysis of the sock would take matters any further. He considered that, in relation to the gun and the sock, the examination of them had been very thorough and he would not advise any further testing.
1373. In respect of the shoebox, Dr Vanhinsbergh confirmed that he had examined the box briefly to consider whether sampling DNA from the inside of the box would provide additional information. Given that the box had been examined by at least two people, opened more than once, sampled for gunshot residue and for fingerprints, in his opinion it would not have been worthwhile for him to test it again. Even if Mr Duggan's DNA were found there, it could have been a result of transference at the scene or in the course of testing. Key Forensic Sciences (for whom Dr Vanhinsbergh works) had examined the inside of the box for the presence of blood but none was found. He confirmed that there was similarly no evidence of Mr Duggan's DNA on the heel tips found in the shoebox, tissue paper found in the shoebox, a hair found within the tissue paper, fibre tapings found from

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the sock or six hairs from the sock. Dr Vanhinsbergh said that there was some possible skin on the sock and blood flakes too but, as with all of them, there was no evidence that Mr Duggan's DNA was on any of these items. He would not advise any further testing in respect of the box.

1374. Dr Vanhinsbergh explained his conclusions:

- The scientific findings provide no evidence of a transfer of DNA from Mr Duggan to the firearm;
- Had Mr Duggan been a regular user of the firearm, and given the extensive testing carried out by the Forensic Science Service, he would expect his DNA to have been found on it;
- However, if Mr Duggan had only recently handled the firearm, it is possible that his DNA would not have transferred onto it. It is possible to handle an item without transferring detectable amounts of DNA onto it. Furthermore, if the firearm was contained inside the sock, it would be possible for Mr Duggan to handle it without his skin coming into contact with the surface of the firearm and his DNA would not have been transferred onto it;
- In relation to the sock, simply handling it, even if it were wrapped around another item, may result in the transfer of some DNA from the hands of the handler but any such transfer is likely to involve very small amounts of DNA;
- He could not give any percentage chances of whether Mr Duggan handled the sock. The evidence provided no assistance to determine this;
- As to whether there was DNA evidence to indicate whether Mr Duggan had opened the shoebox or had contact with the inside of it, the evidence was inconclusive;
- There is DNA evidence to link the firearm with the sock because there is blood on the firearm and sock, blood on the firearm that came from two different individuals and blood on the sock that came from two different individuals, where both sets of profiles matched. The firearm and sock could therefore be linked via the bloodstaining;
- As to whether the firearm or sock had been inside the shoebox, the evidence was inconclusive;
- The blood tested from the jeans matched Mr Duggan himself and provided no evidence of a transfer of blood from the sock or firearm onto the upper inside of the jeans. The likelihood of dried blood being transferred from the sock or firearm onto the jeans,

even if it had been placed inside the waistband or pocket, was very low. The results do not assist in determining whether or not the firearm was placed inside the waistband or pocket of the jeans;

- The examination conducted as a whole had been extremely thorough and there were no further tests than could have been usefully be conducted.

1375. Dr Vanhinsbergh explained that the absence of a positive match between Mr Duggan's DNA and the sock could be for a number of reasons:

- Mr Duggan did not handle it;
- Mr Duggan handled the firearm very briefly and did not transfer his DNA; or
- Mr Duggan's DNA was transferred onto the sock but, because of the mixed profiles obtained, it is not possible to say from that result whether or not he deposited the DNA.

Dr Philip Seaman - Firearms Expert and Biologist

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1376. To assist in the analysis of the blood spatter on the minicab, the IPCC sought the advice of Dr Seaman, a forensic scientist working for Key Forensic Services. He provided two reports dated 1 February 2013 and 18 February 2013. In his opinion, if all of the blood material was deposited during the same event, the source of the blood loss would have to originate from a position close to, and slightly to the rear of, the open sliding door. Dr Seaman assessed Mr Duggan to be outside the minicab at the time he was shot. He stated, *"it appears he was injured on his right side whilst he was outside the taxi, facing towards the rear of the vehicle (which was positioned on his left side) with his back facing towards the front of the vehicle"*.

1377. Dr Seaman concluded the nature and location of the blood spatter indicated that Mr Duggan was positioned close to the minicab and possibly as far back as the tailgate of the vehicle. Dr Seaman could not assist further in determining Mr Duggan's exact position or posture at the point he was shot.

1378. Dr Seaman was also asked to examine the ballistic material and Mr Duggan's upper clothing. In contrast to Mr Tomei, Dr Seaman concluded that Mr Duggan's chest wound was caused by the bullet found in the carrier bag inside the minicab (RES/1). Dr Seaman based his findings on specific indentations he observed on RES/1, which he assessed had been made by the stitching on the rear of Mr Duggan's t-shirt as the bullet exited the left of his back. Dr Seaman observed the

corresponding stitching below the exit hole in the t-shirt. Dr Seaman found that this stitching was not present near the exit hole on the t-shirt associated with the arm wound. This exit hole was on the upper, right side of the rear of the t-shirt. For this reason, Dr Seaman concluded that this strongly indicated that RES/1 (the bullet with the indentations found inside the minicab) was the bullet causing the chest wound and exiting from the left of the back. This meant, therefore, that the wound to Mr Duggan's arm was caused by the bullet found in the holster (JMA/10). Dr Seaman could not rule out that the indentations on RES/1 had come from the inside of the minicab but he indicated the most likely source was the area of stitching in Mr Duggan's T-shirt.

1379. Dr Seaman gave evidence to the inquest on 19 and 20 November 2013. Dr Seaman confirmed his qualifications and experience as follows:

- He is currently the Firearms Team Leader at Key Forensics;
- He has a Bachelor of Science Honours degree in Applied Biology;
- He has a Master of Science degree in Forensic Science;
- He is a Doctor of Philosophy;
- He is a Chartered Biologist and member of the Institute of Biology;
- He has been a forensic scientist since 1985 when he joined the Forensic Science Service;
- In 2002 he moved to the Northern Firearms Unit of the Forensic Science Service;
- In 2010, prior to the closure of the Forensic Science Service, he transferred to Key Forensics.

1380. Dr Seaman confirmed and explained the findings reached in his reports to the IPCC as follows:

- RES/1 (found inside the minicab) had expanded to produce a number of 'petals'. Two of the petals, and one of them in particular, had indentations. Mr Duggan was wearing a turquoise t-shirt and the inside surface of that t-shirt had a raised textured surface that was bonded to the fabric. Dr Seaman took a cast of the t-shirt area which included a bird logo on the back of the t-shirt and compared it microscopically with the indentations on the petals of the bullet. He found a strong correlation between the marks on the bullet and the "*triple stippling effect*" of the stitching. No other region of the t-shirt was consistent with that microscopic indentation;
- There was a slight little indentation to the hem of the t-shirt. There was also damage under the armpit region. There was also damage

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on the *“upper right front and an apparent exit hole at a lower position in the back of the t-shirt corresponding with the jacket”*, this is another separate area of damage in the back of the garment itself;

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- Dr Seaman had attempted to line up the holes in the jacket with what he took to be the trajectory of the bullet through Mr Duggan’s chest. He had replicated this on a mannequin;
- The entry hole on the lower left front of the jacket was on the inner surface. The jacket seemed to have inverted so the entry hole was on the inside of the garment. He said that on his reconstruction, *“The left arm is meant to try and represent pulling the lower left front of that jacket up to account for that chest injury”*. This was the only way that Dr Seaman could account for the jacket being up in the position it was at the time the shot was fired;

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- Dr Seaman could not ascertain if Mr Duggan was leant forward rather than being stood upright at the time that he was shot. However it was his opinion that being stood slightly twisted towards his left side *“would be more appropriate for the bullet exiting the victim’s back in order to be retained in the taxi”*. This was on the assumption that the bullet that ended up in the plastic bag was the one that went through Mr Duggan’s chest. Dr Seaman did not know how the bullet ended up in the plastic bag but it certainly ended up in the taxi;

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- In relation to the blood spatter on the taxi, it was Dr Seaman’s opinion that, if all the material was deposited in the same event, *“the source of the blood loss would have had to originate from a position close to, and slightly rear of the open door”*.
- In his opinion the slope of the road at the scene meant that the door to the taxi would stay open when the car was in the parked position;
- The staining seen on the tailgate of the car had not been confirmed to be blood/tissue.

1381. Dr Seaman produced a further report commissioned by the Assistant Coroner on 29 August 2013. His evidence to the inquest on this report was as follows:

- The bullets used were soft hollow point bullets. They are designed to predictably expand and form a mushroom shape. A bullet passing through a couple of centimetres of your arm would cause at least some mushrooming;
- A radio opaque object was noted (i.e. something that showed up darker on x-ray) in Mr Duggan’s chest during the post-mortem,

which Dr Seaman assumed was a fragment of a bullet, but it was not recovered;

- Dr Seaman could not find any surfaces consistent with the pattern on RES/1 in the surrogate minicab presented at the inquest;
- Dr Seaman considered that the shot injuring Mr Duggan's arm was likely to have occurred while the arm was close to, possibly slightly forward of, the right-hand side of the chest, allowing it to pass through a relatively small thickness of muscle or tissue compared with the other bullet.

1382. Dr Seaman explained that on 9 August 2013 he had conducted a series of test firings using V53's gun and equivalent ammunition. The tests were to investigate two possible scenarios: (1) a gunshot passing through a clothed body and striking a police radio within a holster behind; and (2) a gunshot passing through a clothed arm to strike a police radio in a holster behind. Of these tests, Dr Seaman said:

- Where bullets were passed through 25cm of ballistic gelatin (to simulate the bullet going through Mr Duggan's chest) they were able to impact on the holster behind, however, they were unable to significantly damage the radio within. The bullet just smeared the outside of the holster;
- Where a 15cm or 5cm thickness of gelatin was used (to simulate Mr Duggan's arm) the bullets penetrated the holster and damaged the radio within.

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1383. Dr Seaman concluded that:

- The bullet in the radio, JMA/10, was grossly deformed, had expanded and had lost a significant amount of material within the radio. This bullet passed readily through the small material of Mr Duggan's arm and embedded in the radio; and
- The bullet in the minicab, RES/1, had the potential fabric impressions that could not be found elsewhere other than in the centre of the back of Mr Duggan's T-shirt. This bullet passed through Mr Duggan's chest picking up the indentations as it did so.

1384. Dr Seaman explained that he had attempted to make findings in relation to the potential for a replica version of the gun, JMA/1, to be thrown at the scene to where it was found by carrying out various throws from various positions. He concluded:

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"In my opinion, the distance between the vehicle and where the gun is alleged to have been found is within the capacity of any individual to throw such an item, either from within the vehicle, as one alights the

car, or actively without extending the arm away from the body."

1385. Dr Seaman also confirmed that he agreed with Ms O'Connor, the fibre expert, that based on their colour and microscopic appearance, the two fibres found in the shoe box were indistinguishable from the constituent fibres of the sock. He said that he conducted thin layer chromatography to one of these fibres and found that it could not be distinguished from a sock fibre.

Mr Andrew Bell – Senior Forensic Scientist

1386. Mr Andrew Bell provided a statement dated 30 September 2011 about his examination of the blood spatter on the minicab. Shortly after this statement was provided, enquiries were made with Mr Bell to establish if he could provide any further opinion to assist the investigation. Mr Bell indicated he could not elaborate further.

1387. On receipt of the opinion of Dr Seaman relating to the blood spatter (set out above), Mr Bell was approached again to enable him to reconsider his opinion in light of Dr Seaman's evidence. Mr Bell provided a further statement dated 18 July 2013 in which he reached conclusions which were in broad agreement with the evidence of Dr Seaman. With regards to the position of Mr Duggan at the time he was shot, Mr Bell also said, *"It should be noted that the bloodstains on the rear sliding door were predominantly towards the front edge of the door (i.e. towards the front of the vehicle). No bloodstains were observed towards the back edge of the door, or on the rear side of the panel on this side of the vehicle. If the bloodstain on the front passenger door and the plastic seal beneath the footplate, were deposited at the same time as the bloodstains on the rear sliding passenger door, in my opinion, this indicates that Mark DUGGAN was outside the vehicle and still in the area adjacent to the exit from the rear passenger compartment and rear sliding door..."*

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1388. Mr Andrew Bell gave evidence to the inquest on 7 November 2013. He confirmed that he was a senior forensic scientist within the MPS. Mr Bell told the inquest that:

- He had a Bachelor of Science in microbiology from the University of Queensland and is a member of the International Association of Bloodstain Pattern Analysts;
- He has been working as a forensic scientist since 2001, originally as a DNA analyst with LGC Forensics and then since 2003 as a forensic scientist with the MPS;
- The information that he had to inform his task was that Mr Duggan

was the only passenger in the minicab, and that in the process of a his arrest two shots were fired, one of which fatally wounded him. Mr Bell was also told that attempts had been made to resuscitate Mr Duggan in close proximity to the minicab.

1389. Mr Bell said he understood his task was to include the examination of the inside and the outside of the minicab, but specifically the side exit for the passenger door and around that area, as he understood that was where Mr Duggan had been sitting in the rear of the vehicle and that he exited through that door.
1390. Mr Bell confirmed that the blood-staining on the doors would indicate that they were either shut or open at least 26cm at the time that the blood was deposited.
1391. Mr Bell stated that he had picked three particular bloodstains which he taped and labelled as AGB/1, 2 and 3. Essentially these were just examples randomly selected from what he was seeing, for submission for DNA analysis.
1392. Mr Bell said that, in relation to the example he had selected as AGB/2, the blood spatter looked to have a horizontal component to it and appeared thicker in nature. This was a stain that could have had some possible tissue material in combination with some of the bloodstaining. If a stain had a horizontal component to it, it would indicate that the blood was travelling in a horizontal direction, so its trajectory was horizontal. However, due to the thickness of it, and the possible tissue content, that may just be an artifact of it travelling through the air and then on deposition how it is displayed. He could not say either way whether it was more likely to have come from the shooting or the first aid.
1393. In relation to the example of AGB/3, it was from this that Mr Bell inferred that the minicab door must have been open at least far enough for the blood to have got there while the door was open.
1394. Mr Bell told the inquest that, when he was doing his analysis, he did not find anything in the minicab and no-one had told him that the front seats had been turned round or that the over-carpet had been taken out and put in the boot. He did not actually look at the carpets, having assumed, in common with his normal way of working, that the carpet had been preserved. However, he later clarified that it would not have changed his conclusions that the seats had been moved or the carpet put into the boot.

1395. In answer to questions from Mr Straw, Mr Bell's evidence was:
- Mr Bell thought that, at the time that Mr Duggan was shot, he was close to the rear sliding door of the minicab as small bloodstains do not travel as far as large bloodstains, and because of the distribution of the blood spots;
 - Apart from the blood that he had already described, there was no blood on the rear corner of the minicab;
 - Mr Bell did not believe that Mr Duggan was towards the front or the back of the minicab when he was shot due to the absence of bloodstaining on the rear corner of the minicab and on the front corner of the minicab.
1396. In respect of the first aid, Mr Bell said he thought it was highly unlikely that the first aid caused the pattern of blood that he saw because of the size of the bloodstains. He said that, given where he had been told the first aid took place, the smaller sized bloodstains would have been unlikely to travel from there. Further, the height of the bloodstaining suggested that it was not caused by the first aid. This was because Mr Duggan was on his back when the first aid was performed and, if the bloodstaining had occurred from the first aid, Mr Bell would have expected to see a dispersion of blood lower down.
1397. Mr Bell did not think that blood being cast off (which is when an object wet with blood is swung through the air) from Mr Duggan's fingers, hands or arms during the period from him being shot to him being on the floor was the cause of the blood pattern that was visible on the side of the car. The short space of time involved and Mr Duggan's clothing would have inhibited this.
1398. Mr Bell was asked about a mark on the tailgate of the car that he had not considered to be blood when he conducted his examination. Mr Bell said that, even if it were blood, it would not change his opinion that Mr Duggan was close to the sliding door at the time that he was shot.
1399. In response to questions from Mr Stern QC, Mr Bell gave the following evidence:
- Apart from the sub-millimetre blood spatter on the foot plate, he found no blood inside the minicab; and
 - He found no bloodstains on the underside of the minicab.
1400. It was Mr Bell's view that the blood spatter was more likely to have been caused by the injury to Mr Duggan's chest, irrespective of whether Mr Duggan was crouching or not, and it was more likely to

have been caused by the exit wound from the chest shot than the entry wound.

1401. In reply to a question from the jury, Mr Bell explained that a small spot of blood spatter can travel one, two or even three metres but this would be rare and, looking at the dispersion in this case, it would not be expected to see a greater number of small spots travelling a further distance. Small spots would be concentrated in a shorter area and, as you go over a distance of one metre, small spots would become less and less.

Ms Jacqueline Landais - Finger, Thumb and Palm Print Expert

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1402. Ms Jacqueline Landais was an expert in the examination of fingers, thumbs and palm prints. The shoebox, GAJ/1, had previously been forensically examined and various photographs had been taken of the images of ridge detail relating to fingers, thumb and palm prints. She examined these photographs and identified that the following people had touched the shoebox:

- Mr Duggan;
- Mr Hutchinson-Foster; and
- Ms Desire Cox (Mr Hutchinson-Foster's ex-girlfriend).

1403. Ms Landais gave evidence to the inquest on 12 November 2013. Ms Landais described her experience:

- She has been a fingerprint expert for more than 25 years;
- She has completed various training programmes to advanced fingerprint level;
- She is on the National Register of Fingerprint Experts.

1404. Ms Landais told the inquest that:

- She had found Mr Duggan's right palm and right middle finger on the base of the box. It appeared to her to be a lifting or holding action, but she could not tell from it whether the palm and finger touches were made at the same time. It could have been two touches rather than one;
- She had found the right forefinger of Mr Duggan on the top lid of the box, from which she inferred that he had touched the box with his right hand;
- Some areas of the box contained marks identifiable as fingerprints

but for which there was no match on the fingerprint database or for Mr Duggan;

- Some areas of the box did not contain enough detail for her to be able to say whether the marks belonged to anybody, let alone Mr Duggan – i.e. the marks were not identifiable as fingerprints;
- Of the unidentifiable fingerprints, Ms Landais could not say whether they came from one person or several people;
- She was not given directly any police officers' fingerprints to check, but the police officers' fingerprints are on the fingerprint database for elimination purposes, and a search was done on the database and there were no identifications. She did not know whether CO19 officers' fingerprints are included in the database but said that she understood that, when recruited, all police officers' fingerprints are put onto the database;
- Ms Landais did receive five photographs of marks retrieved from the gun found at the scene, but there were all of insufficient quality for any comparisons to be made against anybody;
- It would be very unusual for fingerprints to be found on a sock, unless it was made of very unusual material.

Chapter 9 – Policies, Procedures & Law

1405. This chapter provides:

- an outline of the guidance documentation in use at the time of the incident applicable to this type of armed police operation;
- the findings of the ACPO nominated Police Advisor instructed by the IPCC to review the firearms operation and provide a report in relation to whether it was appropriately conducted in accordance with the guidance documentation; and
- a summary of the law underpinning the use of force in the context of the deployment of armed officers – in particular the law of self-defence.

Policies and procedures - guidance documentation

1406. The two main guidance documents that were available to the officers involved in this armed operation were:

- the Manual of Guidance on the Management, Command and Deployment of Armed Officers 2010 (ACPO / NPIA) (the **Manual**), and
- the MPS 'Police Use of Firearms Standard Operating Procedures' version 8.2 – February 2011 (CO5 – Firearms Policy Unit) (the **SOP**).

1407. Both are lengthy documents and have not been reproduced in detail in this report.

The Manual

1408. The purpose of the Manual is to, “...set out the guidance issued by [ACPO]...on the management, command and deployment of armed officers.....and provides:

- *Guidance on the appropriate issue and use of firearms and related less lethal options within the Police Service;*
- *A basis for the training of all relevant police staff in matters relating to the operational use of firearms. This includes command issues at strategic, tactical and operational levels.*
- *Guidance on command structures, tactical options and operational issues associated with the deployment of Authorised Firearms Officers (AFOs)”.*

Use of Force and Firearms

1409. Use of force and in particular firearms is discussed in chapter 2 of the Manual. Paragraph 2.21 of the Manual provides that, *“...in all situations it is the individual AFO who must assess the immediacy and proximity of the threat and make an operation decision as to whether it is absolutely necessary to discharge a firearm or take other decisive action.”*
1410. Paragraph 2.41 states, *“Where circumstances permit, AFO’s should identify themselves as armed officers and give clear direction to the subject, giving sufficient time for the directions to be observed unless to do so would unduly place any person at risk, or would be clearly inappropriate or pointless in the circumstances of the incident. Oral or visual warnings should make the subject aware of the nature of the armed police intervention, these should serve as a clear warning to them and make it clear that force and/or firearms may be used.”*
1411. According to paragraph 2.44, when it is considered necessary to discharge a firearm, *“...the primary intention of the police is to prevent an immediate threat to life by shooting to stop the subject from carrying out their intended or threatened course of action. In most circumstances this is achieved by aiming to strike the central body mass (i.e. the torso).”*
1412. In addition, paragraph 2.50 notes, *“...when an AFO decides to discharge a firearm, the number and sequencing of rounds fired will depend on the circumstances that exist at the time. Officers must constantly assess the threat posed by the subject and the continuance of the threat. Officers must be able to demonstrate that the degree of force used was absolutely necessary and relative to the threat posed. The use of excessive force is strictly prohibited.”*

Operational issue and deployment of firearms

1413. Chapter 4 of the Manual discusses the *“operational issue and carriage of firearms and deployment of”* authorised firearms officers.
1414. Paragraph 4.20 provides that *“AFOs should only be authorised in the following circumstances:*
- *Where the officer authorising the deployment has reason to suppose that officers may have to protect themselves or others from a person who:*
 - *- is in possession of, or has immediate access to, a firearm*

or other potentially lethal weapon, or

- *- is otherwise so dangerous that the deployment of armed officers is considered to be appropriate; or*
- *As an operational contingency in a specific operation (based on the threat assessment)...*

1415. Armed support in covert operations may be provided in three different ways: *“armed surveillance, mobile armed support to surveillance (MASTS) and operations to Counter Threats to Life.”*

1416. In relation to the police operation on 4 August 2011, mobile armed support to surveillance was provided. According to paragraph 4.34 of the Manual, this may happen in *“...covert operations requiring armed support for contingency or planned interception need a higher level of tactical capability than that required to conduct armed surveillance. Such operations will require the deployment of armed resources in support of armed or unarmed surveillance, with the appropriate tactical capabilities to offer effective control measures to mitigate the assessed threat.”*

Command Structure

1417. Chapter 5 of the Manual discusses command structure in situations where it is deemed necessary to deploy authorised firearms officers.

1418. The generic command structure used in the UK Police Service operates at three levels, strategic, tactical and operational. Paragraphs 5.10- 5.12 provide that:

- *the Strategic Firearms Commander ‘determines the strategic objectives and sets any tactical parameters. Retains strategic oversight and overall command responsibility’;*
- *the Tactical Firearms Commander ‘develops, commands and coordinates the overall tactical response in accordance with strategic objectives’;*
- *the Operational Firearms Commander ‘commands a group of officers carrying out functional or territorial responsibilities related to a tactical plan’.*

1419. The SOP is particular to the MPS but draws heavily on

guidance material contained in the Manual.

