

Coroner's Inquests