CO19 Selection and Training

1420. Evidence was given at the inquest from two key witnesses in respect of the selection and training of CO19 officers, Supt Dobinson and V59.

Supt Dobinson

1421. The central evidence came from Supt Dobinson who, between February 2012 and February 2013, held the role of Chief Firearms Instructor for the MPS.

1422. Supt Dobinson explained that an ARV officer is required to patrol in a marked police vehicle in an overt uniform. An ARV officer will be deployed to incidents that happen spontaneously within London and deal with any particular threat that may be involved in that incident. This would normally be firearms threats, as the incident has to meet the requirement for the deployment of ARV officers. The ARVs are set up into teams, with a senior officer in charge of a team, so a sergeant supervising the constables. The sergeants can, he said, supervise the constables and can assess their colleagues on a regular basis.

1423. Supt Dobinson then gave some **background to training firearms officers**. He explained how decisions are made on the number of people required to train for what roles and how this is determined. He said that all police forces are required to assess what the known threats are that face the populace that they police and make an assessment of risk of those threats happening. Either the Chief Constable – the Commissioner of the Police Service – will carry this out or he will delegate it to a senior officer. In the course of making this assessment, they will identify how many police officers trained in firearms they will need, what type of role, skill, weapons and equipment they will need and then how much training is required to meet the threat. He indicated that, in London, the threats might range from protecting the royal family through to the risks inherent in gang culture.

1424. Supt Dobinson explained that the selection process for ARV officers involves an assessment of their existing skills. In particular, trainers are looking for ability around threat assessment and good judgment. To give an indicative guide

of the success rate, Supt Dobinson said that the last ARV selection process had in the order of 80 candidates, with around 50% passing the threshold. He emphasized that, in practice, officers can and do fail both foundation and refresher training. The pass rate for TSTs is also about 50-60%.

1425. As to how a decision is made about how training is to be done, Supt Dobinson explained that there are a number of very clear parameters around which training is delivered:

- All firearms training has to be licensed by the College of Policing (this used to be referred to as a National Police Improvement Agency). The deliverers of firearms training, such as the MPS, are licensed to provide that training;
- To get the licence, the deliverer has to evidence, on an annual basis, that it has material that is compliant with the national curriculum of training and that it has lesson plans and recorded outcomes. In this way, the objectives of the training link directly into the national curriculum;
- A deliverer also has to evidence that it has notes for its trainers, so that any different trainer can pick up and deliver that lesson, that it has risk assessments applicable to those lessons and that it carries out a proper form of assessment. For example, if a particular criterion for demonstrating competence is that an officer has to be able to hang on a rope for 20 seconds, then one of the recorded learning outcomes is, *“The officer demonstrates the ability because they can hold onto the rope for 20 seconds.”*

Transcript
6.11.13,
p.179,
lines 18
to 25,
p.180,
lines 1-25

1426. Supt Dobinson confirmed that the training that is provided is assessed on an annual basis, which is a self-inspection. The training is then subject to scrutiny by the College of Policing and, every four years, there is a full and comprehensive review of the training matter from lesson plans, to risk assessments, to the state of ranges. He said that the MPS has a full licence at the date of his evidence (6 November 2013) and has always had a full licence. He also confirmed that firearms instructors have to be occupationally competent, in the sense that they have passed a national firearms instructor’s course, and they have to have an additional teaching qualification, and they have to be operationally experienced and competent.

1427. In relation to initial and refresher training, Supt Dobinson’s evidence was that foundation training takes an officer without any skills or with some existing skills and gives him new skills.

This is the training that will be completed to become a close protection officer, or a bodyguard. Once these skills have been established, with a demonstrable level of competency, they have to be maintained on an annual basis through refresher training. The level and detail of that training varies according to skill level: an officer outside Buckingham Palace will have training relevant to that role, an officer who will enter houses and rescue hostages will have far more training, so there will be much more continuation training in the latter case.

1428. In respect of refresher training for a TST officer, Supt Dobinson said that a TST officer will undergo 20 days' worth of training on an annual basis. This is separated into particular blocks because within the MPS there is an enormous amount of training – it has one of the largest training demands in the country – because of the number of firearms officers within the MPS. As such, a TST officer will undergo training of a regular cycle of between six to eight weeks and, over that time, will have an opportunity to train over four days. As long as they meet the required contact time of 20 days per annum as a minimum, he said, they are deemed to maintain their competence, unless they demonstrate something that causes concern.
1429. Supt Dobinson said that he would expect police officers when beginning their training to demonstrate skills such as recollecting events, calm analysis of potentially dangerous situations, and the ability to record events afterwards. Supt Dobinson believed that those skills are enhanced during their training, as officers are trained to recognise what things can affect their decision making, but whether it happens in reality could only be borne out by what individual officers may say, he said. Enhancement of those skills is not an objective of the training – rather it is to expose officers to factors that may affect the training and to understand what physiological changes may happen in their body when they are under stress.
1430. As to who delivers the training, Mr Dobinson explained that, when he was the Chief Firearms Instructor, he had approximately 116 instructors delivering full-time firearms training to the entire MPS. To become an instructor requires further training and being an experienced firearms officer is not necessarily enough because an instructor will need to understand how to teach.
1431. Supt Dobinson's evidence was that, to become a TST officer,

an officer will first have been an operationally competent ARV officer. In respect of the **ARV training**, he said:

- In 2011, the training to become an ARV officer was about seven weeks long. It is now nine weeks long;
- A constable selected to do the ARV course is trained according to what his role is, i.e. by reference to his role profile which is set nationally. There is a role profile for a close protection officer, and for an ARV officer and others;
- The national requirement in respect of an ARV officer is that he will be able to contain a building, use a handgun and a carbine rifle. He will be required to stop vehicles and deal with people on foot. At the end of the course of instruction, an ARV officer will have to demonstrate that he can actually do that job and exhibit those skills in order to be assessed as being competent;
- In terms of training on when to shoot, Supt Dobinson explained that all officers in their initial foundation training go through a judgment training scenario, which is designed to expose to the officers to a test of whether they suffer stress when they are facing an armed confrontation. This is repeatedly tested throughout training, through the use of instructors called stooges, interaction and a video playing a scenario. This work is done at ARV level but not again at TST level;
- The ARV course is done live and by video and the inquest was shown the training video footage on which Supt Dobinson provided a commentary. He explained that two officers will stand together in front of a screen. They each have a handgun, which has been converted to fire a laser weapon. This training is designed to expose officers to how they can use the national decision model (which used to be described as the conflict management model). It also exposes officers to the factors that will affect their decision making, such as fight or flight, and the potential stress that will be faced in an armed confrontation. If in the course of the video training an officer draws his weapon from its holster, any pointing or squeezing of the trigger is enough to constitute a use of force and therefore the officer will then have to justify his actions. The debrief following the video training would involve asking the trainees very open questions around their recollection of events and they are asked each to account for their own individual recollection, although in view of each other so that they can hear what is

being said;

- Supt Dobinson explained that in the course of the debrief, the scenario would be played back to trainees and their recollection of what was in the video would be tested, partly in order to challenge any perceptual distortion (e.g. confusing the colour of a suspect's coat with the colour of a door). He said that the debrief was testing the officers' thought processes;
- Supt Dobinson agreed that part of the point of the video training was to indicate to officers that they may misunderstand a threat;
- Supt Dobinson confirmed that people do fail their training – not specifically on the video training exercise, as there the focus is about learning how they respond to stress, but if they behave in other scenarios in a way which is irrational or cannot be justified, they would fail the course;
- He emphasized that all the training on the video links back to training relevant to the national curriculum, which focuses on knowledge of the law and an officer's understanding and application of the law, the factors that affect decision making, how the body can react to stress and how it can interpret things correctly or incorrectly, depending on perceptual distortion, bias and previous experience.

1432. Supt Dobinson explained that a TST officer will, then, following the ARV training, undergo a process of assessment in order to then be selected for a TST foundation course. He explained the key features of **TST training**:

- The course is seven weeks long, with various additional units of learning that are provided to that officer which build on those existing blocks of learning and skills that they had as an ARV officer, so it is a building block approach;
- Part of the course is dedicated to vehicle training and tactics or operational issues revolving around the stopping of vehicles. He said that approximately 50 hours' worth of training is specifically concerned with vehicle stops;
- On the requirement on TST officers to carry out classification and development shoots, Supt Dobinson said that officers are required to carry these out every 12 months. A classification shoot involves firing 100 bullets over nine different disciplines. For example, the first discipline may involve firing ten bullets and then, over the

remaining disciplines, factors such as distance, kneeling, changing magazines/loads etc. are introduced. A development shoot follows the same process of an officer being on a range with his weapon, with firing in certain conditions being required, e.g. under low light, or at moving targets. The officer has to achieve 90% in order to remain competent and to remain operationally deployable. This is generally regarded as a difficult benchmark, which Supt Dobinson understood to be higher than that required by other forces in the UK.

1433. Supt Dobinson confirmed that the training covered interception of a stationary vehicle (a static stop), training for a compliance stop, where a vehicle is being followed by the police and is given an indication to stop and training for a hard stop.
1434. In respect of **training for MASTS and a hard stop**, Supt Dobinson said that there is training dealing with what happens if someone gets out of the car in a hard stop. This includes training an officer to a higher level of physical fitness than an officer on the beat, due to the range of contingencies that may arise when a hard stop is conducted (e.g. the subject may run off). Officers are trained how to park their cars, exit their vehicles and move into a position that reduces the risk of that person escaping as quickly as possible. A stooge is used in training to test the various scenarios that might occur. Supt Dobinson emphasised that, throughout all firearms training, the key principle in dealing with any subject is to make sure that he is contained. This is tested in the scenarios acted out by the stooge in training.
1435. On the question of what training there is covering not using a gun in a hard stop situation, Supt Dobinson indicated that the training is focused on the national decision model because, in practice, all will depend upon the threat that is being posed. The point of the training is to encourage an officer to establish what the information is and what the threat is. If there is clearly no imminent threat to life, or the subject has no access to lethal force with no intent to hurt, then the officer may be able to resolve that incident by means of communication and talking the subject into arrest. He emphasised that it all depends on the threat level and, in training, the officers are taught to respond to that level of threat accordingly. He said that if the information given to officers is that the subject has got access to lethal force then, until there is a change in that information, the officer has to use this information in his assessment of the

situation. The information might indicate specifically that the subject has a firearm. A less lethal weapon, such as a taser or a baton gun might be appropriate for use in certain situations, but an officer will need to consider the reasons why they are there and the information they have been given in making his threat assessment.

1436. Supt Dobinson said that the training for these scenarios involves stooges both with and without weapons. It will involve briefs that have indicated the subject has a firearm but then, when the subject is searched, there is no firearm. This is to test the officers' interpretation of the information and how their threat assessments are informed. Similarly, stooges with weapons are used, and if an officer does not in such circumstances resort to using his firearm, this would be questioned in order to test whether he has put himself or others at risk by reason of the threat assessment he made in those circumstances. Supt Dobinson said that the training will include a scenario where a stooge will get out of the car and bring a gun out of a waistband or a jacket.
1437. Supt Dobinson confirmed that all commanders are trained in the range of options of stop (static stop, compliance stop and hard stop). Ultimately the decision on what option to use is down to the commander of the operation. A hard stop is not, he said, per se a high risk tactic – any tactic could be high risk depending on the circumstances.
1438. Supt Dobinson indicated that he was aware of observations made in the Azelle Rodney Inquiry about the risks attached to a hard stop. He did not know whether the specific comments made had been communicated to officers on the ground but he did know that the Commanders were fully aware of the ongoing risks around the tactics. From a training perspective, he said, there has been no directive to change the national curriculum that still contains the teaching material for that particular type of tactic. Supt Dobinson said that he was familiar with the recommendation that there should be a peer review of the tactics to be used, and he said that a peer review of the operation had been put in place.
1439. Supt Dobinson said, in answer to questions from Mr Mansfield:
- The judgment training scenario is introduced in the basic foundation training and thereafter it is not revisited in that format;

Transcript
6.11.13,
p.152,
lines 4-5

- He agreed that it was necessary to make sure, as far as is possible, that the officer who is going to be entrusted with a lethal weapon is somebody who has been exposed to various stresses and various situations, so that the extent to which the individual officer has understood himself can be assessed. He said, however, that it is not a test but *“it’s about them understanding and being exposed to it because we want to train for reality”*. He said that it is a learning process of the officers developing their awareness and agreed that it is then a question of introducing other factors, including applying the law of necessity of firing and to shoot or not to shoot, into the package;
- He said that training can expose whether an officer will develop tunnel vision or perceptual distortion in a particular situation, but that it is very much about an individual’s recollection and it can be difficult to establish what they will focus on;
- If in training an officer produces a gun, he will always be asked what the necessity was to produce a gun and, if he shoots a person dead in training, by the use of a laser gun, he will be asked what his decision making was, why did he do what he did, what other options would he have considered.

Transcript
6.11.13.
p.161,
lines 6 to
13

1440. Supt Dobinson confirmed that **tasers** could be used to contain an escaper, and the training covers training officers in the weapons that they will be using, including a taser. He answered as follows in response to questions from the Assistant Coroner:

THE ASSISTANT CORONER: It's not just a question of training one person to use all different things, but as a group you could have one person with a gun, we know one with a Hatton gun for the tyres, someone else with a Taser?

A. That's right. That's how we train people in MASTS formations, that not everyone will be carrying a Taser in the same way as not everyone will be carrying a shotgun.

1441. Supt Dobinson went on to explain that officers are trained to use a taser on a subject and it does not matter if they are facing the subject or not (i.e. they could be used from behind). He confirmed that, officers having been trained in the use of a myriad of different weapons and equipment. A less lethal weapon such as a taser will be in the range of responses

available to a Commander to direct for use in a particular operation.

1442. Supt Dobinson was questioned about **containment of premises**. He explained that the option of containment of premises can have advantages. The officers who would carry out such a containment could be ARV officers or TST officers, as all firearms officers are contained in the basic skills of containment. This would include containment of an ordinary two-storey terraced house in London. The Commander of any operation potentially involving containment would apply the national decision model. There are several variables involved in the planning for a containment operation, he said, such as the number of exits to the building. He agreed that it would be possible to have discreet armed surveillance of the building prior to a containment operation taking place. He agreed that, depending on the variables involved, it would technically be possible to execute a containment operation of a building within half an hour. Supt Dobinson said that a spontaneous incident would be likely to involve an ARV response but, if it was a planned ongoing operation, then it might be a TST or SFO team that was involved.
1443. Supt Dobinson agreed that the individual circumstances of a case will determine whether or not containment or call out are a preferred tactic in an armed operation. The individual's circumstances might make containment and call out either the safer or a much more dangerous option. He agreed that factors such as the possibility of a member of the public being taken hostage would have to be taken into account and the safest option is going to depend on the circumstances as they appear to the three Commanders in consultation with the Tactical Advisor. He emphasised that it was necessary to have a very good understanding of whether the threat is in order to contain an address; if it involves a building, it would be necessary to know what the address is and where the threat is.
1444. As to **Post-Incident Procedures**, Supt Dobinson said he was trained in Post-Incident Procedures and said that Post-Incident Managers were trained as all firearms training was done. They are given clear guidance that they are there as a facilitator not an investigator. Officers, he said, are given clear guidance that they have an individual responsibility to provide an accurate recollection and reflection of events and the Post-Incident Managers are trained to make sure that they follow the processes outlined in the Manual of Guidance. Post-Incident

Managers are just taught to tell the officers that they have to write an accurate recollection of their events.

1445. In relation to the writing up of initial accounts, Supt Dobinson said that no-one is expressly taught to write, "*I fired two shots*" or "*I heard two shots*" or "*A number of shots were fired*", and officers are trained to provide an accurate recollection of events, and there is no manual that says an officer must write "*several*". He said that officers will build up an awareness over their training around how accurate their recall of events may or may not be. Supt Dobinson said that it is for the officers to provide their recollection of events, which is a matter for the officers, subject to legal advice.

1446. On **differences between training and reality**, Supt Dobinson agreed that research indicates that the accuracy of shots fired under training conditions is generally greater than in operational circumstances. He said that the reason for this is that, while attempts are made to ensure that training reflects reality, in real life, there are no control measures, and in training, there is no risk of the officer actually being shot. In a training setting, officers do not hear shots being fired because they wear mufflers. Supt Dobinson agreed that, both in training and reality, the time difference between a decision to shoot and the action of the officer in actually shooting is small. However, both in training and reality, the time can be enough for the subject to move, so that shots are entering the back of a target as opposed to the front.

Transcript
6.11.13,
p.181,
line 24 to
p.182,
line 12

1447. Finally, on **methods of improving training**, the Assistant Coroner asked Supt Dobinson if it would assist in training if, in real life, events were **sound recorded**. As to this, Supt Dobinson said:

A. It's really around cost and it's around storage. We have a record of a student's activity on a daily basis where we'll record what they've done, what they've been exposed to, and we will give an officer every day a debrief sheet, a feedback sheet which tells them what they did well, what they can do better and what areas they have to work on, that may be relevant to that day or more generally. Of course, that takes a great deal of time. It takes -- it has to be stored and then it has to be maintained as part of their training record. So that's proven to be a

valuable way of developing the officers and for them to gain feedback and there's been no real intention or desire or appetite to move away from that.

V59

1448. In his evidence to the inquest on 8 – 9 October 2013, V59 discussed the training for firearms officers.

1449. He explained that, for CO19, there is an ARV course, which he said was a basic two week weapon course, then a three week tactics course and then a two-week building search. There are then other courses, such as driving, method of entry, various weapons courses, and beyond that, for the TSTs, there is a further seven week course, which, he said, primarily focuses on covert work, containment and call out operations.

1450. V59 noted that it is very difficult to get onto a firearms team. When he had joined himself, there had been a two day selection process, with the courses being very hard to get through. Now, to progress from the ARVs to the TSTs, the selection process involves a four day assessment, with a further development onto the Specialist Firearms Officers team.

Transcript
8.9.13, p.
96, lines
8-10

1451. V59 told the inquest that there was refresher training, namely one week in every six weeks, covering the tactics, weapons drills and classification shoots. He said that a firearms officer *“must classify once every three months to keep [the] authority to carry a firearm”*. He explained what this meant, and gave further details of the training, in answers to questions from Counsel to the Inquest, Mr Underwood QC:

Transcript
8.10.13,
p. 96, line
21 to p.
98, line 1

A. Apologies. You have to classify on a weapon, so therefore you have to take a test, effectively, where you -- there's 100 rounds of ammunition and you basically have various disciplines of shoots where you must score 90 per cent, so you must hit the target in the designated area 90 times out of 100. That happens once every three months.

MR UNDERWOOD: Just sticking with the firearms training itself for the moment, is there any training devoted to the decision whether to fire or not to fire?

A. Yes, that's part of our ongoing cycle. We use a

-- there's various scenarios that are run through by the instructors, where there's an option to fire or not to fire, and to use less lethal options if necessary, such as a Taser or a baton gun where applicable. There's also a system at our training centre where -- I'm not sure it's the correct term -- it's called the judgement range, where basically it's a selection of videos and the scenario plays out and then you make a decision at what point you would take the shot if necessary and on some occasions not take the shot at all. You let the scenario play out in front of you and then make your decision based on that and then you play it back afterwards and go through the decision-making process.

- Q. That -- let's call it "shoot/no shoot" for the moment -- that shoot/no shoot, is that something you are trained on initially and then left alone or is that part of the refresher training every few weeks or so?
- A. It's part of the refresher training. It's ongoing throughout all of our training.

Transcript
9.10.13,
p.109,
line 4 to
p.110,
line 9

1452. V59 explained that the objective of a firearms officer who takes the decision to shoot at someone aiming a gun at him is to neutralise the threat posed with that firearm. He explained, in answer to questions from Mr Stern QC, how the training received correlated to this objective:

- Q. I want to just try and get people to understand what you meant by that. First of all, obviously people who are not involved in firearms sometimes think that it's possible to shoot people in the hand or the leg or wherever. Bearing in mind that you are highly trained and you've told us about the number of shots that have to be passed in order to continue with that, how different is that from the real world?
- A. The reality is very different. We would always aim for the central body mass, as it's very very difficult to hit a hand, a leg, an arm, et cetera.
- Q. Obviously we see that on the films but is that

something you are trained to do or taught to do?

A. No, it's not, no.

Q. You've talked about the central body mass. Let's not quibble about the area we're talking about. Just demonstrate so that people understand exactly what it is the training is where you are taught to hit?

A. It's between the bottom of your neck and your waist, this area, your central area, where your organs are and chest, et cetera.

Q. Obviously, as you say, it's where the main organs are. Now, the reason why you're taught to fire at that central body mass is what?

A. It's the quickest way of neutralising the threat.

Q. So the reality is that, because the largest organs are there, that is the quickest way to incapacitate somebody, which is to remove the imminent threat that they pose?

A. That's correct, sir, yes.

1453. V59's evidence was that firearms officers are trained to reassess between shots. He stated that any death is regrettable but if it is necessary to fire, it is in circumstances where an officer is attempting to neutralise the threat to himself, his colleagues or a member of the public.

ACPO Advisor's Report

D873

D1673

1454. In order to assist the IPCC investigation, Superintendent Helen McMillan was instructed to review the incident. Supt McMillan is an authorised, accredited and experienced Tactical Firearms Commander and Specialist Tactical Firearms Commander attached to Durham Constabulary.

1455. The terms of reference for the review were agreed as follows:

1. *Review all relevant firearms material obtained during the course of the investigation by the Independent Police Complaints Commission.*
2. *Review actions of all CO19 officers and Firearms Commanders involved, specifically in relation to:*
 - a) *The level of threat assessment and rationale that was reached by the Tactical Firearms Commander on the 4*

August 2011;

- b) The decision making process by the Strategic Firearms Commander and the Tactical Firearms Commander regarding the tactics used on 4 August 2011;*
 - c) Whether the subject Mark Duggan featured within the strategic plan in terms of potential risks to him and what actions were put into place to negate the risk; and*
 - d) The specific tactic adopted by the principal officers when challenging the deceased in Ferry Lane, Tottenham.*
3. *Conduct this review with reference to:*
- a) NPIA Manual of Guidance on the Management, Command and Deployment of Armed officers (2010)*
 - b) The Metropolitan Police firearms policy, and*
4. *To identify any best practice, learning or recommendations arising from the incident.*

1456. Superintendent Helen McMillan reached ten separate Findings and made six Recommendations flowing from these Findings.

Police Advisor's Findings and Recommendations (with explanation where necessary)

- **Finding 1** – From the statements supplied it is evident that the SFC, TFC and V53, the principal officer in this case, have received such training on approved and accredited training programmes and have undertaken refresher training in accordance with national requirements.
- **Finding 2** – The decision to focus the operation upon Mark Duggan was appropriate in the circumstances and afforded the highest probability of success in recovering a firearm.
- **Finding 3** – The author was unable to see all of the information available to the TFC and the SFC and has had to base any findings upon the documentation viewed. The initial assessment of the information and intelligence on all of the subjects of Operation DIBRI, as contained in the Policy and Decision Log of the TFC [the FA2A], appears to be generic and not broken down into specifics relating to each individual.
- **Recommendation 1** – That the Metropolitan Police remind

their Tactical Firearms Commanders of the need to undertake effective and multi-dimensional Threat and Risk assessments throughout their involvement in an operation to record their rationale in their policy logs.

1457. The Police Advisor makes reference to the Conflict Management Model which is detailed in the Manual. She explains the Model in the following manner: “...*The [Model] describes a cyclical, systematic and methodical approach to firearms command, providing a logical and progressive method of decision making. The [Model]...was at the core of all firearms officer and command training and competency in its use forms the bedrock of the assessment process for all commanders...*”
1458. The Advisor’s report lists the sequential and interdependent steps comprising the Model:
1. Intelligence / Information
 2. Threat/Risk (leading to working strategy)
 3. Powers/Policy
 4. Tactical Options
 5. Action
 6. Returning to Intelligence/Information
1459. The Advisor notes in her report that, at the outset of the operation planned for between 3 and 6 August 2011, Mr Duggan was only one of a number of alleged TMD members who were the subject of the operation. However, by the evening of 3 August 2011, Mr Duggan was the most likely subject against whom an intervention might take place (should sufficient evidence come to light). The report states, “...*The intelligence had changed but there is no record of any further intelligence received in the Policy and Decision Log of the [Tactical Firearms Commander] and no further consideration of the subject, Mark Duggan specifically or in any detail. A further assessment specifically relating to Mark Duggan would have assisted the [Tactical Firearms Commander] in determining the levels of threat and risk in the next stage of the [Model].*”
1460. The report makes reference to: the ‘threat’ as meaning the threat of the use of lethal force or other violence and the ‘risk’ as being the risk to ‘intended victims’, ‘members of the public’, the ‘police’ and ‘subjects’. The Advisor states that, “*It is not*

sufficient to simply say that there is a high threat to any group as this does not allow the commander to determine who needs to be prioritised at any given time.”

1461. In short, the Tactical Firearms Commander should have recorded in his Policy and Decision Log [the FA2A] a specific risk assessment in relation to Mr Duggan.

- **Finding 4** - The subjects of Operation DIBRI, including Mr Duggan, do not appear in any of the written working strategies produced by the SFC and the TFC.
- **Recommendation 2** – The Metropolitan Police remind their SFC and TFC officers of the requirement to include the subject(s) of the operation in the working strategy.

1462. Finding 4 and Recommendation 2 concern what is included in the “*working strategies*” produced by the Strategic and Tactical Firearms Commanders.

1463. The Manual (paragraphs 5.39-5.41) in relation to “strategy” states that, “*Commanders must, at the earliest opportunity, develop an effective strategy to direct police action. A working strategy may start to be developed once information is received. It can be formalised once the threat assessment has taken place....A strategy may contain a number of objectives. Information and intelligence may change, as may the threat assessment, therefore, the strategy must remain dynamic and capable of being reviewed. While it is important that a strategy is defined and agreed as quickly as possible, it must be based on all the information available at the time. It is rare for a complete or perfect picture to exist. Public safety should always be the priority and at times this may require immediate action to protect life, which, of necessity, may be based on limited information. While the strategy and the rationale behind it should be recorded as part of an audit trail, so should any revisions or amendments. Similarly, the strategy should be regularly reviewed, particularly where a change or handover or command occurs.*”

1464. The Advisor states in her report that, “*In general the working strategy reflects the threat and risk assessment relevant for the circumstances at any given time.*” She then notes that the threat assessment did include the subjects of Operation Dibri, one of which was Mr Duggan, but ‘*...The subjects of the operation however, do not appear in the working strategy produced by the [Tactical Firearms Commander] or the strategy*

produced by the [Strategic Firearms Commander]. Inclusion of the subject in the working strategy is part of the command training programme and such a person would be expected to be included.”

- **Finding 5** - The TFC and the SFC consider all of the relevant legislation concerning the criminal investigation, powers of arrest and surveillance, as well as their responsibilities under Article 2 of the Human Rights Act.
- **Finding 6** – The command structure in relation to the roles of the OFC and TACAD [Tactical Advisor] were not clearly agreed, recorded and resourced.

1465. **Recommendation 3** – That the MPS adopt best practice and separate the roles of the Operational Firearms Commander and Tactical Advisor. This is essential to the provision of effective command and tactical advice and is clearly outlined in the 2011 edition of the Manual of Guidance (5.19). It should be noted however, that the nature of the tactics deployed meant that this dual role for V59 did not, in the opinion of the author, affect the outcome of the operation.

1466. The Police Advisor reached Finding 6 and made Recommendation 3, because, whilst the written tactical advice had been provided by CO19 Inspector Bennett, the tactical advisor for the deployment on both the 3 and 4 August 2011 was V59. V59 was conversant with the tactical advice given by Inspector Bennett which formed the basis of the tactical plan. However, V59 was required to fulfil two roles, that of Tactical Advisor but also the Operational Firearms Commander (OFC). As the Police Advisor puts it in her report, “...*This dual responsibility would require V59 to be available to the TFC to provide him with tactical advice, but also require V59 to be located so as to be able to command the firearms team and communicate back to the TFC during the deployment. This decision to allocate a dual role to V59 is not formally documented within the policy and decision log of the SFC or the TFC. It is not clear from their statements or logs what they understood the makeup of the command structure to be relating to the OFC (or firearms Bronze) and [Tactical Advisor].*”

1467. Paragraph 5.25 of the Manual makes clear the appropriate separation of these roles. It states that, “The role of the Tactical Advisor is to advise and not to make command decisions. The responsibility for the validity and reliability of the advice lies with the advisor, but the responsibility for the use of that advice lies

with the commander.” The MPS SOP reproduces this at paragraph 6.6.11.

- **Finding 7** – Officers deployed on the operation were briefed at the outset of the operation using a recognised briefing model. The briefing however, did not include the threat assessment or agreed strategy for the operation.
- **Recommendation 4** – The MPS remind officers to include the threat assessment and strategy in the briefing for any operation.

1468. The Police Advisor made Finding 6 and Recommendation 4 for the following reasons: *“On 3rd of August ZZ17 ... received information that Mark Duggan may take possession of a firearm later that evening. This update was given to the TFC. At approx 6.10pm the TFC, V59 and ZZ17 conducted a briefing of all the officers deployed on the Operation. This briefing was audio recorded and was carried out according to a recognised briefing model (IIMARCH). The [officers] were given an intelligence input identifying the subjects of the operation and the intelligence specific to Mark Duggan possibly seeking to take possession of a firearm that evening....An overview of the tactics and contingencies was given by V59. Z51 reminded all officers of their obligations under Article 2 of the Human Rights Act and the provisions for the use of reasonable force. Officers were also reminded of their individual responsibilities. Z51 checked that all officers understood their roles and responsibilities. This briefing did not however, outline the strategy for the operation or the threat assessment and had it done so, it would have emphasised to the officers the commander’s priorities at the outset of the operation.”*

- **Recommendation 5** – That the MPS equip their firearms commanders and tactical advisors with suitable equipment to audio record briefings, tactical discussions and other communication to provide a transparent record of communication and decision making during an operation.

1469. The Police Advisor made recommendation 5 based on the following: *“On the first day... the operation was stood down with officers warned to attend a briefing the following day at 6pm. ... On the 4th of August officers were making their way to the briefing location, when at about 5.20pm ZZ17 received information from A10 that Mark Duggan was intending to take possession of a firearm in the immediate future in the Leyton*

area...ZZ17 deployed the only officers available to respond to this intelligence, SCD8, to the Leyton area. ZZ17 then informed Z51, the [Tactical Firearms Commander], of this new intelligence and the action taken. Team leaders were contacted and officers directed to get to the briefing location as quickly as possible. ... Upon their arrival at the briefing location the [Tactical Firearms Commander] contacted the [Strategic Firearms Commander] to update her with the new intelligence and confirm the authority was still in place. The [Strategic Firearms Commander] was satisfied that the tactical options in place catered for this updated intelligence and recognised an increase in the capability of Mark Duggan to pose a threat to others. Unfortunately the review of the [Conflict Management Model] by the [Tactical Firearms Commander] and the [Strategic Firearms Commander] whilst verbalised to one another were not recorded. The subsequent briefings and warnings given to the firearms officers by V59 and the surveillance team leader prior to their deployment were similarly not recorded.”

- **Finding 8** – The tactics decided upon by the TFC in consultation with V59, TACAD were proportionate to the threat and risk posed by Mark Duggan. They were capable of achieving the working strategy and were delivered by appropriately trained firearms officers with appropriate equipment.
- **Finding 9** – The principal AFO details in her statement her honestly held belief in relation to the necessity of use of force, and the fact that warnings and instructions were given to Mr Duggan immediately before the fatal shots were fired.
- **Finding 10** – The TFC retained command throughout the operation, making effective use of all the assets at their disposal.
- **Recommendation 6** – The MPS should ensure that all of its commanders receive the NCA training on handling sensitive intelligence.

1470. The Police Advisor stated in her report that: *“Operation Dibri involved the use of sensitive intelligence which led to officers being confused about what they could and could not record. Neither the SFC nor the TFC used the nationally mandated logs, stating that they found them difficult to use. They do not appear to have made use of “Preston” books, but have recorded some information in their day books. This confusion*

resulted in very little records being kept of the operational phase of Dibri as officers did not want to record anything they legally shouldn't. This also caused issues during the inquest with legal teams and witnesses having to think very carefully about the legality of their words. The NCA has developed a very helpful training package which assists officers dealing with sensitive intelligence sources, covering what can be recorded and where."

1471. The Police Advisor's overall 'Conclusion' in her Report is as follows: *"Although there is some learning and recommendations identified in this report it is the assessment of Supt McMillan [the Police Advisor] that these did not impact on the outcome of the operation and that even if they had been rectified, would not have altered the outcome, the loss of the life of Mark Duggan. The officers who deployed to arrest Mark Duggan did so in accordance with their training, and the operational plan developed and approved by the commanders. When considering Article 2 Right to Life the author considers that the MPS response was reason and proportionate."* (sic).

The Law

Article 2 of the Convention on Human Rights

1472. Article 2 of the European Convention on Human Rights states:

- (1) Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally, save in the execution of a sentence of a court following his conviction for a crime for which this penalty is provided by law.*
- (2) Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:*
 - (a) in defence of any person from unlawful violence;*
 - (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;*
 - (c) in action lawfully taken for the purpose of quelling a riot or insurrection.*

1473. In **McCann and others v United Kingdom** (1996) 21 E.H.R.R. 97, the European Court of Human Rights said:

“The interpretation of this Article must be guided by the recognition that it is one of the most important rights in the Convention, from which no derogation is possible. The situations where deprivation of life may be justified are exhaustive and must be narrowly interpreted”.

1474. In considering the application of Article 2, the Court observed:

“The use of force which has resulted in a deprivation of life must be shown to have been “absolutely necessary” for one of the purposes set out in the second paragraph. In the context of the other provisions of the Convention, the test of necessity includes an assessment as to whether the interference with the Convention right in question was proportionate to the legitimate aim pursued. In the context of Article 2 and the use of lethal force, the qualification of the word “necessary” by the adverb “absolutely” indicates that a stricter and more compelling test of necessity must be applied”.

1475. A police officer, as an agent of the UK state, must act compatibly with article 2 of the Convention, i.e. use force which is no more than absolutely necessary.

Reasonable Use of Force / Self-defence

1476. There are a number of statutory provisions and common law principles in the law of England and Wales that are formulated in a similar way to article 2(2) of the Convention.

1477. Section 3 of the Criminal Law Act 1967 states:

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

1478. Similarly, section 117 of the Police and Criminal Evidence Act 1984 allows a police officer to use ‘reasonable force’ if necessary in the exercise of a PACE power (such as the making of an arrest).

1479. Finally, and most significantly for present purposes, the law of self-defence applies to a police officer as it does to any other citizen. The common law formulation of self-defence, as a complete defence to the charge of murder, has been a feature of English law for many years. However, it has been recently ‘clarified’ (not replaced) by section 76 of the Criminal Justice

and Immigration Act 2008, reproduced in its entirety below:

76 Reasonable force for purposes of self-defence etc.

(1) This section applies where in proceedings for an offence—

(a) an issue arises as to whether a person charged with the offence (“D”) is entitled to rely on a defence within subsection (2), and

(b) the question arises whether the degree of force used by D against a person (“V”) was reasonable in the circumstances.

(2) The defences are –

(a) the common law defence of self-defence; and

(b) the defences provided by of the Criminal Law Act 1967 (c. 58) or section 3(1) of the Criminal Law Act (Northern Ireland) 1967 (c. 18 (N.I.)) (use of force in prevention of crime or making arrest).

(3) The question whether the degree of force used by D was reasonable in the circumstances is to be decided by reference to the circumstances as D believed them to be, and subsections (4) to (8) also apply in connection with deciding that question.

(4) If D claims to have held a particular belief as regards the existence of any circumstances—

(a) the reasonableness or otherwise of that belief is relevant to the question whether D genuinely held it; but

(b) if it is determined that D did genuinely hold it, D is entitled to rely on it for the purposes of subsection (3), whether or not—

(i) it was mistaken, or

(ii) (if it was mistaken) the mistake was a reasonable one to have made.

(5) But subsection (4)(b) does not enable D to rely on any mistaken belief attributable to intoxication that was voluntarily induced.

(6) The degree of force used by D is not to be regarded as

having been reasonable in the circumstances as D believed them to be if it was disproportionate in those circumstances.

(7) In deciding the question mentioned in subsection (3) the following considerations are to be taken into account (so far as relevant in the circumstances of the case)—

(a) that a person acting for a legitimate purpose may not be able to weigh to a nicety the exact measure of any necessary action; and

(b) that evidence of a person's having only done what the person honestly and instinctively thought was necessary for a legitimate purpose constitutes strong evidence that only reasonable action was taken by that person for that purpose.

(8) Subsection (7) is not to be read as preventing other matters from being taken into account where they are relevant to deciding the question mentioned in subsection (3).

(9) This section is intended to clarify the operation of the existing defences mentioned in subsection (2).

(10) In this section—

(a) “legitimate purpose” means—(i) the purpose of self-defence under the common law, or

(ii) the prevention of crime or effecting or assisting in the lawful arrest of persons mentioned in the provisions referred to in subsection (2)(b);

(b) references to self-defence include acting in defence of another person; and

(c) references to the degree of force used are to the type and amount of force used.

1480. When considering, therefore, whether a police officer may avail themselves of the defence of self-defence, a two-stage test is applied.

1481. The first stage is to assess what the officer believed to have

been the circumstances in which he found himself and whether that belief was honestly and genuinely held. This is essentially a 'subjective' test and has been summarised by Lord Griffiths in **Beckford v The Queen** [1988] AC 130 (at p.145) that, "...the test to be applied for self-defence is that a person may use such force as is reasonable in the circumstances as he honestly believes them to be in the defence of himself or another." However, it is clear from section 76(4)(a) that the reasonableness or otherwise of that belief is relevant to whether the person genuinely held that belief or not. Nonetheless, an honestly held belief can be a mistaken belief.

1482. Sir Brian Leveson P, in **E7 (An Officer of the Metropolitan Police) v Sir Christopher Holland (in his capacity as Chairman of the Azelle Rodney Inquiry)** [2014] EWHC 452, sitting in a Divisional Court with Irwin J in respect of a judicial review challenge brought by the officer who shot Azelle Rodney, found that, "*In our judgment, there is considerable force in the expressed concern that minute dissection of fractions of a second with the benefit of hindsight will discourage an appropriate response, in real time, to threats thereby resulting in potentially increased danger to those involved in (or likely to be affected by) these exceedingly difficult operations. Section 76(4) of the Criminal Justice and Immigration Act 2008 requires a court to determine the genuinely held belief of the individual in question, as to the circumstances when considering whether the degree of force used was reasonable, whether or not the belief in question was mistaken, or (if it was mistaken) whether it was reasonable. The reasonableness or otherwise of a belief is only relevant to the question whether it was genuinely held. This inevitably requires consideration of the dynamic situation and militates against an analysis by fractions of a second.*"
1483. The second stage is to assess whether, bearing in mind the circumstances as the assailant officer believed them to be, the force used was reasonable or proportionate in those circumstances – essentially an objective test. If the assailant misjudges the degree of force permissible and uses excessive (or disproportionate) force, he therefore cannot avail himself of the defence of self-defence. In the case of **R v Keane** [2010] EWCA Crim 2514, the Court of Appeal confirmed that, in the context of self-defence, 'reasonable' and 'proportionate' mean the same thing (paragraph 5(3)).

1484. This defence is particularly relevant to the complaints made by Ms Douaihy and Mrs Pamela Duggan. The second part of Ms Douaihy's complaint was that the principal officer (V53) did not fire shots in the belief that Mr Duggan was pointing a firearm at him and therefore did not use lawful force. Chapter 10 of this report assesses the evidence in relation to this issue and reaches conclusions as to whether V53 can properly avail himself of the defence of self-defence in the circumstances of this incident.

Chapter 10 – Analysis, Findings & Recommendations

1485. In this chapter, the IPCC analyses the evidence obtained during the course of its investigation, in addition to that given at the trials of Mr Hutchinson-Foster and at the inquest. The relevant supporting analysis is set out underneath each finding and, where it has been possible for the IPCC to reach positive findings on the balance of probabilities, the IPCC has done so. The inquest has had the benefit of hearing live evidence from all those who were witnesses to, or were involved in, the shooting of Mr Duggan. The IPCC was an Interested Person at the inquest and monitored the evidence given throughout. Since the inquest, the IPCC has obtained further evidence where it considered it necessary to do so. The IPCC has reached its findings on the basis of all of the evidence available to it.

(A) The intelligence relating to Mr Duggan

Finding 1

It was reasonable for Operation Dibri to have identified and focussed on Mr Duggan as one subject of Operation Dibri.

1486. The MPS had gathered a considerable amount of intelligence in relation to Mr Duggan, regarding his access to firearms and his use of them. This emerging picture of intelligence has been set out in full in Chapter 1.

1487. The intelligence depicts Mr Duggan as an individual who was coming to prominence as an active member of the Tottenham Man Dem (TMD), an organised criminal network in north London.

1488. The evidence of DCI Foote indicated how Mr Duggan emerged as one of the subjects for an extended armed surveillance operation.

The IPCC has examined the provenance of the intelligence on which Operation Dibri was based and assessed that it was reasonable that SCD8 identified Mr Duggan and concentrated their efforts on him during 2011, as well on a number of other prominent members of TMD.

Finding 2

It was reasonable for the police to have made Mr Duggan the subject of the armed deployments on 3 and 4 August 2011.

Finding 3

The IPCC has verified both the specific intelligence that led to Mr Duggan being the subject of the deployments on 3 and 4 August 2011, and the background intelligence which caused Mr Duggan to be a focus of Operation Dibri. The specific intelligence and background intelligence justified the authorisation of an armed surveillance operation against Mr Duggan.

1489. Chapter 1 outlined the background intelligence on Mr Duggan and how ZZ17 sought to obtain resources in June 2011 in order to carry out a full surveillance operation on subjects from the TMD from 3 to 6 August 2011. He explained that the bid for these resources was made in advance for financial reasons. Subsequently, intelligence (verified by the IPCC following a full review of all of the material) showed that Mr Duggan was intending to obtain a firearm from Mr Hutchinson-Foster at the beginning of August 2011. The plan for resources was already in place and based on the intelligence which ZZ17 was receiving from A10 of SOCA from June 2011 onwards. It was sensible to include Mr Duggan as a subject of the operation.

1490. D/Supt Mallon, the Strategic Firearms Commander, was presented with the FA1 (the application for authority for the deployment of armed officers completed by ZZ17), FA2A (Tactical Firearms Commander's (Z51) Policy File and Decision Log) and FA5 on 1 August 2011 (authorised firearms operation tactical advice document completed by the Tactical Adviser (Inspector Bennett)). She has demonstrated that she liaised and met with the various relevant staff and authorised the deployment of armed officers on 2 August 2011. In order to carry out a surveillance operation on subjects where the intelligence suggested they had ready access to firearms and intended to take possession of a firearm, it is appropriate that the officers carrying out the operation were armed

in order to protect the public, themselves and other unarmed officers. The justification for the authorisation to deploy with firearms was in line with the ACPO Manual of Guidance on the Management, Command and Deployment of Armed Officers 2010 paragraph 4.20.

1491. The intelligence provided by A10 on 3 August 2011 made clear that Mr Duggan still wished to collect a firearm. While there was still insufficient intelligence to identify where the firearm was being stored, A10 was able to say that it was probably being stored at the premises of a female associate of Mr Hutchinson-Foster in the Leyton area.
1492. The briefing of 3 August 2011 by ZZ17 showed that Mr Duggan was highlighted as the likely subject for the operation that evening. This was based upon the intelligence available at that time, which was being passed to ZZ17 by A10, that Mr Duggan was intent on acquiring a firearm from Mr Hutchinson-Foster. Based on ZZ17's evidence, it appears that ZZ17 was aware by the time of the briefing on 3 August at 6.10pm that Mr Duggan still wished to collect the firearm from Mr Hutchinson-Foster, but he knew that there was insufficient intelligence to indicate where it was being stored beyond that it was at the premises of a female associate in Leyton.
1493. Apart from a short deployment by surveillance officers on 3 August 2011, the armed operation did not progress.
1494. Later in the evening on 3 August 2011 (after the briefing), ZZ17 became aware that Mr Hutchinson-Foster intended to travel out of London and that Mr Duggan was not able to pick the firearm up that evening. There is insufficient evidence to assess the precise time at which ZZ17 became aware of these matters. Historic cell-site evidence for Mr Hutchinson-Foster's mobile phone indicated that he was not in the London area during the night of 3 August 2011 but was in the Essex area.
1495. Further intelligence emerged during the afternoon on 4 August 2011 indicating that Mr Duggan was intending to take possession of the firearm from Mr Hutchinson-Foster, as provided in evidence by ZZ17 and A10.
1496. The full extent of this intelligence has been examined, and its existence has been verified, by the IPCC.

(B) The planning of the police operation

Finding 4

Officers working on Operation Dibri did not know where the firearm connected to Mr Hutchinson-Foster was located and, given the intelligence picture, it is reasonable that Operation Dibri officers did not apply for a search warrant relating to the firearm controlled by Mr Hutchinson-Foster, nor make Mr Hutchinson-Foster the subject of surveillance.

Finding 5

Based on the intelligence held and the inability to obtain a search warrant to locate Mr Hutchinson-Foster's firearm, the tactic adopted to follow Mr Duggan with armed officers in support was a logical and legitimate decision.

Finding 6

The IPCC agrees with the findings and recommendations of the review of the planning and authorisation of the operations conducted by the ACPO appointed Firearms Advisor, Superintendent Helen McMillan.

1497. Mr Hutchinson-Foster was suspected by the police to be in control of at least one firearm and the intelligence in early August 2011 suggested he might pass it to Mr Duggan.

1498. The intelligence accessed by the IPCC, and which had been provided to ZZ17 by A10, indicated that the officers working on Operation Dibri did not know where the firearm connected to Mr Hutchinson-Foster was located. Based on that intelligence, it was reasonable for the police to believe that it was stored at the address of an unknown third party.

1499. A10's evidence is that it was the MPS who had identified the male associate being referred to in the intelligence as Mr Hutchinson-Foster. The evidence of ZZ46 corroborates this. A10's evidence is that at no stage did he identify an address for the female who was believed to be storing the firearm and the best intelligence that SOCA had was that she probably lived in the Leyton area.

1500. ZZ46, who had been tasked by ZZ17, developed the intelligence

around a man known as “Kevin” and identified “Kevin” as Mr Kevin Hutchinson-Foster. She did this via the interrogation of MPS intelligence systems. There is further analysis of ZZ46’s actions in Annex A, which addresses whether this officer has a case to answer for misconduct in relation to the development of the intelligence.

1501. There is no evidence to suggest that the MPS knew where the address where the firearm was thought to be stored was, nor the identity of the third party thought to be storing the firearm. The police also had intelligence that the firearm was not at the address of Mr Hutchinson-Foster or the homes of any of his close family. In these circumstances, without any detailed information about the location of the firearm enabling them to obtain a search warrant, it is understandable that Operation Dibri could not and did not apply for a search warrant relating to the firearm controlled by Mr Hutchinson-Foster.
1502. DCI Foote, the Senior Investigating Officer for Operation Dibri, confirmed in his evidence at the inquest that he did not mount an operation nor surveillance against Mr Hutchinson-Foster. While research was done around Mr Hutchinson-Foster, this did not assist in identifying where the location or address of the firearm was and, in the face of credible intelligence that Mr Duggan was going to take possession of a gun but with no specific intelligence about Mr Hutchinson-Foster, he had to focus the available resources around the credible intelligence. Mr Duggan was therefore the appropriate subject on which to concentrate.
1503. The MPS identified Mr Hutchinson-Foster on the afternoon of the 2 August 2011 as being the person referred to in the SOCA intelligence as the person mostly likely to provide Mr Duggan with a firearm. The MPS could, therefore, have decided to focus its surveillance and armed officers on locating Mr Hutchinson-Foster, as opposed to continuing to focus on Mr Duggan. Switching the limited armed operation resources (a single armed surveillance team and a single TST – both booked a month in advance to ensure that these limited resources were available and financially costed) away from Mr Duggan and on to Mr Hutchinson-Foster would have been logical if the intelligence had indicated in advance, and with some certainty, that Mr Hutchinson-Foster was to attend a particular address to pick up the firearm. This may have allowed the armed operation to follow Mr Hutchinson-Foster to this address and potentially obtain search warrants for this address. However, up until approximately 5.20pm on 4 August 2011, while the MPS knew that the address housing the firearm

likely to be acquired by Mr Duggan was in the Leyton area with a female associate of Mr Hutchinson-Foster, the MPS did not know with any certainty that Mr Hutchinson-Foster would attend this address in person or would simply arrange for Mr Duggan to attend this address himself. The MPS did not know with any certainty that the firearm Mr Hutchinson-Foster was likely to procure for Mr Duggan would be this firearm housed with a female associate in Leyton. Even if the MPS had had this intelligence in advance, it would have been a ‘judgment call’ as to whether these arrangements were sufficiently certain such that resources should be redeployed to follow Mr Hutchinson-Foster instead of Mr Duggan. The intentions of the subjects can change throughout a police operation and are “*unpredictable*” – as per DCI Foote’s evidence. In circumstances where the intelligence indicated that Mr Duggan was to be the final recipient of the firearm, it was reasonable that resources were focused on the subject who was known to be most certain to gain possession of the firearm. This gave a higher probability of recovering the firearm than focussing resources on an intermediary who may not have come in to possession of the firearm or may have passed it on to persons unknown by the time that they became subject of the resources. Based on the information known to the MPS and SOCA during 3 and early 4 August 2011 and the uncertainty as to what the subjects might do, the IPCC has assessed that it was reasonable to focus limited armed resources on following Mr Duggan as opposed to going to the Leyton area in advance or seeking to find and surveil Mr Hutchinson-Foster.

1504. It became clear during the evidence given at the inquest by ZZ46, who had been tasked to carry out research by ZZ17, that no attempt was made by the police to enquire of the Probation Service whether they were aware of an address or telephone number linked with Mr Hutchinson-Foster.
1505. During evidence to the inquest, ZZ46 said that contacting the Probation Service would have been a reasonable line of enquiry and that she could have done this without ZZ17 telling her to do so. However, after the inquest when asked by the IPCC why she did not pursue this line of enquiry, she said in a statement that she had misunderstood the context in which the question was put to her at the inquest. ZZ46 was not directed to widen her research to include outside agencies and would not ordinarily undertake such checks without the specific direction of a supervising officer. She had meant at inquest that she could have asked for permission to contact the Probation Service but did not do so due to the risk of compromising the investigation. She said that, having thought

about whether it would have been appropriate to contact the Probation Service, it would have been inappropriate bearing in mind the covert nature of this armed operation. Contacting the Probation Service could have compromised the investigation. She pointed out that there was a risk of compromise when conducting enquiries with other organisations including probation officers who were *“essentially members of the public”*.

1506. ZZ17 has provided a further statement following the inquest indicating that he would not have expected ZZ46’s search for intelligence related to “Kev” to go beyond corporate MPS systems or other systems to which the police have access and it would have been inappropriate for contact to be made with the Probation Service because of concern that it would compromise the covert operation. For this reason, he would have been displeased if ZZ46 had taken this action without his authorisation.
1507. The IPCC has confirmed with the MPS, since the inquest, that the MPS did not have a policy for acquiring information from the Probation Service and does not have any overarching policy on contacting outside agencies in relation to covert operations. The IPCC investigation considers that such a mechanism should be put in place (see provisional Recommendation 1). However, based on police practices in August 2011, it was reasonable for ZZ46 not to have contacted the Probation Service (albeit the IPCC investigation disagrees with ZZ46’s assessment that probation officers are *“essentially members of the public”* – they are professional public servants and handle highly confidential information). Furthermore, in fact the IPCC’s enquiries of the Probation Service have confirmed that the Probation Service did not have any information concerning an address relating to a female associate living in Leyton (this information was obtained after the inquest).
1508. The IPCC considers that the tactic adopted to follow Mr Duggan was a logical and legitimate decision. In making this assessment, the IPCC acknowledges that the jury at the inquest concluded that there was not enough current intelligence and information on Mr Hutchinson-Foster and there was no emphasis on exhausting all avenues which could have affected reaction and subsequent actions. The IPCC bases its conclusion on the fact that the tactic adopted was logical and legitimate and on its full review of the available intelligence material (which was not put before the jury at inquest) and all of the evidence acquired before, during and since the inquest. Save that the IPCC considers there should have been a mechanism for making confidential enquiries of the Probation Service, it does not appear that any other avenues could

reasonably have been explored.

1509. Superintendent Helen McMillan was asked by the IPCC to provide independent expert opinion on the wider planning of the police operation. Her terms of reference, findings and recommendations are detailed in full in Chapter 9. Superintendent McMillan is an authorised, accredited and experienced tactical and specialist Tactical Firearms Commander. The IPCC agrees with the findings and recommendations of Superintendent McMillan regarding the planning of the police operation, albeit it is noted that Superintendent McMillan has not been able to review the background intelligence. DSI Sparrow, who has seen the background intelligence, has reviewed in detail the findings and recommendations of Superintendent McMillan and the IPCC agrees with her findings and recommendations.
1510. In particular, the IPCC notes that Superintendent McMillan found that the decision to focus the operation upon Mr Duggan was appropriate in the circumstances and afforded the highest probability of success in recovering a firearm.

(C) The initial events on 4 August 2011

Finding 7

Mr Duggan took a mini-cab from Micawber Court, near Hoxton, to Vicarage Road, Leyton.

1511. The analysis of the call records of the mobile phone, retrieved from Mr Duggan on 4 August 2011, revealed a telephone call to a phone belonging to Mr Hutchinson-Foster earlier that afternoon at 4.56pm. Their respective phone numbers were saved on each other's mobile phones with the correct corresponding telephone numbers as "Kev" and "Marky". Mr Hutchinson-Foster was later convicted of transferring a firearm to Mr Duggan. In his evidence at the inquest, Mr Hutchinson-Foster accepted that the basis for his conviction included that there had been telephone contact between Mr Duggan and Mr Hutchinson-Foster when both were in the Vicarage Road area on 4 August 2011.
1512. Based on the evidence of Mr Hutchinson-Foster and Ms Cox, it is accepted that Mr Hutchinson-Foster spent that afternoon at Ms Cox's house on Burchell Road, a cul-de-sac off Vicarage Road in Leyton.

1513. The recording of the telephone call to Hoxton Cars shows Ms Douaihy booked a minicab from her home in Micawber Court, near Hoxton, at 5.12pm. Ms Douaihy has confirmed she booked this minicab for Mr Duggan because she understood that he needed to go to Vicarage Road in Leyton to pick someone up and then on to Tottenham.
1514. The minicab driver has confirmed that he collected Mr Duggan from a small road off City Road and the GPS transmissions from his minicab indicate they left the Micawber Court area around 5.30pm.

Finding 8

Mr Duggan did not have a box with him when he got into the minicab.

1515. There is strong evidence that Mr Duggan was not in possession of a box at the start of his journey at 5.30pm. Ms Douaihy made no reference in her statement to Mr Duggan leaving with a cardboard box. The minicab driver is clear that Mr Duggan was only carrying a mobile phone in his hand when he entered the minicab and that he was not carrying a box.

Finding 9

In the vicinity of Vicarage Road and Burchell Road, at around 6pm, Mr Hutchinson-Foster handed Mr Duggan a River Island shoebox containing the BBM Bruni firearm, JMA/1, in a black sock. The minicab, carrying Mr Duggan and the box, continued to Ferry Lane, being followed by the police.

1516. Analysis of the call records showed that Mr Duggan was in frequent contact with the mobile phone of Mr Hutchinson-Foster. It cannot be disputed that their mobile telephones were in contact at 5.50pm, 5.55pm and 5.56pm.
1517. The minicab driver said that Mr Duggan was on the phone during the journey and he appeared to be receiving directions to Vicarage Road. He said he drove him to Vicarage Road.
1518. The minicab driver's account of the route, and his observation that Mr Duggan was on his mobile phone, is supported by the mobile phone cell site data which was consistent with Mr Duggan's mobile phone being used on a route to Vicarage Road. This aspect of the driver's account is accurate and reliable and his description is

corroborated further by the GPS transmissions which show the minicab's route to Vicarage Road. They show the minicab entering the road from the northern end at 5.55pm. When Mr Duggan was in telephone contact with Mr Hutchinson-Foster at 5.55pm and 5.56pm, he was therefore on Vicarage Road at this time.

1519. The minicab driver indicated to the IPCC that he stopped his vehicle somewhere on Vicarage Road for a period of two to three minutes *"just after the junction with Capworth Street"*. During his evidence to the two trials and at the inquest, the minicab driver clarified that he stopped on the left-hand side of Vicarage Road opposite a school. There is a school on Vicarage Road directly opposite the junction with Burchell Road. This is the only school on Vicarage Road.
1520. According to the minicab driver, while his vehicle was stopped a man similar in age and appearance to Mr Duggan approached the minicab and Mr Duggan took a coloured cardboard box from him. He said Mr Duggan placed the box on the row of seats in front of him in the rear passenger area. The minicab driver was clear that the man who came with the box did not arrive in another vehicle: he said that he walked up to Mr Duggan in the minicab without them having to wait for his arrival.
1521. ZZ37, a Trident surveillance officer, said that he was parked on Vicarage Road, just before the junction with Sofia Road, to the north of Burchell Road. There is no available evidence either to support or to undermine his account of his position. However, his evidence about the activity of the minicab is broadly supported by the GPS transmissions as these show the minicab entered from the northern end and continued south turning right into Park Road and would therefore have passed him near Sofia Road had he been there.
1522. ZZ37 said that he did not see the handover of the box because the minicab had turned left out of his sight into Burchell Road. As it stands it is not clear whether there is any real dispute between the account of ZZ37, from his view near Sofia Road, who thought the minicab turned left into Burchell Road, and the minicab driver, who thought he pulled over to the left near the junction with Burchell Road.
1523. ZZ37's account is corroborated by the evidence that was given by ZZ46 at the inquest: ZZ46 stated that she heard ZZ37 say that the minicab had turned left into Burchell Road and that she noted this comment in her daybook at the time.

1524. The GPS transmissions show the minicab was just before the junction with Burchell Road at 5.56.02pm and the next transmission was at 6.00.24pm, as the minicab turned right into Park Road. The distance between the two GPS transmissions has been calculated to be only 112 metres but, as nearly four and a half minutes elapsed, this indicates the minicab was stationary somewhere between these two points. The GPS data, when considered in conjunction with the accounts of the minicab driver and ZZ37, provides conclusive evidence the minicab stopped somewhere on Vicarage Road within close proximity to or in the junction of Burchell Road between approximately 5.56pm and 6pm.
1525. There is no obvious reason for the minicab driver consistently to assert Mr Duggan collected a cardboard box if he did not witness this. Furthermore, a cardboard shoebox was visible in the Air Support Unit helicopter footage recorded approximately 14 minutes after the shooting and the subsequent scene photography carried out later that evening. The photography shows the box was evidently on the floor in the rear passenger area with the lid displaced. It was seen in the same location and state the following day by IPCC Investigators.
1526. The subsequent scientific examinations of the shoebox, GAJ/1, retrieved from the minicab, revealed the fingerprints of Ms Cox, Mr Hutchinson-Foster, and Mr Duggan.
1527. This is significant evidence about where the box retrieved from the minicab originally came from. It was a shoebox for size 6 women's shoes from River Island and Ms Cox acknowledged having bought shoes from River Island in the size listed on the box. She said she kept such boxes in her spare room at her house on Burchell Road. Ms Cox and Mr Hutchinson-Foster both accepted that he had access to this room and any boxes within it. The box photographed in the rear of the minicab had been handled by all three individuals.
1528. On 29 July 2011, six days before 4 August 2011, Mr Hutchinson-Foster had used JMA/1, a BBM Bruni self-loading pistol, to assault Mr Peter Osadebay by striking him with the firearm. Witnesses to the assault by Mr Hutchinson-Foster described the firearm as being covered by or inside some form of black cloth or sock. Mr Hutchinson-Foster pleaded guilty to the charge of assaulting Mr Osadebay at the first criminal trial. However during the two criminal trials Mr Hutchinson-Foster maintained that he had returned the firearm that evening to an individual he repeatedly refused to name.

1529. Forensic examination confirmed the firearm, JMA/1, found on the grass next to Ferry Lane shortly after the shooting, was the BBM Bruni self-loading pistol contained within a black sock. There was no fibre, DNA or gunshot residue evidence linking Mr Duggan to the firearm. Two fibres found in the shoebox, GAJ/1, matched microscopically and had the same colour characteristics as fibres from the black sock covering the firearm. However, these were classified as “common” textile fibres and therefore no reliance is placed on their presence.
1530. Scientific examinations discovered the blood of Mr Hutchinson-Foster on the firearm and the blood of Mr Osadebay on the black sock. Mr Osadebay’s blood was on the firearm as a consequence of him bleeding during the assault on 29 July 2011. This is strong DNA evidence directly linking the firearm found at Ferry Lane to Mr Hutchinson-Foster. The firearm found on the grass at Ferry Lane had undoubtedly been in the possession of Mr Hutchinson-Foster on 29 July 2011. The IPCC has not uncovered any evidence of any mechanism, other than the transfer from Mr Hutchinson-Foster to Mr Duggan, to account for how the same firearm in the same sock was at Ferry Lane adjacent to where Mr Duggan was stopped by the police.
1531. It is not considered plausible that Mr Duggan contacted Mr Hutchinson-Foster that afternoon and requested a minicab to take him on a journey only to collect an empty River Island shoebox. The available evidence indicates that Mr Hutchinson-Foster handed Mr Duggan a River Island shoebox containing the BBM Bruni firearm, JMA/1, just before 6pm on 4 August 2011. This conclusion has been reached based on the available evidence and is consistent with, but not based on, the jury’s decision at Mr Hutchinson-Foster’s re-trial (January 2013) to convict him of transferring the firearm (JMA/1) to Mr Duggan on 4 August 2011.
1532. This finding does not determine how the firearm ultimately ended up on the grassed area next to Ferry Lane. However, the IPCC consider the transfer and subsequent transportation of the firearm in the minicab by Mr Duggan was the mechanism by which the firearm was conveyed to the general vicinity of Ferry Lane that evening.

(D) The decision to stop the minicab and the timing and location of the stop

Finding 10

It was reasonable for the Tactical Firearms Commander to decide to stop the minicab to attempt to recover the firearm, detain Mr Duggan and secure any evidence.

1533. Z51, the Tactical Firearms Commander, explained that, based on the intelligence known to him and the recent activity of the minicab, he decided to stop the minicab because he felt that he had sufficient justification to believe Mr Duggan was currently in possession of a firearm.
1534. The IPCC has fully reviewed the intelligence that was available to the Tactical Firearms Commander at the time and assesses that this intelligence, combined with the activity of the minicab on Vicarage Road, made it reasonable for Z51 to believe Mr Duggan had taken possession of a firearm by around 6pm.
1535. Accordingly the decision to stop the minicab, as outlined as Option 2 in the tactical advice compiled prior to the operation, was an appropriate tactic.

Finding 11

The stop was carried out at an appropriate location considering all of the circumstances.

1536. V59 stated that he communicated the decision to stop the minicab to the officers on the operation by calling “*state amber*” over the radio. The CO19 TST officers broadly recall that “*state amber*” occurred at around 6pm. As explained, the IPCC has been informed that the surveillance radio channels being used by the operation that day were not recorded, so the IPCC is unable to verify the timing and the content of any commands and communications taking place. For this reason, the IPCC considers that the MPS should have recorded the radio communications to provide a transparent and accurate record of the decision making and the timing of these decisions – see Recommendation 2.
1537. V53 specifically recalled that the “*state amber*” command occurred as he made an emergency report that an unrelated British Transport Police Officer was injured outside Clapton railway station. V53’s account of this emergency communication and the timing of it have been verified and were established to have occurred at 6.05pm. This could provide a further guide (in addition to the CO19 officers’ statements) to the time the decision to stop

the minicab was communicated to the CO19 TST team. All the evidence taken as a whole broadly indicates that the command was communicated at some point between 6pm and 6.05pm.

1538. With “*state amber*” in place, W42 was the officer appointed as responsible for deciding where and when the stop by the CO19 officers would be carried out. W42 is understood to have been sitting in the front passenger seat of the Alpha car, the lead covert vehicle. There is no evidence to contradict this and there is considerable supporting evidence that W42 did approach the minicab from the direction of the Alpha vehicle. He would therefore have had the best view of the minicab and the road ahead of the CO19 officers.
1539. W42 stated that, in order to carry out the stop as safely as possible, he had to ensure that the TST team covert vehicles containing the armed officers were directly behind the minicab. This is because the type of stop used involved the Alpha vehicle overtaking the minicab, the Bravo car pulling alongside it and the Charlie car stopping close behind it to contain it from the rear, as dictated by the tactical advice to rapidly dominate the vehicle.
1540. According to W42, the CO19 TST team first gained sight of the minicab on the bend of Blackhorse Road towards the Forrest Road/Ferry Lane junction. He said that the traffic was congested and there were a large number of vehicles and members of the public present. He said the CO19 TST team vehicles were several cars behind other police vehicles involved in the following of the minicab. The IPCC made various enquiries to recover CCTV footage of Forrest Road to assess W42’s description of the traffic conditions and the vehicle positions prior to Ferry Lane. No CCTV footage was available.
1541. W42’s full rationale for the exact timing and the location of the stop is set out from page 110 of this report. W42 said the stop was carried out as soon as the CO19 TST team vehicles were directly behind the minicab. He said two Trident police vehicles pulled into a bus lane to allow his convoy through and that this enabled him to call “*state red*”, the command issued to signal the team was safely in place to carry out the stop. W42 said he did not instruct the minicab to be stopped until an unrelated member of the public driving a BMW X5 turned left into Jarrow Road, leaving the four CO19 covert vehicles directly behind the minicab as it continued along Ferry Lane towards Tottenham Hale.
1542. The BMW X5 has not been traced. There is no CCTV to verify

W42's description of it turning left into Jarrow Road. However, there is no evidence to suggest the location, shortly beyond Jarrow Road on Ferry Lane, was not the earliest opportunity presented to W42. There is no evidence this location was pre-planned or already selected by the operation. The telephone calls requesting medical assistance for Mr Duggan and then for W42 indicate that the officers were unaware of exactly where they were. The IPCC considers it implausible the officers involved were pretending they did not know the names of the roads or the exact location during these calls.

1543. Furthermore, the GPS data from the minicab shows that the minicab stopped on Ferry Lane at 6.12.43pm. If "*state amber*" was circulated around 6pm to 6.05pm, this means the stop was carried out approximately between seven and a half minutes to twelve and a half minutes of the tactical decision to carry it out. This does not appear to be an excessive length of time for the four CO19 vehicles to locate the minicab and to manoeuvre through the traffic to a position directly behind the minicab. W42 accurately described the route of the minicab, as corroborated by the minicab driver and the GPS transmissions.
1544. In his first detailed account given on 7 August 2011, W42 accounted for the road layout, the traffic levels and the presence of other vehicles between the CO19 vehicles and the minicab. The IPCC has recovered no evidence which contradicts his assessment of the road conditions. The credibility of his account is bolstered by the fact that it is extremely unlikely that he could have known what CCTV would be retrieved of the road conditions, whether the X5 would be traced or the existence or content of the minicab GPS transmissions, at the time he wrote his own descriptions and explanations in his statement on 7 August 2011.
1545. The timing and location of the stop on Ferry Lane formed part of the review by Superintendent McMillan. She travelled the route at a similar time of day and found the roads to be busy with oncoming traffic and traffic in the road ahead. She concluded that, based on the road layout and the traffic conditions she observed, Ferry Lane was the earliest available place the convoy was able to progress into a suitable position from which the officers could then seek to carry out the stop.
1546. The IPCC also notes that, having heard the full range of evidence at the inquest relating to the conduct of the stop, the jury unanimously came to the conclusion that the stop was conducted in a location and in a way which minimised to the greatest extent

possible recourse to lethal force. Having conducted its own review of all of the evidence, the IPCC agrees with the jury's conclusion in this respect.

(E) What happened after the stop of the minicab

Finding 12

Mr Duggan was shot around four seconds after the minicab stopped.

1547. The IPCC has attempted to piece together what happened after the minicab stopped, based on the account of the minicab driver, the photography and laser scan data from the scene, the pathological findings of Dr Poole and Professor Pounder, the forensic evidence, the opinion of Professor Clasper, the accounts of the officers directly involved and the observations of the independent witnesses.

1548. The photography and laser scan captured the positions of the vehicles as they would have been stopped around the minicab. With the exception of the Alpha car (the silver Lexus), the vehicles were not moved prior to these recordings of the scene. The laser scan is accurate to within two millimetres and this is therefore accepted as evidence of the distances between the vehicles and has also been used as a guide to assist in estimating the distance between the key individuals.

1549. According to the minicab driver, the Alpha car pulled in front of the minicab to bring it to a stop. The Bravo car is recorded in a position alongside the offside of the minicab. The Charlie car pulled up behind the minicab with approximately a one metre gap between the two vehicles. The Delta car stopped behind the Charlie car approximately five metres further east along Ferry Lane. This formation, as captured by the laser scan, is demonstrated by Figure 2 of this report.

1550. As recorded in Chapters 4 and 5, the CO19 officers and independent witnesses have attempted to describe their positions in relation to the police vehicles, each other, the minicab, the railings, the road, other buildings and Mr Duggan. It has to be accepted that all witnesses to an event will only be able to estimate where they or others were positioned, and may only be able to give approximations of distances and intervals of time. This is the case with all recollections of incidents and particularly fast moving events. Recollections can be unreliable or at variance to other

witnesses' memories without necessarily being dishonest. The apparent inconsistency has to be evaluated in the context of the entirety of all the other evidence and any possible motivation for the individual purposefully telling an untruth.

1551. The descriptions given by the minicab driver and each of the CO19 officers indicate that the CO19 officers converged on the minicab within a matter of seconds after the stop. Some of the CO19 officers estimated that there were only a few seconds between leaving their vehicles to the point the shots were fired. The minicab driver said Mr Duggan got out when the minicab stopped and ran towards the rear of it for only a few steps before he was shot.
1552. Mr Drzewiecki commented he heard the screeching of tyres and within a few seconds he heard three gunshots. Mr Biggs also commented he heard noise behind him on Ferry Lane and as he immediately turned to look over his shoulder he heard the gunshots. This suggests the shots were fired just seconds after the commotion he had heard.
1553. Furthermore, the CCTV from Emily Bowes Court corroborated Mr Biggs' description of his position and his actions and captured him turning his head to look at 6.12.47pm. The GPS transmissions from the minicab indicated the minicab stopped at around 6.12.43pm; this time difference suggests that the shots were likely to have been fired four seconds after the minicab stopped. The GPS clock has not been synchronised to the CCTV clock. This means that it cannot be conclusively determined that the GPS timings match those on the CCTV. However, there is no reason to suppose that they are inaccurate. On the basis of this CCTV evidence and the accounts of Mr Drzewiecki, Mr Biggs and the minicab driver, which support but are not based on the accounts of the CO19 officers, the IPCC is satisfied the shooting of Mr Duggan was an extremely rapid event, which, on the balance of probability, occurred around four seconds after the minicab stopped.

D995

Finding 13

Mr Duggan voluntarily got out of the minicab from the rear sliding door onto the pavement as soon as the minicab stopped and was out of the vehicle on the pavement at the time he was shot.

1554. The minicab driver was an independent witness sitting in the front

of the minicab only metres away from Mr Duggan at the time he was shot. He was close enough to Mr Duggan and the approaching officers to be able to see and hear whether Mr Duggan got out prior to the shots and, if he did so, whether anyone else was involved in his exit. His evidence is therefore considered critical in assessing what happened immediately after the minicab stopped. He gave evidence at the two trials of Mr Hutchinson-Foster and at the inquest and references to his evidence below are to all of his written and oral evidence collectively unless otherwise stated.

1555. The minicab driver described an officer appearing at his driver's door repeatedly shouting phrases like *"Don't anybody move"*, *"Stop"*, and *"Don't move the car."* He has consistently stated that, at the same time, he also heard the passenger door of his car open and when he looked behind over his left shoulder (this action is supported by the evidence of W56) he saw Mr Duggan *"making to run away."* According to him, Mr Duggan moved in the opposite direction to the car which had swerved and pulled in front of him (the Alpha car). The minicab driver maintained Mr Duggan got out of the minicab himself and began to run in the direction of the rear of his vehicle.
1556. The minicab driver's evidence was to the clear effect that he saw Mr Duggan's departure from the vehicle as occurring as soon as the vehicle stopped and that it was a fluid movement. He referred to *"everything happening suddenly"*. He was questioned extensively on this topic and he made no reference to Mr Duggan stopping for any number of seconds in the door frame or just outside the sliding door. The minicab driver said, *"I saw Mr Duggan getting out and trying to run towards the rear side"*. He also referred to Mr Duggan *"jumping out"* which suggest an element of speed being involved in the exit.
1557. The consistent account of the minicab driver is considered highly persuasive evidence that Mr Duggan got out of the minicab immediately after the minicab stopped and that he did so voluntarily. The minicab driver stated he could see officers approaching the front of his car. He has made no reference to any officers entering the rear of his vehicle or to seeing any officers reaching inside to forcibly remove Mr Duggan from it. Based on what the minicab driver saw and heard, from only a very short distance away, it is concluded Mr Duggan exited the minicab of his own accord.
1558. The minicab driver could not see Mr Duggan's hands as he left the minicab or at the point he was shot. The minicab driver could only

see Mr Duggan's "*back side*". He described seeing feathers explode from the back of Mr Duggan's jacket when he was shot. He thought Mr Duggan was shot two or three times in the back from an officer approaching from the front of the minicab. He heard one burst of gun fire. He said he thought Mr Duggan was at the "*back side*" of the minicab when he was shot and he fell on the spot. The minicab driver said he was then physically pulled from his driver's seat by an officer, another indication the shots were fired within seconds of the minicab being stopped.

1559. The evidence of Miss O, a nearby pedestrian on Ferry Lane, is not reconcilable with the evidence of the minicab driver. She said Mr Duggan was dragged out of the minicab and pinned to the ground. However, a detailed consideration of Miss O's wider account indicates it contains material inaccuracies which undermine her account of how Mr Duggan exited the minicab.
1560. Miss O said that Mr Duggan was dragged out by three or four police officers wearing "*normal black and white uniforms*". Her description of the officers' attire is demonstrably incorrect based on the clothing seized from CO19 officers, the accounts of other independent witnesses at the scene, the account of the minicab driver and the 'BBC footage' which commenced 35 seconds after the shooting. The officers directly involved in the stop of the minicab were evidently wearing plain clothes. Miss O also specifically recalled that the officers involved in the dragging of Mr Duggan were not armed. The IPCC has established that the 11 CO19 officers who exited the Alpha, Bravo and Charlie cars and converged on the minicab were all armed. These significant errors call into question who or what Miss O actually observed at this point.
1561. Furthermore, Miss O provided little detail regarding how Mr Duggan was said to have been dragged out of the minicab. She did not describe how the officers entered the minicab, how they exited, what hold or grip they had on Mr Duggan, how he was moved from the minicab or how he reacted as he was dragged. She stated that the door to the minicab opened outwards, which is known to be incorrect. Given the absence of credible supporting detail in her account and in light of the significant and demonstrable inaccuracies in what she has said, Miss O's assertion that Mr Duggan was dragged out is not considered reliable evidence on this point.
1562. Miss O asserted that a police officer wearing a fluorescent yellow, sleeveless jacket fired three shots at Mr Duggan as he was pinned

to the pavement and then the officer fired a fourth shot into the air. She said Mr Duggan was shouting “*get off me, get off me*”. Her testimony regarding the number of shots fired and the position of Mr Duggan as he was shot is considered incorrect based on the pathological evidence provided by Dr Poole and Professor Pounder. They found two bullets struck Mr Duggan. Two bullets and two shell casings were recovered from the scene and only two rounds were unaccounted for when V53’s bullets were observed being counted back later that evening. The other CO19 officers’ bullets were all accounted for. Miss O’s account of the shots being fired at Mr Duggan while he was pinned to the ground also cannot be considered plausible based on the final resting positions of the two bullets, one in W42’s radio and the other in the minicab. Her portrayal of the whole shooting taking place in this manner is most significantly undermined by the minicab driver’s consistently presented account of Mr Duggan exiting the minicab and being shot while on his feet. Her specific description of the overall event was not supported by any other independent witnesses interviewed by the IPCC.

1563. The short time frame of around four seconds indicated by the evidence does not appear to be sufficient time for the officers to drag Mr Duggan out of the minicab forcibly, pin him to the ground and for him to be heard shouting in response before he was shot. The account of the minicab driver is more persuasive given the short timescale indicated by the CCTV analysis.
1564. Miss O is short sighted but was not wearing her glasses at the time and viewed the incident from over three bus lengths away, which may account for some of her errors. Nevertheless, a full analysis of Miss O’s account indicates that she appears to be mistaken in so many aspects of her account that her observations about Mr Duggan being dragged, pinned to the floor and shot three times cannot be relied upon. Accordingly the IPCC has attached no weight to her version of events in reaching its findings.
1565. During her evidence in the first trial of Mr Hutchinson-Foster, Miss J alluded to officers entering the minicab prior to the shots and dragging Mr Duggan out. Miss J had previously told IPCC investigators she first saw Mr Duggan lying on the pavement and she had not seen how he reached this position. The IPCC interviewed Miss J in depth over several hours. This significant inconsistency has been identified as one of many discrepancies between her accounts, which overall lessens the weight that can be attached to her observations, as they render her evidence

unreliable and contradictory.

1566. Ms [REDACTED], a passenger on board the 123 bus, also made reference to someone being dragged from the minicab. Ms [REDACTED] was briefly spoken to by IPCC investigators when she was traced on board the bus route. She described seeing “a boy” being dragged from the pavement side, maybe from the front passenger door, of a seven-seater vehicle. However, Ms [REDACTED] also mentioned that she believed there may have been one or two people already on the ground.
1567. Ms [REDACTED] did not attend the arranged interview and she has not provided the IPCC with any further opportunity to probe her initial comments to establish exactly who and what she saw. She also did not give evidence at the inquest and as such her evidence has not been tested under cross examination. The investigation established that the 123 bus was not present at the time that the shots were fired and, based on the evidence of the minicab driver, Mr Duggan would therefore already have got out of the minicab and been shot on the pavement before Ms [REDACTED] obtained a view of events. As Ms [REDACTED] referred to one or two people possibly already being on the ground, this further indicates that Mr Duggan was highly likely to already be lying on the pavement. The evidence of the minicab driver shows that Mr Duggan was travelling in the rear of the minicab so Ms [REDACTED] would not have seen him being dragged from the front passenger door, even if she had obtained a long distance view as the bus approached. From the evidence gathered, it appears more likely that she witnessed W42 being dragged away past the front of the minicab to the Alpha car during the aftermath, rather than Mr Duggan being dragged out of the minicab before the shots. As the IPCC has been unable to explore her remarks any further it is difficult to reach any firm conclusions regarding the meaning and accuracy of her observations, and therefore no weight is attached to her comments.
1568. Although Miss O and Miss J stated that Mr Duggan was dragged out of the minicab and Ms [REDACTED] observed someone being dragged from the front of the minicab, the IPCC does not place weight on their statements because of the inconsistencies in their own evidence and because their overall accounts are irreconcilable with the evidence of the minicab driver which is inherently more plausible. The minicab driver was closer to the incident and his account has remained consistent during the course of giving evidence, including under cross examination.

1569. Miss Z refused to provide a signed statement, although she did give evidence at the inquest. She said she viewed the event from Erskine Crescent and then Jarrow Road which was over 100 ft away. Her assertion that Mr Duggan was standing with his back to the railings, specifically with empty hands, for over 25 seconds before he was shot and an officer was standing with his arm out in front of him for that length of time is undermined by the account of the minicab driver of Mr Duggan's actions and the evidence indicating the shooting took place within around four seconds. Her descriptions of the sequence of events are not supported by the other available evidence. She said that, after Mr Duggan was standing at the railings for 25 seconds, he was then shouted at and shot in this position. Miss Z could not provide any account of how he then reached the ground, as she said she could not see this, though oddly she said that she was able to see some smaller details, for example, the content of Mr Duggan's hands despite being both long and short-sighted and not wearing her glasses.
1570. Furthermore, if Mr Duggan had been shot in the position described by Miss Z it would not be possible to make sense of where the bullets were ultimately found or the existence of the blood spatter on the rear sliding door of the minicab. The evidence of Mr Bell and Dr Seaman fundamentally undermine Miss Z's account of Mr Duggan's position at the time that he was shot. Dr Seaman concluded Mr Duggan was positioned near the rear of the minicab when he was shot, not at the railings. Miss Z's assertion that it was Mr Duggan she saw does not correlate with the scientific evidence. It is possible she saw someone standing with his back to the railings, as Mr Hanrahan described an officer standing in a similar position after the shots, however, Miss Z appears to be mistaken about the timings and sequence of events and it is difficult to place any reliance on this aspect of her account.
1571. The other independent witnesses did not directly observe how Mr Duggan reached the pavement and cannot assist on this point. No other independent witnesses described seeing any police officers inside the minicab prior to Mr Duggan being shot.
1572. All of the CO19 officers have maintained they did not enter the minicab or make any physical contact with Mr Duggan before the shots were fired. Ultimately, the minicab driver, the witness with the closest view and who has provided a consistent account when probed over the course of the two trials, supports the officers' accounts in relation to this point.
1573. There is also a broad consensus between the CO19 officers'

individual accounts and the account of the minicab driver that, after Mr Duggan voluntarily left the minicab from the nearside, rear sliding door onto the pavement, he moved in the direction of the rear of the minicab.

1574. The examination of the blood spatter on the nearside of the minicab also indicates that Mr Duggan moved towards the rear. Two of the swabs of blood spatter were confirmed to contain the DNA of Mr Duggan. As there was a single spot of blood on the footplate of the frame of the rear sliding door, Mr Bell concluded this area could only have been exposed if the sliding door was open by at least 26cm. The IPCC is satisfied, based on this evidence, that the sliding door was open 26cm at the point Mr Duggan was shot.
1575. Neither Mr Bell nor the specialist search officers who entered the interior of the minicab on 5 August 2011 found any obvious ballistic damage or blood. PC Nichols did locate one bullet within the Sainsbury's carrier bag inside the minicab, however, the carrier bag itself was examined to assist in explaining events and it had not sustained any ballistic damage. The IPCC does not view the presence of the bullet in the minicab as convincing evidence that Mr Duggan was shot inside the vehicle. It remains unclear exactly how and when the bullet entered the minicab and the carrier bag itself, although, as Mr Bell concluded the minicab door was open at least 26cm, there was an available entrance for the bullet to have travelled into the minicab. If V53 had fired at close range from just outside or within the confined space of the minicab at Mr Duggan, it seems reasonable to expect to find some ballistic damage to the inside of the vehicle, perhaps to the seats, the door or the windows or to any of the items located in it. It may also seem reasonable to expect to find blood on the seats or carpet or some form of blood-staining when Mr Duggan was removed from it. There was no sign of any ballistic damage or any blood on the interior, which supports the proposition that Mr Duggan was outside the minicab when he was shot.
1576. Critically, Dr Seaman concluded that, if all of the blood material was deposited during this same event, the source of the blood loss would have to originate from a position close to, and slightly to the rear of, the open sliding door. Dr Seaman therefore considered that Mr Duggan was outside the minicab at the time he was shot. He concluded that the nature and location of the blood spatter indicated that Mr Duggan was positioned close to the minicab and possibly as far back as the tailgate of the vehicle. However, Dr Seaman could not assist further in determining Mr Duggan's exact

position or the posture of his body at the point he was shot.

1577. The IPCC has obtained no persuasive evidence that Mr Duggan was shot in the minicab, forcibly removed from the minicab or held on the pavement before he was shot. For the reasons set out above, the IPCC places significant weight on the evidence of the minicab driver and of Dr Seaman and therefore concludes that it is more likely than not that Mr Duggan left voluntarily and was moving on the pavement towards the rear of the minicab on his feet when he was shot.

Finding 14

The evidence suggests the CO19 officers did attempt to inform Mr Duggan that they required him to stop after they had got out of their vehicles. There is insufficient evidence to conclude that the CO19 officers did, or did not, shout ‘Armed police’.

1578. As set out at paragraph 2.41 of the ACPO Manual, where circumstances permit, officers are required to identify themselves as being armed, give clear directions to the subject and allow sufficient time for the directions to be observed, unless to do so would unduly place anyone at risk. Oral or visual warnings should make the subject aware of the nature of the armed operation.

1579. V72, the driver of the Delta vehicle, said he activated his sirens and flashing lights as W42 called the strike. Q63, the driver of the Bravo car, also said he activated his sirens and flashing lights at this time. The minicab driver said he did not hear any sirens as his vehicle was stopped. Some independent witnesses reported hearing sirens from cars approaching from Tottenham Hale, and Mr [REDACTED] also mentioned fainter sirens in the other direction from Blackhorse Road, but none of the witnesses reported hearing sirens or seeing flashing lights from the four covert vehicles as the minicab was stopped.

1580. All of the CO19 officers said they were wearing their police baseball caps which identified them as police officers as they have ‘Police’ written on. The officers said they were also wearing raid jackets with ‘Police’ written on the front. V53’s jacket seized by the IPCC displayed the word ‘Police’ clearly on the front.

1581. The minicab driver did not recall seeing any police caps at the time

of the stop. However, other witnesses who viewed the scene within seconds after the shots, and had a longer length of time to observe the police officers, said they were wearing police baseball caps. They also rapidly identified the officers as armed police based on them visibly holding guns. Although the minicab driver could recall shouting, he could not recall specifically hearing the words “*Armed Police*”.

1582. From the evidence obtained to date, it is not possible to determine whether lights or sirens were activated at the point of the stop and if so whether they were on for sufficient time to assist Mr Duggan and the minicab driver in identifying the police presence.
1583. It is not possible to determine definitively whether the officers were wearing baseball caps at the exact time the shots were fired. However, the observations of Mr Maguire, Mr Biggs, Mr Ely-O’Carroll and Mr Clow, who saw the police caps, all indicate the armed officers were wearing them within seconds of the shooting.
1584. However, the minicab driver’s description of Mr Duggan “*slouching...as if he was hiding*” during the journey in the rear of the minicab and the fact Mr Duggan sent out a BlackBerry broadcast at 6.01pm, both indicate he was aware he was potentially being followed by the police. He made specific reference to “Trident” in the BlackBerry broadcast. It is therefore important to assess whether the CO19 officers took steps to identify themselves as explicitly ‘armed’ police (“Trident” officers are usually unarmed officers) and whether they issued Mr Duggan with clear directions to follow, bearing in mind they are required to do so where the specific circumstances permit.
1585. Based on their own accounts, W42, V53 and W70 were the closest officers to Mr Duggan when he got out of the minicab. They have maintained that they immediately shouted commands and instructions after leaving their vehicles and continued to do so.
1586. W42 said he shouted “*Armed Police*”, “*Stand still*” and “*Show me your hands*”.
1587. V53 said he shouted “*Armed police*” at the same time as he heard W42 shout “*Armed police*” and “*Stand still*”; and
1588. W70 said he shouted “*Armed police*” and “*Stand still*”.
1589. At the inquest, W56 said that he shouted “*Armed police*”.
1590. R68, Q63 and B22 all said that they could hear shouts of “*Armed*

police".

1591. Mr Biggs reported hearing a commotion and noise behind him in the relevant area before he heard the shots.
1592. The minicab driver said he heard somebody shouting phrases like, "*Stop*", "*Don't anybody move*" and "*Don't move the car*". R68 and W56 said they went to the minicab driver's door and both said they shouted "*armed police*". The minicab driver was asked during the trials whether he specifically heard "*armed police*" being shouted and he explained if that was shouted he did not hear it but it all happened so suddenly. He was aware instructions were being shouted around him.
1593. The transcript provided by the BBC appears to be a conversation regarding the shooting. There is an entry reading "*...because I heard them shout at him yeah...*" followed by an entry of "*...put it down, put it down...*". This does appear to be a further indication the officers shouted at Mr Duggan. However, as the IPCC has been unable to verify the content of this transcript or question the commentator regarding what he or she witnessed and what the comments mean, limited weight is attached to these references.
1594. The evidence of the minicab driver indicates he could hear the officers issuing verbal commands around him. It is likely that it would not have been possible for him to have heard (and to be able to recall) each command shouted within the few seconds before the shots were fired. He emphasised the fast speed of events. The nature of the commands he heard was essentially the officers conveying that they did not want anybody to move. The three closest officers to Mr Duggan, W42, W70 and V53 have consistently maintained between them they were shouting "*Armed police*" and "*stand still*". Having considered the broadly corroborative evidence of the minicab driver and the fact Mr Biggs heard a commotion of noise before the shots, the evidence suggests the CO19 officers were attempting to instruct Mr Duggan that they required him to stop prior to him being shot.

Finding 15

It is not possible to determine the precise positions of V53 and Mr Duggan at the time the shots were fired. However, the evidence indicates:

Mr Duggan was moving on the pavement somewhere in the vicinity of the rear area of the minicab;

V53 was ahead of Mr Duggan on the pavement, and it is more likely than not that he was slightly to the right of Mr Duggan (from Mr Duggan's perspective);

W42 was on the pavement behind Mr Duggan.

1595. When V53 got out from the front passenger seat of the Charlie car on to the pavement, he said he moved in the direction of Mr Duggan. V53 said that he stopped when he saw the firearm in Mr Duggan's hand. V53 has consistently described his own position at the point he fired the shots as being on the pavement in line with the bonnet of the Charlie car. He has marked the same position on three plans and described the same position in his written and oral evidence. V53 therefore places himself in the half of the pavement closest to the road and somewhere in line with the bonnet of the Charlie car as his estimate of where he had reached at the point he fired the shots. Furthermore, V53 has continually emphasised that he cannot be specific about his own position or the position of Mr Duggan at the point he fired. There is no pathological or forensic evidence to undermine V53's recollection of his own location on the pavement.

1596. In his written statements and his evidence to the second trial, V53 described Mr Duggan as moving near to the rear of the minicab when he was shot. During questioning at the second trial, he reiterated that Mr Duggan was near the rear of the minicab but not yet at the bonnet of the Charlie car. However, it is apparent that V53 inconsistently marked Mr Duggan as closer to the railings on a plan at the first trial, although in oral evidence he maintained he could not be specific about their respective positions and this was his best estimate.

1597. V53's evidence that Mr Duggan was somewhere in front of him on the pavement is supported by the scientific and pathological findings. In Dr Poole's assessment of Mr Duggan's wounds, the trajectory of both bullets was from the front to back of Mr Duggan, from his right to his left and downwards. Dr Poole's findings corroborate that V53 fired from a position in front of Mr Duggan and could suggest that V53 was more likely to have been positioned to Mr Duggan's right. In his evidence at the inquest, Professor Pounder stated that, based on the location of the gunshot holes to Mr Duggan's body, he considered that the shooter was in front of Mr Duggan and approximately to his right.

1598. W42 has maintained that he approached from the front of the minicab and that he was behind Mr Duggan, somewhere in the area of the open door of the minicab, when Mr Duggan was shot. As Dr

Poole said both of the bullets were fired by V53 from the front of Mr Duggan, both bullets were found to contain his DNA and one of the two bullets was found in W42's radio, it is highly likely that W42 was positioned somewhere behind Mr Duggan. Professor Pounder stated in his report and in his evidence at the inquest that W42 was positioned behind Mr Duggan. This formation of the three individuals makes it feasible for one of the bullets to have travelled from V53 to Mr Duggan, obtain his DNA, and exit to his rear where it entered the radio of W42, somewhere behind Mr Duggan. W42's estimation of Mr Duggan's position and his own position behind him on the pavement are not undermined by the pathological and forensic findings.

1599. W70 said he was positioned to the right of V53 and one arm's length behind V53 when the shots were fired to his left. He said Mr Duggan was moving and continued to move or stumble forward directly into his path when he was shot. This is a further indication that Mr Duggan was likely to have been positioned closer to the road and minicab than V53 and that V53 was ahead of him and slightly to Mr Duggan's right when he was shot.
1600. R31 has stated that he was approaching Mr Duggan between the minicab and the bonnet of the Charlie car. He was just about at the kerb of the pavement when Mr Duggan was shot. R31 said that Mr Duggan was passing the end of the minicab, moving in his line of sight from his right to his left in what he described as a diagonal run across the pavement heading towards the railings, as the shots were fired from R31's immediate left. He said that Mr Duggan continued to move in the same direction after he was shot.
1601. R68 said that he got out of the driver's door of the Charlie car. His written evidence indicated that he saw Mr Duggan get out of the minicab. He clarified during the trials that he believed his initial recollection was mistaken and said that he first saw Mr Duggan, with a clear view from across the bonnet of the Charlie car, as Mr Duggan passed the end of the rear of the minicab. He said that Mr Duggan was moving towards V53 and W70 and they were moving towards him. R68 began to move towards the driver's door of the minicab and as he did so he said he heard two shots to his left.
1602. The laser scan showed the distance between the rear sliding door of the minicab and the front passenger door of the Charlie car was approximately six metres. The longest possible distance between V53 and Mr Duggan when they got out was therefore only six metres. As the evidence indicates they were both moving towards each other, this gap would have been reducing during the four

seconds (approximately) between the stop of the minicab and Mr Duggan being shot. The IPCC also notes the evidence of Ms Shaw, the expert in gunshot residue interpretation who gave evidence at the inquest, that it is likely that V53 was “*three metres or beyond*” away from Mr Duggan at the point at which he shot Mr Duggan. It is logical to deduce that Mr Duggan cannot have travelled any further than up to approximately three metres before V53 fired the two shots.

1603. The pavement at Ferry Lane was 2.81 metres wide between the minicab and the railings. The rapid interaction between Mr Duggan and V53 therefore occurred within a tightly confined space on the pavement and Mr Duggan appears to have been moving. From his interpretation of the blood spatter on the minicab, Dr Seaman has indicated Mr Duggan was towards the rear area of the minicab with his back to the front of the vehicle when he was shot. In these circumstances it is not possible to provide more precise positions of V53 and Mr Duggan at the time the shots were fired.

Finding 16

V53 fired two shots at Mr Duggan.

1604. The minicab driver said he could only see Mr Duggan’s back as he exited the minicab and moved towards the rear of the minicab. He could not assist in establishing whether or not Mr Duggan got out of the minicab in possession of the firearm, JMA/1. His evidence also could not assist in determining any further detail about Mr Duggan’s posture or the position of his arms and hands when he was shot.
1605. No other reliable independent witnesses have provided evidence to the IPCC about the actions of Mr Duggan after he got out of the minicab. The only witnesses who described seeing this element of the event were Miss O, Miss Z and, in her evidence in the first trial, Miss J. As set out above, the objective evaluation of their evidence has shown that their accounts are unreliable due to the large number of material inaccuracies in their overall accounts.
1606. The investigation has established that W70 and V53 were the only people who said that they saw Mr Duggan with a firearm on the

pavement at Ferry Lane. W70 said that he only saw a glimpse of the firearm in his statement dated 7 August 2011. The other CO19 officers do not state that they saw Mr Duggan with a firearm. However, W42, V59, W70 and R68 provided observations in their statements dated 7 August 2011 which broadly support V53's account of what he said he saw.

1607. W42 said that he saw the front of Mr Duggan for a split second as he got out of the minicab. He said that Mr Duggan pivoted out of the minicab in a hurried manner and that Mr Duggan's right hand was tucked inside the left hand side of his jacket at breast pocket height. W42 said in his statements and under cross examination that Mr Duggan moved towards the rear of the minicab and that he (W42) shouted "*he's reaching, he's reaching*" as Mr Duggan's right arm was across his body, and because he said that, from behind, he saw Mr Duggan's right elbow move to the right.
1608. V59 said that Mr Duggan was crouching over and running with his right hand across his body as if he was reaching for something.
1609. R68 referred to Mr Duggan having his right arm across his body as if he was attempting to pull an item from his waistband. He said that Mr Duggan used his left hand to assist him and the left side of his jacket was drawn up as if Mr Duggan was trying to secure the left side of his trousers. R68 said that Mr Duggan was moving in a slow lolling run as he did this.
1610. W70 said that he saw Mr Duggan with his right hand held across his body and inside the left hand side of his jacket towards his waistband. W70 said that it appeared Mr Duggan's left hand was in the pocket of his jacket or holding the left hand lower zip part of the jacket around his right hand. W70 interpreted Mr Duggan's action as an attempt to conceal something within his jacket in his right hand. W70 described Mr Duggan as stooping, low on his legs and moving "*in a sort of half run*". W70 maintained that he saw Mr Duggan quickly pulling his right hand up and out of his jacket holding a self loading pistol. W70 said that he felt in immediate danger and intended to draw his own weapon to fire when he heard the shots to his left.
1611. V53 said that when he saw Mr Duggan he immediately focussed on an object in Mr Duggan's right hand which he said he honestly believed to be a firearm in a black sock. V53 stated that Mr Duggan was holding the gun, side on to his stomach. V53 said that Mr Duggan then began to move the gun barrel away from his body. V53 said that he perceived this to be the beginning of Mr Duggan

raising the gun into an aimed position where he would open fire on him or his colleagues. V53 said that he perceived this to be an imminent threat to life.

1612. The IPCC has attempted to test and assess the various aspects of the officers' accounts, and most importantly the account given by V53, to establish what actions, if any, Mr Duggan made as he moved towards the rear of the minicab and what position he was in.
1613. The ballistic evidence obtained by the investigation corroborates that two bullets were fired by V53. The supervised count back of the ammunition of V53, in the presence of the IPCC, established that V53 had fired two rounds (bullets) from his MPS issued MP5 firearm. Two bullets and two corresponding shell casings were recovered from Ferry Lane. The examination and test firing of the MP5 by the Forensic Science Service confirmed the two bullets found were fired by the MP5 being carried by V53.

Finding 17

At the time Mr Duggan received the shot to his chest he was more likely than not to have been stooped but based on the evidence below the IPCC cannot say to what degree.

1614. Dr Poole observed that both the bullets travelled downwards. He also noted that one of Mr Duggan's ribs had been fractured by the shot that entered his upper right chest and travelled downwards exiting from his lower back. Dr Poole measured the height of the entry wound and the height of the corresponding exit wound from Mr Duggan's heel. This indicated an angle of approximately 45 degrees between the entry and exit wound. Professor Pounder also referred to a 45 degree angle relative to the upright (vertical).
1615. Dr Poole and Professor Clasper both explained at the second trial that Mr Duggan would either need to be moderately stooped as he was shot or, if he was standing upright, the bullets needed to have been fired from above his head height. Professor Clasper explained the downward direction of the shot to the chest through the body was unlikely to have been caused merely by it deflecting on Mr Duggan's rib as the rib fracture was not a complex fracture and was unlikely to account for a 45 degree angle.

1616. In his evidence at the inquest, Professor Clasper stated that it was not possible to be certain about the position or orientation of Mr Duggan's body when he was shot in the chest, other than to say it was entered from the front. He said that in his experience, when a bone is struck and fractured by a projectile, it can be deflected, and he had seen bullets strike bone and be deviated by 90 degrees. Having said that, he considered that when the bullet entered Mr Duggan's chest, it was travelling in a right to left and downwards direction. His view was that if, at the time that he was shot in the chest, Mr Duggan was standing upright and facing forward, then he was shot by someone who was above him and to his right, or if he was shot by someone who was approximately the same height and facing Mr Duggan, then Mr Duggan was stooped or crouched over.
1617. Dr Poole has not provided any further indication about Mr Duggan's posture or what level of stoop might be involved. However, he acknowledged in his statement on 24 December 2012 that his measurements of the wound heights did not take account of the medical operation (thoracotomy) which involved cutting open Mr Duggan's chest at the scene. The actual distance between the entry wound on his chest and the exit wound on the back would have been less before the thoracotomy, this may possibly reduce the 45 degree angle between the entry and exit wounds but to what degree remains unclear.
1618. In his statement dated 16 April 2013, Professor Clasper has said that:
- If Mr Duggan was standing upright and facing forwards, he was shot by someone who was above him and to his right;
 - If Mr Duggan was shot by someone at the same approximate height and was facing forward, then Mr Duggan was stooped over or crouched and his chest was turned to his own left.
1619. Professor Pounder also concluded that the markedly downward path of the bullet within the chest could only be accounted for by Mr Duggan being bent forward when that bullet struck him. In conclusion, taking in to account the evidence set out above, on the balance of probability Mr Duggan was stooped when he received the shot to his chest but the degree of this stooping cannot be determined by the IPCC.

The front lower left hand-side of Mr Duggan's jacket was folded up and over the right hand side of his chest as he was shot.

1620. Ms Douaihy recalled that Mr Duggan was wearing a Stone Island puffer jacket that afternoon. The photography of the first aid treatment and the clothing secured from Mr Duggan established that Mr Duggan was wearing this jacket when he was shot. The jacket was extensively cut during the first aid to remove it from Mr Duggan. To test the accuracy and truthfulness of the officers' descriptions of the actions of Mr Duggan in the immediate seconds before and as he was shot, the IPCC instructed the Forensic Science Service to examine the jacket.
1621. Mr Tomei located various bullet holes in the jacket. There were no bullet holes on the front right chest area of the jacket which lined up with the chest wound Mr Duggan sustained. However, Mr Tomei found two bullet holes in the left front of the jacket which correlated with the upper right chest wound. In his opinion, for this to have occurred, the lower left front of the jacket must have been folded up and over the left front of the jacket and the whole left front must then have been pulled up and over the upper chest wound site when one of the bullets hit Mr Duggan's chest.
1622. Ms Angela Shaw, a gunshot residue (GSR) specialist, explained that the GSR levels on Mr Duggan's T-Shirt indicated the bullet had struck another layer before it passed through his T-shirt. The GSR levels around the inner surfaces of the two holes to the left lower front of Mr Duggan's jacket indicated to her that these were more likely to be the bullet entry holes and that the bullet had struck the inner surface of the jacket first. Ms Shaw explained that one bullet could have caused the two holes to the lower left of the jacket, if it was in some orientation enabling the fabric of the two holes to be overlaid. She also indicated that, if the two lower holes were caused by one bullet, the lower left front of the jacket would have to be pulled up and folded over Mr Duggan's chest wound.
1623. This is further supported by the fact that the bullet exited from the left of Mr Duggan's back, but passed through the right hand side of the back of his jacket. This suggests that the jacket, when pulled over his right chest at the front, had shifted at the back so that the right hand side of the jacket covered the left of his back.
1624. W70's and R68's description of the position of Mr Duggan's jacket are therefore consistent with the scientific findings. The officers wrote their accounts on 7 August 2011 and they were provided to the IPCC on 8 August 2011. The jacket was submitted for forensic

examination after the statements were obtained, with Ms Shaw reporting in October 2011 and Mr Tomei in December 2011. W70 and R68's description of the left hand side of the jacket being held is supported by the scientific findings, and this strongly suggests that they had indeed seen the jacket being held by Mr Duggan in this way at the point he was shot. This indicates that these officers' accounts of the actions of Mr Duggan in these crucial seconds are reliable on those points.

1625. It is not clear exactly how the lower left front of the jacket was folded or how Mr Duggan manoeuvred the jacket over his chest. There are various ways he may have done this. However, the IPCC concludes, based on the scientific findings about the bullet holes in the jacket, which are consistent with, but not based on, the accounts of W70 and R68, that the left hand side of the front of the jacket was folded in some way and located over the upper right chest of Mr Duggan when he was shot in the chest.

Finding 19

The two shots were fired in rapid succession. One of the bullets hit Mr Duggan in the right arm and one bullet hit him in the upper right chest. The IPCC is not able to reach a conclusion about the sequence of the two shots.

1626. W70 had a close view of Mr Duggan and has accurately described him as stooped and holding the left hand side of his jacket, as borne out by forensic analysis of the jacket by Mr Tomei and the evidence about Mr Duggan being stooped as indicated by Dr Poole, Professor Clasper and Professor Pounder. W70's account is reliable on these matters. This bolsters the credibility of his assertion of what he says he saw Mr Duggan doing with his right hand at this same time. W70 did not make reference to seeing the firearm in his short entry in an Evidence and Action Book (EAB) on 4 August 2011 but thereafter W70 has consistently described seeing a glimpse of a firearm in Mr Duggan's right hand as it was pulled upwards out of his jacket. In light of the totality of his evidence, in particular his reference during his confidential meeting with his legal adviser on the night of 4 August 2011, to seeing Mr Duggan produce a gunshaped object which he believed to be a gun, the consistency he has maintained in his subsequent statements and when giving evidence at the trials, the absence of a reference to a firearm in his EAB does not render his account unreliable on this point.

1627. Dr Poole noted the wound Mr Duggan sustained to his upper right arm corresponded with the non-penetrating superficial wound to the right side of his chest. Dr Poole indicated that the two wounds were likely to have been caused by the same bullet. Dr Poole's said, in his statement dated 19 December 2012, that Mr Duggan's right arm could have been in a variety of alternative positions (i.e. not necessarily close to his chest) at the time that he received the arm shot. At inquest, Dr Poole initially repeated this position. However, he later stated at inquest that the upper arm "was rotated more inwardly ... that it's likely that he was down, to some extent ... or the arm was slightly down" but that it was "not possible to be dogmatic" about the position of the lower arm.
1628. However, Professor Clasper, the bio-engineering expert, used Dr Poole's observation regarding the corresponding injury to the right side of Mr Duggan's chest to assist him in assessing the position of Mr Duggan's right arm. Professor Clasper agreed on the balance of probabilities that the superficial wound to the side of Mr Duggan's chest appeared to relate to the right upper arm wound. Based on this, Professor Clasper was able to provide an opinion on the position of Mr Duggan's right upper arm at the point he was shot in the arm. He said Mr Duggan's right upper arm was held close to his chest.
1629. In addition, in Professor Clasper's opinion, on the balance of probabilities, Mr Duggan's right arm was held in a rotated position such that the palm of his hand was facing relatively backwards, rather than forwards. Professor Clasper confirmed this view in his evidence at the inquest. Professor Clasper explained that Mr Duggan was not pointing a firearm forwards when he was shot in the right arm as his forearm could not be at a 90 degree angle to his body at this point. He was unable to give any opinion on whether Mr Duggan's elbow was bent or straight.
1630. In his evidence at the inquest, Professor Clasper said that, from his experience of treating biceps and muscle injuries, he thought that the muscle injury described by Professor Pounder and revealed in the pictures did not show a significant muscle injury, but a relatively low energy transfer injury.
1631. Professor Pounder also provided an opinion as to the position of Mr Duggan's right arm when he was shot in the arm which was consistent with the opinion expressed by Professor Clasper. Professor Pounder stated that to allow the bullet to pass through the inner side of the upper arm without then striking the chest, the position of the entry and exit wounds indicated that the upper arm

must have been medially rotated. The upper arm can be in various positions when medially rotated but Professor Pounder indicated that the back of the hand would be facing more forwards than backwards. In relation to the position of the lower arm, Professor Pounder made reference to the bullet damaging the biceps muscle causing both localised tearing of the muscle and extended tearing along the length of the muscle. Professor Pounder stated the extended tearing strongly suggested that the muscle was contracted at the time the bullet struck and that, since biceps muscles contract to bend the elbow, he inferred that the elbow was bent at the time the bullet struck, although he could not say by how much. He further inferred from this that the right forearm was across Mr Duggan's body with the back of his hand facing relatively forwards at the time the bullet struck. Professor Pounder concluded this tended to corroborate the statements of the police officers, including V53, that Mr Duggan had his right hand across the front of his body at the time the first gunshot was initiated. Professor Pounder's opinion was also consistent with Professor Clasper's opinion that, whatever the precise position of the right arm, Mr Duggan could not have been pointing a weapon forwards when he sustained the gunshot to the arm.

1632. At this stage it is therefore critical to analyse exactly what V53 said, during the course of his statements and oral evidence, regarding Mr Duggan's right arm.
1633. V53 said that when he first saw the firearm in Mr Duggan's right hand, it was held side on to his stomach. He said that Mr Duggan began to move the gun barrel away from his body. He perceived this to be the beginning of Mr Duggan bringing the gun into an aimed position where he would fire. He has said that, when he fired his first shot, Mr Duggan had not reached an aimed position with the firearm. He has said that when he immediately reassessed and fired his second shot '*within a fraction of a second to a second*', the gun was pointing in his direction. V53 clarified that Mr Duggan had still not taken an aim in the sense of outstretching his arms and looking down the barrel but V53 viewed the barrel of the gun to be pointing at him. He said that he perceived this to be an imminent threat to life.
1634. It is apparent from V53's accounts since the incident that he has asserted that the firearm was continuing to move towards being pointed in his direction. V53 has not consistently asserted Mr Duggan was pointing a firearm directly forward at 90 degrees in an aim position at him when he fired nor has he said Mr Duggan's upper right arm was not close to his chest. There is one mention of

the firearm pointing straight ahead that was suggested to V53 in cross examination at the first trial of Mr Hutchinson-Foster (referenced above at page 138/9) which V53 did not mention in his previous statements or repeat at the re-trial or inquest. V53's consistent account given on numerous occasions is therefore not fundamentally contradicted or undermined by the evidence of Professor Clasper and Professor Pounder on this point. Their opinion that Mr Duggan's right arm was held somewhere across his body, but not at 90 degrees forwards, supports the evidence of V53, W70, W42 and R68 that Mr Duggan's right arm was held across his body towards his left side.

1635. V53 described an overall movement of Mr Duggan starting to move a gun away from his body as he fired the two shots. His recollection was that he fired at Mr Duggan's central body mass, and that the first shot impacted on Mr Duggan's right chest and the second appeared to impact on Mr Duggan's right bicep. If V53 is correct on the order the shots impacted on Mr Duggan's body, his first shot was the fatal shot to Mr Duggan's chest and his second shot struck Mr Duggan's arm.
1636. Dr Poole cannot determine the order the shots were fired in or which bullet caused which wound.
1637. The evidence of Professor Clasper and Professor Pounder regarding the position of Mr Duggan's right arm at the point he was shot in the arm could, if the evidence on the movement of Mr Duggan's arm is accepted, indicate that Mr Duggan was more likely to have been struck in the right arm by V53's first bullet, when his upper arm was likely to have been tighter to his body and his lower arm was more across his body. This would be contrary to V53's recollection of the order of the shots.
1638. Professor Pounder has formed the view that the first of V53's two shots struck Mr Duggan's arm and then the police radio of W42. Professor Pounder has based this on W42 not hearing another gunshot before he was struck in the radio. Professor Pounder repeated this view at the inquest and said that, whilst he agreed with Dr Poole that, from a purely pathological perspective it is not possible to determine which wound was received first, by putting the pathological information together with the other information, particularly the statements of the police officers, he concluded that the first shot was the shot to the arm (i.e. the non-lethal shot) and the second shot was the shot to the chest (i.e. the lethal shot).
1639. Professor Clasper has stated that he cannot comment on what

order the shots were fired in. His finding about the position of Mr Duggan's right arm relates specifically to the instant one of the bullets hit Mr Duggan's right arm.

1640. In November 2012, V53 was asked what certainty he attached to his recollection about the order in which he fired the two shots. He acknowledged he could not be 100% sure of his recollection as he did not see the bullets actually hit Mr Duggan's body. He also made reference to it being a fast moving incident and commented that "*perceptual distortion*" could have impacted on his recollection of events.
1641. It has been established above that Mr Duggan was shot within around four seconds of the stop of the minicab. V53 has consistently maintained that the two shots were fired within a fraction of a second to a second of each other. The minicab driver reported only hearing one sound, suggesting the two shots were indistinguishable from each other. Mr Biggs referred to hearing, "*one crack immediately followed by another crack*". Mr Maguire said he heard three shots with no pauses between them. Mr [REDACTED] also said there were "*two or three sharp cracks in rapid succession.*" This aspect of V53's account is strongly supported by the evidence of the independent witnesses who heard the shots.
1642. Professor Pounder appears to have placed heavy reliance on the account of W42 in reaching his conclusion regarding the order of the shots, however, W42's evidence is open to question, particularly taking into account the strong evidence which indicates the shots were fired in rapid succession. Professor Clasper and Dr Poole have both concluded that they cannot determine the order of the shots. Based on the evidence currently available, the IPCC is therefore not able to reach a conclusion about the sequence of the two shots.
1643. The fast moving nature of the event and the fact that the evidence indicates that the shots were fired in rapid succession would mean that, even if V53 is incorrect about the order of the shots, this would not so significantly undermine his account so as to render it dishonest. It is not realistic to expect complete precision in recall from V53 on the angle of Mr Duggan's upper arm and forearm and exactly how his arm was orientated, as he fired the two shots within seconds of getting out of his vehicle and in rapid succession.
1644. Furthermore, the angle of Mr Duggan's body in relation to the minicab and V53 cannot be determined. Professor Clasper noted he could not comment on the orientation of Mr Duggan's body because

the bullet to Mr Duggan's chest struck one of his ribs immediately on entering his body and it may therefore have deflected. Similarly, Dr Seaman could not determine Mr Duggan's exact position or posture at the time that he was shot. As the angle of Mr Duggan's body on the pavement cannot be determined, it remains possible that V53's evidence about the order of the shots is reconcilable with Professor Pounder and Professor Clasper's evidence on the position of Mr Duggan's right arm. V53 made reference to the gun "*pointing in my direction*" after the first shot had hit Mr Duggan. If V53 was incorrect about the order of the shots, and the first shot was the arm shot, his evidence is still not contradicted by Professor Pounder and Professor Clasper's analysis of the position of Mr Duggan's right arm at the time of the arm shot. Given the angles involved, it remains possible that Mr Duggan did move the firearm in V53's direction after a first shot to the chest and yet his arm remained in a position that was still relatively across body when he received a second shot to the arm.

1645. The IPCC has had regard to the remarks of the court in *E7 (An Officer of the Metropolitan Police) v Sir Christopher Holland (in his capacity as Chairman of the Azelle Rodney Inquiry)* [2014] EWHC 452 and in particular the conclusion of the Court that, "*In our judgment, there is considerable force in the expressed concern that minute dissection of fractions of a second with the benefit of hindsight will discourage an appropriate response, in real time, to threats thereby resulting in potentially increased danger to those involved in (or likely to be affected by) these exceedingly difficult operations. Section 76(4) of the Criminal Justice and Immigration Act 2008 requires a court to determine the genuinely held belief of the individual in question, as to the circumstances when considering whether the degree of force used was reasonable, whether or not the belief in question was mistaken, or (if it was mistaken) whether it was reasonable. The reasonableness or otherwise of a belief is only relevant to the question whether it was genuinely held. This inevitably requires consideration of the dynamic situation and militates against an analysis by fractions of a second.*"

Finding 20

One bullet was found in the radio of W42 and one was found inside an orange Sainsbury's carrier bag located in the rear of the minicab on the floor between the driver and front passenger seat. Both bullets contained Mr Duggan's DNA but it is not possible to establish which bullet caused which wound to Mr Duggan or how one bullet got into

the carrier bag.

1646. One of the two bullets (exhibit JMA/10) was found in the radio of W42. The other bullet (exhibit RES/1), was found inside an orange Sainsbury's carrier bag inside the minicab. The photography shows the carrier bag was in the rear on the floor behind the driver's seat and front passenger seats. The forensic scientists Dr Seaman and Mr Tomei examined the two bullets in an attempt to assist in reconstructing the shooting of Mr Duggan, but the experts reached different conclusions regarding the path of the two bullets.
1647. Mr Tomei concluded that RES/1, the bullet found in the minicab, correlated with the wound to Mr Duggan's upper right arm, due to the extent the bullet had mushroomed in shape. On Mr Tomei's assessment this would mean that the fatal chest wound was caused by the bullet found in W42's radio, JMA/10.
1648. Dr Seaman conversely concluded that Mr Duggan's chest wound was caused by the bullet found in the minicab, RES/1. Dr Seaman based his findings on specific indentations he observed on the bullet, RES/1, which he assessed had been made by the stitching on the rear of Mr Duggan's t-shirt as the bullet exited the left of his back. Dr Seaman observed the corresponding stitching below this exit hole. Dr Seaman found this stitching was not present near the exit hole on the t-shirt associated with the arm wound which was on the upper, right side of the rear of the t-shirt. For this reason, Dr Seaman concluded that this strongly indicated the indentations were caused when the bullet, RES/1, exited the left of his back and passed through his t-shirt. In addition, Dr Seaman noted that the bullet in the radio, JMA/10, was grossly deformed, had expanded and had lost a significant amount of material within the radio, which was consistent with it having passed through Mr Duggan's arm.
1649. In response, Mr Tomei has maintained his view and said that the indentations on the bullet, RES/1, could have been caused by an impression from a fabric on the interior of the minicab. Dr Seaman cannot definitely rule this out. However, it remains the case the markings on the bullet do correspond to stitching found on the t-shirt below the exit hole to the left of the back.
1650. Professor Pounder supports the opinion of Dr Seaman that it was the bullet to Mr Duggan's right arm that ended up in W42's radio and that the bullet which passed through his chest travelled through the open door of the minicab.
1651. The differing interpretations of the two bullets by the two ballistics

experts, Mr Tomei and Dr Seaman, are clearly not reconcilable and it is not possible to choose between their conflicting findings. Without further scientific evidence, the IPCC is not able to resolve this dispute. It is therefore not possible to establish definitively which bullet caused which wound to Mr Duggan nor in which order they struck him. Additionally it remains surprising and, to a large extent inexplicable, how one of the bullets came to be in the orange Sainsbury's carrier bag, considering the concealed position of the bag between the seats inside the minicab and the fact there was no ballistic damage to the bag itself. The IPCC cannot rule out the possibility that the bullet entered the minicab through the opened sliding door and later rolled into the carrier bag when the minicab was lifted and removed from Ferry Lane before the minicab was returned to be searched at the scene. It also remains possible that it was found at the roadside or somewhere else in the minicab and placed in the carrier bag by some as yet unidentified person. However, the IPCC cannot construe any motive for such an action and therefore considers this very unlikely.

Finding 21

The IPCC investigation has not found material evidence to undermine V53's assertion that he had an honestly held belief: (1) that he saw a firearm in Mr Duggan's right hand and Mr Duggan's right arm beginning to move; and (2) that his life or that of his colleagues was in imminent danger.

V53's first shot was aimed at Mr Duggan's central body mass and, because he still perceived the threat, he fired a second shot at Mr Duggan. These two shots occurred in rapid succession and in the context of V53's honestly held belief (as asserted) constituted the use of reasonable and proportionate force by V53.¹⁵

1652. Findings 19 and 20 do not have a bearing on the essence of V53's account that he fired two shots because he was acting in self-defence. He said that he fired because he saw Mr Duggan was holding a firearm which was moving in his direction. The sequence in which the two shots impacted on Mr Duggan does not affect the

¹⁵ However, as set out above in Figure 5 and below in relation to the complaint outcome, final determinations on lawfulness are a matter for the courts.

question of whether he had an honestly held belief at the time that his life or that of his colleagues was in imminent danger.

1653. To examine further whether V53's belief was honestly held, the IPCC wanted to interview V53 to probe in detail his account of what he saw, what he believed and his rationale for his decision making. V53 refused to be interviewed and opted to provide written witness statements to the IPCC investigation. The lack of an open, face-to-face dialogue limits the extent to which the IPCC can effectively probe and verify the detail of his account. However, the IPCC notes that he provided an initial account at the scene, an Evidence and Action Book on the evening of 4 August 2011, has answered in statement form a number of questions addressed to him by the IPCC investigation, has given evidence at two criminal trials and at the inquest.
1654. The sources of evidence therefore available to the IPCC from V53 are his written evidence detailed in Chapter 4 of this report and his oral evidence at the two trials of Mr Hutchinson-Foster and at the inquest, where V53 gave evidence and was cross examined. It should be noted that what follows by way of analysis and findings in respect of V53 is based on these sources of evidence only, and subsequent references to 'the account of V53' should be read accordingly. The IPCC has considered the account of V53 in the context of all the other material it has obtained to date.
1655. The IPCC has sought to establish whether there is any objective evidence which undermines the account of V53. It may have been unreasonable for V53 to have believed that Mr Duggan presented an imminent threat if evidence exists to suggest that Mr Duggan was not moving towards V53, that he was not holding a firearm in his right hand or that he did not move his right arm in the manner described by V53. In the absence of any independent witness or forensic evidence, his account and that of the other officers is the only available evidence to support his assertion. However, the investigation has not obtained any reliable evidence to undermine V53's account.
1656. It is recognised that the only eye-witness corroborating V53's account that Mr Duggan held a firearm in his right hand, is W70. No independent witnesses saw Mr Duggan holding a firearm; although it is apparent no reliable independent witnesses had a view of Mr Duggan's hands during the few seconds he was on the pavement before he was shot. Equally there is no DNA attributable to Mr Duggan on the firearm or sock. However, Ms Khera (the DNA profiling expert) commented, given that it is possible to handle an

item without depositing detectable quantities of DNA on it, the scientific findings are of limited assistance in determining whether or not Mr Duggan handled the firearm or sock. These scientific findings do not, therefore, support or undermine V53's account, as it is inconclusive in determining whether Mr Duggan had handled the firearm.

1657. There is some supporting evidence of V53's account, set out below, that indicates that Mr Duggan was moving towards V53 and suggests that, as he did so, he was moving his right arm while holding a firearm:

- V53 was told there was intelligence Mr Duggan wanted to take possession of a firearm that afternoon;
- At around 6.05pm, V53 was informed Mr Duggan had taken possession of the firearm in the minicab V53 was following;
- The minicab driver said Mr Duggan exited immediately when the minicab stopped;
- The minicab driver heard shouts from the police including, *"Don't anybody move"*. W42 and W70 said they were shouting *"Armed police"* and *"Stand still"*;
- The minicab driver said that Mr Duggan ran towards the rear and based on this evidence there is no indication Mr Duggan stopped in the doorway or on the pavement;
- Dr Seaman's evidence indicates Mr Duggan was moving towards the rear of the minicab (the direction of V53) when he was shot;
- W42, R68 and V59 all provided descriptions of Mr Duggan's right arm being across his body and W42 said he shouted, *"he's reaching, he's reaching"*;
- In the opinion of Professor Clasper and Professor Pounder Mr Duggan's lower right arm was held across his body and his arm was not pointing 90 degrees forwards at the point Mr Duggan was shot in the arm;
- W70 said Mr Duggan was stooping and holding the left of his jacket as if he was concealing something. W70 said Mr Duggan was holding a firearm in his right hand and he pulled his right hand up quickly out of his jacket. The scientific evidence indicates the lower left hand side of Mr Duggan's jacket was held up over his right chest area and that Mr Duggan was likely to have been stooping to some degree, corroborating the detail of W70's account;

- W70 said he was moving to the right of V53 and he was about to draw his own weapon when he heard the shots;
- V53 fired two shots in quick succession when W42 was located behind Mr Duggan. This tends to support V53's assertion that he had a genuine and immediate perception that Mr Duggan posed an imminent threat, as W42 could have been seriously injured or killed if the bullet had not fortuitously embedded itself in his radio; and
- The final location of the firearm is consistent with the movement that V53 said he saw Mr Duggan making with his right arm with the firearm in his right hand.

1658. These points tend to support the account of V53 and his stated assertion that he believed that Mr Duggan presented an imminent threat at the point at which he fired. In particular, first, V53 was told that Mr Duggan was in possession of a firearm in the minicab. Second, based on the minicab driver's evidence, V53 was then presented with Mr Duggan moving quickly towards him on the pavement. Third, W70 said he saw a firearm in Mr Duggan's right hand being pulled up as he was shot, and W70 is assessed to be accurate regarding the other details of those crucial seconds.

1659. Further, as set out below, the IPCC has found that JMA/1 was found on the grassed area adjacent to the pavement of Ferry Lane, that there is no evidence that JMA/1 was thrown or planted by the police and it is more likely than not that Mr Duggan was in the process of throwing the firearm as he was shot. The final location of the firearm is therefore consistent with the movement that V53 said he saw Mr Duggan making with his right arm, with the firearm in his right hand. This lends further support to the credibility of the account of V53.

1660. The law of self-defence (section 76(4)(a)) of the Criminal Justice and Immigration Act 2008, set out above at page 444-445) provides that the reasonableness of the belief is relevant to the question of whether the belief was genuinely held at the time. Given that the evidence indicates that it may have been reasonable for V53 to have believed Mr Duggan was an imminent threat to his or his colleagues' lives, it is more likely that this was his genuinely held belief at the time. There is no evidence to undermine V53's description of what he said he saw.

1661. The second part of the test is to assess whether the force V53 used in those circumstances was reasonable or proportionate. V53 said that he used lethal force to defend himself or the lives of others in circumstances where he saw Mr Duggan with a firearm that Mr

Duggan was beginning to move in V53's direction, and that V53 believed his life or that of his colleagues was in imminent danger. V53 said that he fired at Mr Duggan's central body mass to stop him and stop the threat. He said he re-assessed the situation after the first shot and that, as he could still see the firearm, he fired a second shot within a fraction of a second. That such a reassessment could take place within a fraction of a second may be open to question, albeit there is no evidence currently available upon which the IPCC can properly reject V53's account of his thought processes. However, in the situation as V53 said he believed it to be, it appears reasonable that V53 resorted to firing at Mr Duggan's torso twice to stop what he believed was Mr Duggan's intended action, even if the second shot was not (as V53 contends) the product of a conscious reassessment. The ACPO guidance at paragraph 2.44 explains that when an officer decides it is necessary to discharge his/her firearm, (s)he should shoot at the central body mass in this manner.

Finding 22

JMA/1 was found on the grassed area adjacent to the pavement of Ferry Lane; as a guide, this was approximately 4.35m from Mr Duggan's body as it was positioned during the laser scan survey conducted at Ferry Lane.

1662. The firearm, JMA/1, within the black sock, JMA/2, was found by the police on the grassed area next to the pavement of Ferry Lane. The grassed area was to the right hand side of Mr Duggan as he moved towards the rear of the minicab.
1663. JMA/1 was later found to have the blood of Mr Hutchinson-Foster on it, and the sock, JMA/2, had on it the blood of Mr Osadebay, the man he had assaulted on 29 July 2011.
1664. During the examination of the scene, the laser scan survey measured the distance between the final position of Mr Duggan's body and the plant pot placed next to the firearm as 4.35 metres.
1665. The firearm itself was forensically recovered after it was photographed but before the laser scan was carried out. The photography verifies that the plant pot was directly next to the firearm and, as this had not been moved before the laser scan, the plant pot provides a representative measurement of the position of the firearm. Mr Duggan's position could not be captured exactly where he was shot, as his position changed. The evidence indicates

he was moving forwards as he was shot, his body was handled during a search for the firearm by W70 and V48 and he was moved to facilitate medical treatment. The body of Mr Duggan was also moved to prepare it for the mortuary and it was from this final position that the measurement was taken.

Finding 23

There is no credible evidence that JMA/1 was thrown or planted by the police. JMA/1 was found by either CO19 officer R31 or Z51 approximately 8 minutes after the shooting.

1666. None of the CO19 officers can account for how the firearm ended up in this position on the grassed area. None of them said they saw it travel through the air to the grassed area. All of the CO19 officers stated they did not touch or move the firearm before or after Mr Duggan was shot.
1667. W70 said he only saw a glimpse of the firearm in Mr Duggan's right hand as Mr Duggan pulled his hand up, just before the shots were fired. V53 said that he saw the firearm in Mr Duggan's right hand and that Mr Duggan was moving the firearm in his direction but that he did not see what happened to the firearm after he fired the two shots.
1668. Throughout the investigation, the IPCC has therefore sought to establish how the firearm came to be located on the grassed area. This is a critical issue. The following broad hypotheses were fully considered and have been evaluated below in light of all the evidence gathered:
- The firearm was thrown or kicked by the police after the shooting;
 - The firearm was planted by the police before or after the shooting; and
 - The firearm was thrown by Mr Duggan either before he was shot, or as he was shot, or after he was shot but before he lost consciousness.
1669. During the early stages of the investigation, there were suggestions that the CO19 officers might have thrown or kicked the firearm after the shooting. The IPCC was made aware of this by A/DI Suggett and DC Payne and carried out focussed enquiries to establish the

source and veracity of this information.

1670. The evidence strongly indicates that this idea originated as a consideration during the briefing given by Ms Larrigan, the first Crime Scene Manager. Ms Larrigan said it was intended to be considered as a possible hypothesis and the staff she briefed, who recalled her reference to this, all said that they did not interpret it as a statement of fact but as a possibility. However, it seems it may have been repeated by others as a more definitive explanation without any supporting evidence during this very early stage of the investigation.
1671. The only witness who gives evidence of a police officer carrying a non-police issue firearm at any point during the incident is Miss J. After the shots were fired Miss J said she ran towards the grassed area, was told by an officer to keep back off the grass and then remained on the far side of Jarrow Road. Miss J told IPCC Investigators she saw an officer running on the pavement, with a handgun in a clear plastic bag wrapped in black cloth, at about 6.25pm. Miss J was clear during the interview that she had not actually seen the police officer inside the minicab.
1672. However, Miss J was inconsistent on this critical aspect when she gave evidence at the first trial. She was not called to give evidence at the second trial. Miss J insisted she saw an officer in the back of the minicab and this officer exited the rear of the minicab with a gun which he then put a black cloth over and placed in a bag. Miss J said the minicab driver was then pulled out and placed near the railings and he started to run with the police shouting “*stop*” after him. Miss J’s account contains various obvious flaws. The minicab driver did not run, as he was immediately taken from his driver’s door down onto the road just seconds after the shooting. As he was on the offside of the minicab, Miss J could not have seen him because the minicab itself would have blocked her view. Miss J accepted in her evidence at the trial that her view from Jarrow Road was limited by the gradient of the grassed area and the overall distance and the foliage present on the grassed area. The inconsistencies between her accounts and the significant errors in her evidence strongly undermine the credibility of her evidence, allowing little weight now to be attached to it. This is more so given that, in her evidence to the inquest, Miss J said on a number of occasions that she could not remember things and she also said that she could not remember whether her statement to the IPCC was wrong about what she had seen.

1673. Critically Miss J’s account is also contradicted by the contents of the

'Phone Clips' file on the *'BBC footage'*. The clip has been calculated to have started 35 seconds after the shooting and it depicts the firearm being located by a police officer approximately eight minutes after the shooting. An officer is seen to use a lamp-post to climb over the black railings separating Ferry Lane from the grassed area and begins searching the bushes that run along the railings. Up to that point, no officer is seen on the other side of the railings or the grassed area. The officer appears to be looking at the bushes for approximately a minute and a half before stopping on the grass at the location the firearm was found. This would be at approximately 6.21pm. The BBC footage therefore supports the account given by R31 on 7 August 2011, and consistently presented by him since, regarding how and where he searched to find the firearm. After this, three uniformed armed response officers can be seen to approach the area close to the firearm. This supports the accounts of PC Gibson, PC Christianson and PC Fowler, who described standing with the firearm to guard it.

1674. Mr Ely-O'Carroll observed another officer, identified by the investigation as ZZ75, supply an item to an officer on the grass standing with what Mr Ely-O'Carroll presumed was a firearm, although he did not see it. ZZ75 has described providing a flat pack cardboard evidence box and large plastic bag to an officer stood on the grassed area to protect the firearm. These actions further corroborate the account of R31 regarding the steps that were taken after the firearm was found.
1675. Furthermore, for the officers to kick or throw a firearm over the railings or wall without knowing the firing capabilities of the firearm and whether or not it was loaded, would have been an extremely dangerous thing to do. It is also difficult to understand what would have motivated a CO19 officer to do this. It is therefore considered highly unlikely that the officers would have done this as it could have put themselves, colleagues and members of the public at further risk, for no discernible benefit. The IPCC has found no credible evidence to indicate the firearm was thrown or kicked by the police.
1676. The first officer present on the grassed area in the *'BBC Footage'* is R31 when he climbs over the railings. There is also no sign of any officer planting a firearm on the grass during the *'BBC Footage'*, so if such an action took place it had to have occurred before the footage commenced, within the initial 35 seconds after the shooting. The *'BBC Footage'* appears to have been filmed from the ninth floor of the Emily Bowes Court building opposite the scene by a member of the public. There is no evidence to suggest the officers could have known when they were being filmed by Witness B. The

presence of Witness B was unlikely to have been easily noticeable to the officers, given that the filming took place from some height from the Emily Bowes Court flats. If Witness B was noticed, the officers would still have had no way of knowing whether Witness B would go on to put their footage into the public domain or what they were focussed on when they were filming. The *'BBC Footage'* shows R31 was the first officer to enter the grassed area when he climbed over the railings, as described by R31.

1677. At the inquest, Z51 said that he found the gun, whilst he was on the telephone to DCI Foote following the shooting. R31 maintained that he thought that he had found the firearm, having been tasked to look for it by V59. The IPCC considers that there is nothing suspicious arising out of the fact that both Z51 and R31 considered that they had found the gun.

1678. Another issue that arose at the inquest was inconsistency surrounding the instructions that V59 provided to the ARV officers who eventually assisted in securing the firearm. V59's initial evidence in his statements and at inquest was that he directed the ARV officers, on arrival, to secure the firearm and this was supported by the evidence of the ARV officers. However V59 stated, when later interviewed by the inquest team and recalled to the inquest and having seen the BBC footage, that the firearm had not been found by R31 when the ARV officers arrived at the scene. It was suggested that this meant that V59 had directed the ARV officers to the firearm before it had been purportedly found by R31. It was suggested that V59's prior knowledge of the firearm's location before its "discovery" by R31 suggested that the firearm had been planted. V59 stated that his previous evidence had been confused and in fact he had initially directed the ARV officers to secure the Jarrow Road area and then given a later briefing for them to secure the firearm. He pointed out that, if he had directed the ARV officers to secure the firearm on arrival, they would have simply walked across to the gun on the other side of the railings, rather than driving to Jarrow Road and parking there.

1679. V59's evidence to the inquest was contradictory on this point and this does call it in to question. After the inquest, the IPCC contacted the ARV officers who said that, having seen the footage, it was possible V59 had asked them to secure the firearm at a later stage. These statements were, however, made with the caveat that the ARV officers could not say exactly what their conversation with V59 was on arrival on the scene. The statements were also made after the ARV officers had seen V59's evidence at the inquest and viewed the BBC footage. The BBC footage itself is the only objective evidence of the ARV officer's actions and it does show the

ARV officers driving down Jarrow road and parking a long distance from the firearm. In those circumstances, but most particularly bearing in mind the reasoning set out in the paragraphs below, it is considered more likely than not that V59 did not direct the ARV officers to secure the firearm until after he had been informed of its location by R31.

1680. During the 35 seconds immediately after the shots, Mr Hanrahan said he and his son ran onto the grass bank. Other members of the public, like Mr Biggs, Mr [REDACTED] and Mr McGuire, as examples, were also present in the vicinity. Mr Hanrahan and the other members of the public have made no reference to seeing any police officers being inside the rear of the minicab or positioning a firearm on the grass. The presence of these members of the public also means it would have been extremely risky conduct for the officers to plant the firearm in broad daylight when many potential witnesses were watching close by and could also be taking camera or mobile phone footage of police actions.
1681. If the firearm was planted by the police then this whole process of R31 “finding it” as shown on the ‘*BBC Footage*’, was staged for the purposes of any CCTV, or anybody who may have happened to film or to view the scene at this point. However, the police would also have to rely on the same CCTV, witnesses or other recordings having not captured them planting the firearm seven minutes earlier in this position.
1682. As discussed, there is overwhelming evidence Mr Duggan had travelled to Vicarage Road to meet Mr Hutchinson-Foster just before 6pm and collected the cardboard shoebox from him. The box was photographed within 15 minutes of the shooting in the passenger area of the minicab with the lid displaced and it was found to have Mr Duggan’s fingerprints and the fingerprints of Mr Hutchinson-Foster and his ex-girlfriend on it. Mr Hutchinson-Foster had been in possession of the firearm, JMA/1, found on the grass, six days earlier. If the firearm was brought to the scene by the police and placed on the grass, before or after the shooting, this would require them to have intercepted JMA/1 after the assault on Mr Osadebay and have orchestrated a long-term, complex conspiracy involving a large number of officers. At its most extreme, if the firearm was planted prior to the stop, the police would have also had to stage their telephone calls requesting ambulances and HEMS for Mr Duggan and W42, as these demonstrated they had little idea of what road they were on or where exactly they were.
1683. Alternatively, if it is accepted Mr Duggan transported the firearm to

Ferry Lane in the minicab, but the police removed it from him or the minicab and planted the firearm before or after the shooting, presumably to justify a scenario in which V53 had shot Mr Duggan without legitimately being confronted with the firearm, it seems highly likely they would have placed the firearm near to Mr Duggan's hands or body as this would have been the most powerful evidence that he had been in possession of a firearm when he was shot. There is no sensible reason why they would have opted to plant the firearm on the grass such a distance away from Mr Duggan thereby giving rise to the various doubts which have inevitably arisen about this matter. The IPCC find this hypothesis implausible and has found no credible evidence to support the assertion the police planted the firearm on the grass.

Finding 24

The most plausible explanation for the location of the firearm, JMA/1, is that Mr Duggan was in the process of throwing the firearm, JMA/1, to his right as he was shot.

1684. The final remaining possibility is that Mr Duggan threw the firearm onto the grass area through or over the railings, or over the wall, as he was moving on the pavement, before, during or after he was shot.
1685. The photographs of the scene indicate the gaps between the black metal railings are fairly narrow, so it seems unlikely that the firearm was thrown through the bars of the railings, although this cannot be ruled out.
1686. The minicab driver did not see Mr Duggan pause or make any throwing movement as he got out of the minicab. The minicab driver did not see Mr Duggan's hands, however, his evidence has consistently been that he saw Mr Duggan getting out quickly and begin to run towards the rear. There is no evidence to suggest that Mr Duggan threw the firearm from inside the minicab or as he got out of the sliding door.
1687. V53's account referred to Mr Duggan immediately starting to move his right hand from across the left of his body to a position towards the direction of V53. The evidence indicates V53 was ahead and possibly slightly to the right of Mr Duggan. If V53's description is accurate, Mr Duggan's right arm was across his body and he was moving his right hand from a position close to his body on his left, away from his stomach towards V53. W70 said that he saw the firearm as Mr Duggan pulled his right hand quickly up and out of his

jacket. When considered together, these two different descriptions suggest Mr Duggan was starting to carry out an action which would have moved the firearm from his left to his right as he was shot.

1688. If this is what happened and the firearm was released from Mr Duggan's right hand and travelled over the railings or wall as he was shot, it is surprising that not one of the CO19 officers saw this.
1689. However, assuming the officers' accounts are broadly correct regarding their own positions, V48, W56 and R68 are unlikely to have had a clear line of sight or been properly focused on Mr Duggan at the point he was shot. Other CO19 officers with a view and the minicab driver have all described the plume of down feathers that exploded from the rear of Mr Duggan's jacket. This suggests their attention was drawn to Mr Duggan's body and the feathers from his jacket at the point he was shot. The officers who noted the explosion of the feathers were W42, W70, V72, Q63, and V59. W42 may have been further distracted by a bullet hitting his radio and his belief he had been shot.
1690. The individuals who were mostly likely to have the best view of what happened to the firearm, if it was thrown by Mr Duggan, based upon the estimates of their positions, were V53, W70 and R31.
1691. R31 described being stunned by the sound of the gunshots immediately to his left and distracted for a number of seconds. R31 spent several minutes looking for the firearm. This could suggest that he had genuinely not seen what happened to the firearm otherwise he could have located it considerably more quickly. Had R31 seen what happened to the firearm, it is inconceivable that he would not have located the firearm immediately as the first priority.
1692. W70 has maintained he immediately began searching for a weapon on Mr Duggan and he believed he would find this in his hand, underneath Mr Duggan or around Mr Duggan on the pavement. In the second trial, W70 gave evidence that he could not say what happened to the gun after he had seen it and his best guess was that he blinked or flinched because he did not have his own weapon drawn. This could account for him not seeing the gun being thrown. W70 did accept in his evidence at the inquest that he had not seen Mr Duggan's hands making any jerking or throwing movements. The photographs of the first aid indicate Mr Duggan appears to be positioned close to the railings, suggesting W70 had searched and moved Mr Duggan when he searched for the firearm underneath him.

1693. V53 has stated he was focused on Mr Duggan and his hands. The gap between V53 and Mr Duggan was closing and was at least three metres when V53 shot Mr Duggan. It has not been possible to determine why V53 did not see what happened to the firearm immediately after he fired the two shots, although this does not undermine V53's account.
1694. While on the face of it, it is surprising that none of the officers saw the firearm leave Mr Duggan's hand and travel to the grassed area, it is equally true that, had the officers – and particularly V53 and W70 - been in collusion to provide corroborative evidence linking Mr Duggan to the position of the firearm, it is likely that they would have claimed to have seen this. It would actually have been in V53's own interests for him or other officers to have been able to say what Mr Duggan did with the firearm after they say they saw it in his hand, to complete the chain of continuity connecting Mr Duggan with the firearm's final location.
1695. Professor Clasper's opinion, predicated on the assumption Mr Duggan did have the firearm in his hand at the point he was shot and was throwing it voluntarily, is that Mr Duggan was or could be in the process of throwing the firearm as he was shot. He said *'this would be consistent with, but in no part based on, the witness statements of W70 and V53'*.
1696. Professor Clasper said that it was very unlikely an involuntary movement was responsible for the final position of the firearm. He explained that Mr Duggan could have been in the process of throwing the firearm as he was shot and could have been capable of completing the throw after he was shot. He also confirmed it was more likely that he was in the process of throwing it as he was shot, rather than throwing it before or after.
1697. In his evidence at the inquest, Professor Clasper stated that Mr Duggan would not have lost consciousness immediately after being in shot. It was his view, based on the photographs of Mr Duggan's wounds, that Mr Duggan may have maintained a blood supply to his brain for up to five seconds, so that it may have been between five and ten seconds after he was shot in his chest before he lost consciousness.
1698. Professor Pounder's opinion, based on the assumption that Mr Duggan did have the firearm in his right hand at the time the first and second shots *"were initiated"*, was that Mr Duggan would need to have thrown the gun to its final resting place more or less contemporaneously with the second shot being initiated or after the

second shot.

1699. Professor Pounder said that although the chest shot was lethal, Mr Duggan would not have lost consciousness as a result of blood loss for probably four seconds and possibly as long as ten seconds and that during that period of consciousness he could theoretically throw away a gun. Professor Pounder observed that the police weaponry is intended to produce “*immediate incapacitation*” but he said individuals can and do summon the willpower to commit physical acts despite the presence of severe and lethal injuries. He noted Mr Duggan had MDMA, a stimulant, in his bloodstream at this time which may have influenced his behaviour.

1700. However, Professor Pounder pointed out the following:

- Mr Duggan was not observed to throw away the gun by either V53 or W70, although both indicated they were closely observing Mr Duggan’s hand movements;
- The first gunshot wound in the sequence advocated by Professor Pounder would have torn Mr Duggan’s right biceps muscle which would have made bending his right elbow and turning the hand palm up painful. The pain of the first gunshot wound, which appears to have caused him to bend forward and to move his left arm across to the injured right side of his chest, would have been dwarfed by the second gunshot wound to the chest and the damage this would have caused. The first gunshot may have winded him and the second gunshot would have made it effectively impossible for him to breathe;
- Overall the medical evidence and the statements of the CO19 officers do not suggest that after being shot Mr Duggan engaged in “*determined physical action*”.

1701. Professor Pounder concluded, “*Taken in the round I cannot conceive of how Duggan might have thrown the gun to the place it was found, unobserved by the police, given his body position as reconstructed, his injuries and the evidence suggesting that he was collapsing to the ground. Since there are many factors to be considered in reaching such a view and since their evaluation is in some areas subjective I recognise that others could come to a different view when weighing this evidence.*”

1702. Dr Seaman’s opinion was that it was within the capacity of any individual to throw a firearm such as JMA/1 the distance between the minicab and where the gun was found, either from within the vehicle, as alighting the car, or actively without extending the arm

away from the body.

1703. Professor Clasper and Professor Pounder both assess that Mr Duggan's right arm was held across his body (as described by V53) when the arm bullet impacted. Both experts also agree that Mr Duggan's forearm was not pointing directly forwards at the point the bullet impacted on his right arm. Neither expert can opine on the position of his right arm when the chest bullet struck or at any other time. Professor Clasper indicated it was more likely that Mr Duggan was in the process of throwing the firearm as he was shot. It therefore remains possible that V53's sight of the gun and decision to fire the two bullets in quick succession and Mr Duggan undertaking a movement with his right arm to throw the firearm were essentially simultaneous events. In apparently reaching across his body with his right arm and beginning to move the firearm away from his body towards his right, Mr Duggan may have inadvertently presented V53 with a scenario from which V53 formed an honestly held belief that his life or that of his colleagues was in imminent danger.
1704. As set out above at finding 19, the investigation has not been able to determine conclusively the order that the arm shot and the chest shot hit Mr Duggan. Even if the second shot was the arm shot, it remains possible that Mr Duggan's arm was moving towards V53. Professor Pounder's reasoning for the order of shots, based upon the witness evidence of W42, is not adopted. However it is acknowledged that, if the first shot hit Mr Duggan on the arm and the second hit him on the chest, this would allow for a greater movement of Mr Duggan's arm bearing in mind the forensic evidence on the position of Mr Duggan's arm when he received the arm shot.
1705. Furthermore, the only apparent mechanism for the firearm to have been brought out of the shoebox and onto Ferry Lane was by Mr Duggan getting out of the minicab with the firearm in his possession. The minicab driver is clear that Mr Duggan got out immediately after the minicab stopped and ran towards the rear of the minicab. V53's description, given within an hour of the shooting, of the firearm being in a sock was accurate and the descriptions of the movements of Mr Duggan by V53, W70, W42, V59 and R68 all suggest that Mr Duggan was running on the pavement towards the rear of the minicab when he quickly brought his right hand out from his left side of his body, moving it towards the right.
1706. Mr Duggan was the only rear passenger in the minicab. Based on the BBC footage and the observations of the reliable witnesses,

there is no evidence any person entered the rear of the minicab between the shooting and the point at which R31 found the firearm.

1707. The evidence indicates that Mr Duggan was therefore more likely than not to have been in possession of the firearm when he got out of the minicab and that this is the only plausible means for it being brought out of the vehicle onto the pavement.
1708. Based on an analysis of all the evidence currently available, it appears that the most plausible explanation for how the firearm came to be located on the grass next to Ferry Lane is that Mr Duggan got out of the minicab with the firearm and was in the process of throwing the firearm to his right as he was shot. If this is the case, the location of the firearm, JMA/1, is therefore further supportive evidence that V53 saw a firearm beginning to move towards him held in Mr Duggan's right hand.
1709. While Witness B stated in his evidence at the inquest that he saw Mr Duggan with his hands raised, as if he were surrendering, and with a phone in his right hand, Witness B also said that he could not see Mr Duggan's arms or hands when Mr Duggan was behind the minicab. Witness B said at the inquest that Mr Duggan did not throw the object from his right hand or make any other sudden movement. However the IPCC notes that this was inconsistent with the transcript of Witness B's words to the BBC in the BBC note of 12 April 2012 in which Witness B had said *"then the phone went flying."*
1710. The IPCC also notes that there was evidence that Witness B had spoken to Witness C, a BBC journalist, on two occasions after 4 August 2011 but prior to the inquest. Witness C told the inquest what Witness B had told him, and Witness B was asked about what Witness C had recorded in contemporaneous notes from those conversations. In notes of the conversation which took place on 12 April 2012, Witness B was recorded as saying he heard the words, *"put it down, put it down"* being shouted and also noticed a BlackBerry. There was a split-second between the shouting and the shots being fired. In the notes of the second conversation on 18 April 2012, Witness B told Witness C that Mr Duggan had the BlackBerry in his right hand, did not reach in his pocket and did not run away. The notes continued, *"Phone always in hand. Initially thought gun. Shiny. But read N/Papers then thought it was Blackberry. If had gun he would have aimed it at them."*
1711. The IPCC sought to obtain a statement from Witness B following the inquest, but Witness B refused to sign his statement. Witness B stated that he saw the moment that Mr Duggan was shot from his

bedroom window. The IPCC has obtained modelling which illustrated that Witness B would have had a line of sight to the scene from his bedroom window and that the distance was 75 metres. The modelling also illustrated that Witness B's view of Mr Duggan would have been obstructed by the minicab, depending on how close Mr Duggan was to the minicab.

1712. The IPCC also obtained a further report from Professor Pounder after the inquest, in which Professor Pounder concluded that the body and arms position of Mr Duggan as described by Witness B was inconsistent with the autopsy and clothing evidence relating both to the gunshot to Mr Duggan's arm and to the fatal gunshot to his chest. Professor Pounder stated, *"Mark Duggan could not have been upright with both arms positioned as described by Witness B at the time of either the gunshot to the arm or the fatal gunshot to the chest."*
1713. The IPCC acknowledges that, in finding that the most plausible explanation for the location of the JMA/1 is that Mr Duggan was in the process of throwing it to his right as he was shot, it is reaching a different conclusion from that of the majority of the jury at the inquest. The Jury, in a majority of 9:1, concluded that Mr Duggan threw the firearm onto the grass. Of the 9, 8 concluded that it is more likely than not that Mr Duggan threw the firearm as soon as the minicab came to a stop and prior to any officers being on the pavement. One juror concluded that Mr Duggan threw the firearm whilst on the pavement and in the process of evading the police. One juror was not convinced of any supposition that Mr Duggan threw the firearm from the vehicle or from the pavement because no witnesses gave evidence to this effect.
1714. The IPCC bases its conclusion on the full evidence that emerged at the inquest **and** the evidence that has been obtained subsequently.
1715. The IPCC is aware the CO19 officers were located within a room and conferred when completing their EAB's and their statements dated 7 August 2011. The potential effect of this conferring on the credibility of their evidence has been fully considered throughout. The truthfulness and accuracy of the officers' accounts has never simply been accepted. The IPCC has attempted to probe, challenge and question the officers' evidence throughout the investigation. The IPCC is also of the view that locating officers in one room in this manner is inadvisable. The IPCC is engaging in on-going policy development in this area following the recommendations of the external review of the IPCC investigation into the death of Sean Rigg. However, after a critical assessment of the officers' evidence,

the fact they were located within one room does not appear to have undermined the credibility of their evidence in this case. That view is based on a number of factors.

1716. V53's has been broadly consistent throughout his written and oral evidence, and it is noted that he gave his initial verbal account at the scene and completed his initial written EAB separately from the other CO19 officers.
1717. W70, R31, W42 and R68 provided different recollections to V53 and to each other about the crucial seconds after the minicab was stopped.
1718. W70's individual recollections about the position of Mr Duggan's jacket were supported by the subsequent forensic analysis.
1719. R31's detailed description of his actions at the scene and most importantly how he found JMA/1 was supported by the BBC Footage.

Responses to specific questions raised by Mr Duggan's family

Why was Mr Duggan being followed?

This is addressed in Findings 1, 2, 3, 4 and 5.

Why was he stopped (and why then and why there?)

This is addressed at Finding 9, 10 and 11.

Why was Mr Duggan surrounded by 31 police officers?

Mr Duggan was not surrounded by 31 police officers at the point he was shot. On 4 August 2011 there were 31 police officers working in some form on Operation Dibri. As outlined above, at the location of the stop, the 11 CO19 police officers had got out of their vehicles at the time the shots were fired.

Did Mr Duggan get out of the car voluntarily?

This has been addressed in Finding 13.

What happened then? What did Mr Duggan do? What did the officers do?

This is addressed in Findings 12, 14, 15, 16, 17 and 18.

Why was he shot (why in the chest and why twice?)

This is addressed in Findings 19, 20 and 21.

How did the gun get to where it was found?

This is addressed in Findings 22, 23 and 24.

The complaints from Ms Precious Douaihy and Mrs Pamela Duggan

As previously stated, Ms Douaihy and Mrs Pamela Duggan made two complaints:

- 1) a) That all CO19 officers present at the scene have perverted the course of justice and / or misconducted themselves in public office in relation to relocation of the firearm in the sock and deliberately suppressing the true circumstances of how the firearm reached the location on the grassed area.
- b) The complaint was against all the CO19 officers because all officers claim not to have handled the firearm in the sock and not to know how it reached the location on the grassed area and therefore all may be deliberately suppressing the true circumstances.

The Investigation has analysed all of the available evidence and reached subsidiary findings of fact. In light of these subsidiary findings of fact (in particular findings 22, 23 and 24), IPCC investigator DSI Sparrow is of the opinion that there is no material evidence to support this complaint and **therefore it is not upheld.**

2. That the principal officer, V53, did not fire shots in the belief that Mr Duggan was pointing a firearm at him and did not use lawful force.

The Investigation has analysed all of the available evidence and reached subsidiary findings of fact. In light of these subsidiary findings of fact (in particular findings 19,21, 22, 23 and 24), IPCC investigator DSI Sparrow is of the opinion that there is no evidence available which sufficiently undermines the accounts provided by V53 as to why he discharged his firearm twice at Mr Duggan fatally injuring him. As a result **this complaint is not upheld.**¹⁶

¹⁶ However, as set out above in Figure 5, issues of lawfulness can only be conclusively determined by the courts.

The complaint from the minicab driver

As previously stated, the fourth term of reference from the investigation in to the minicab driver's complaint was incorporated in to this investigation. The term of reference was to investigate:

Whether any other options were available to police to apprehend Mr Duggan at any earlier stage other than to stop the minicab in Ferry Lane which resulted in the minicab driver being exposed to the shooting of Mr Duggan?

The Investigation has analysed all of the available evidence and reached subsidiary findings of fact.

The IPCC investigation has found that officers working on Operation Dibri did not know where the firearm connected to Mr Hutchinson-Foster was located and, given the intelligence picture, it is reasonable that Operation Dibri officers did not apply for a search warrant relating to the firearm controlled by Mr Hutchinson-Foster, nor make Mr Hutchinson-Foster the subject of surveillance (finding 4). The IPCC has also found that, based on the intelligence held and the inability to obtain a search warrant to locate Mr Hutchinson-Foster's firearm, the tactic adopted to follow Mr Duggan with armed officers in support was a logical and legitimate decision (finding 5).

In relation to whether the police could have sought to apprehend Mr Duggan any earlier than they did, the timing of the receipt of the intelligence on 4 August 2011 and the actions of the police thereafter, are relevant. The intelligence that Mr Duggan was on his way to pick up the firearm, was passed to ZZ17 at approximately 5.20pm on 4 August 2011 – in advance of the pre-planned 6pm briefing of the CO19 and armed surveillance officers. By approximately 5:30pm, Mr Duggan was in the minicab travelling towards Vicarage Road.

Therefore, when, where and how the police could intervene to recover the firearm, was largely dictated by when they could get armed officers in a position to effect an intervention and the fact that Mr Duggan was in a minicab. Only unarmed Trident surveillance officers were available to be deployed to Vicarage Road immediately following receipt of the intelligence. It would not have been appropriate for the unarmed Trident surveillance officers to have conducted any stop of the minicab. The tactical advice was clear that intervention concerning potentially armed subjects or occupants of a vehicle, should be conducted by armed CO19 officers using the MAST tactic (see the tactical advice of Inspector Bennett – paragraphs 117-122). The earliest opportunity to conduct the stop in this manner, was at Ferry Lane. As per paragraph 1545, the timing and location of the stop on Ferry Lane formed part of the review by Superintendent McMillan. She travelled the route at a similar time of day and found the roads to be busy with on-coming traffic and traffic in the road

ahead. She concluded that, based on the road layout and the traffic conditions she observed, Ferry Lane was the earliest available place the conveyance was able to progress into a suitable position from which the officers could then seek to carry out the stop. Paragraph 1546 of this report also notes that, having heard the full range of evidence at the inquest relating to the conduct of the stop, the jury unanimously came to the conclusion that the stop was conducted in a location and in a way which minimised to the greatest extent possible recourse to lethal force. Having conducted its own review of all of the evidence, the IPCC investigation agrees with the jury's conclusion in this respect.

In light of these subsidiary findings, the IPCC investigator, DSI Sparrow, is of the opinion that there were not any other viable options available to the police to apprehend Mr Duggan at any earlier stage other than to stop the minicab in Ferry Lane. Therefore, this aspect of the minicab driver's complaint is not upheld.

Provisional Recommendations¹⁷

Recommendation 1: ACPO, or its successor organisation (the National Police Chief's Council), should work with the National Offender Management Service (NOMS) to ensure that effective information exchange arrangements are in place between all police forces and NOMS, so that confidential and sensitive information can be shared in confidence in order to protect the public and prevent serious harm.

Recommendation 2: ACPO, or its successor organisation (the National Police Chief's Council) and the College of Policing, should explore and report on the feasibility of recording all radio communications taking place during covert firearms operations. The recipients should consider at what time during a firearms operation the recording should/could occur to ensure, as far as possible, that 'relevant information' is collated. Relevant information includes: the decision-making (and timing thereof) of the Tactical Firearms Commander, Operational Firearms Commander and other relevant officers (including when and why state 'amber' and state 'red' are called); the dissemination of information/intelligence to the surveillance / firearms officers (what information and when disseminated); and, information which informs when and where an intervention takes place.

Recommendation 3: Further to the Coroner's concern 6 (see paragraphs 88-90 of the Coroner's Report to Prevent Future Deaths), the Metropolitan Police Service should ensure that: their covert armed response vehicles are fitted with in car data recording systems (otherwise known as 'Incident Data Recorders' IDRs); that the relevant data is retained in any circumstance when either death or personal injury occurs or where any other referral is made to the IPCC further to the Police Reform Act 2002; and that the existence of the data is made known to the IPCC designated investigator, or other relevant investigative agency.

Recommendation 4: ACPO, or its successor organisation (the National Police Chief's Council) and the College of Policing, should explore and report on the feasibility of fitting audio/visual recording devices in covert armed response vehicles which are active throughout an armed operation.

Recommendation 5: The Metropolitan Police Service gives careful consideration to the recommendations detailed in the ACPO Advisor's report, as listed in full in Chapter 9. In particular, the IPCC considers that

¹⁷ Provisional recommendations for consideration by the Commission (Deputy Chair) as to whether to issue formal recommendations further to s.28A, Schedule 3 of the Police Reform Act 2002.

Recommendation 3, concerning the provision of a separate tactical advisor to provide advice to the Tactical Firearms Commander during the firearms operation, should be implemented by the Metropolitan Police Service.

Appendix A – conduct matter in relation to ZZ46

At the inquest, an issue arose in relation to ZZ46, a Detective Constable within Trident, and the research that she conducted on 2 August 2011 to identify Mr Hutchinson-Foster. It was suggested during questioning to her at the inquest that she could have done more to identify the address where the firearm was being stored. After the inquest, DSI Sparrow decided that there was an indication that ZZ46 may have behaved in a manner justifying the bringing of disciplinary proceedings and, as a result, served a misconduct notice on ZZ46. The IPCC has investigated her conduct in relation to this issue.

The background to ZZ46's investigation in to Mr Hutchinson-Foster is set out at page 53-54 of this report under the "2 August 2011" heading. The IPCC's findings in relation to this background are set out at page 451-455 of this report under the heading "(B) The planning of the police operation".

The specific reason for ZZ46 to contact the Probation Service would be to determine if the Probation Service held any addresses in the Leyton area for any female associates of Mr Hutchinson-Foster. It was inferred at inquest that, had this line of inquiry been pursued, an address could have been obtained which could have influenced the MPS tactics in order to recover the firearm at an earlier time. This might have prevented the need for the stop.

The IPCC has found that officers working on Operation Dibri did not know where the firearm connected to Mr Hutchinson-Foster was located and, given the intelligence picture, it is reasonable that Operation Dibri officers did not apply for a search warrant relating to the firearm controlled by Mr Hutchinson-Foster, nor make Mr Hutchinson-Foster the subject of surveillance (finding 4). The IPCC has also found that, based on the intelligence held and the inability to obtain a search warrant to locate Mr Hutchinson-Foster's firearm, the tactic adopted to follow Mr Duggan with armed officers in support was a logical and legitimate decision (finding 5). The issue of the probation service was explored in relation to those findings and the reasoning set out in those sections applies equally here.

Bearing in mind the explanations given both by ZZ46 and ZZ17, it is considered understandable that the line of inquiry in to the Probation Service was not pursued. Contacting the Probation Service might have jeopardised the investigation because the MPS did not have a formal method of gaining information from the Probation Service with safeguards in place to ensure that the police investigation was not compromised and the opportunity to locate the firearm, lost. The IPCC investigation has put forward a provisional recommendation (to be considered by the Deputy Chair as to whether to make a formal recommendation further to paragraph 28A of

schedule 3 PRA) that ACPO, or its successor organisation, should liaise with the National Offender Management Service, to discuss whether such an arrangement can be put in place. However, in circumstances where no such investigative avenue existed for ZZ46, the IPCC investigator, DSI Sparrow, does not find a case to answer for misconduct in relation to ZZ46. By not finding a case to answer, this means that DSI Sparrow has concluded that there is insufficient evidence from which a misconduct meeting could find, on the balance of probabilities, misconduct on the part of ZZ46.

Furthermore, in hindsight, following IPCC enquiries, it is known that the Probation Service did not have information concerning an address relating to the female associate living in Leyton and therefore could not have provided any valuable information.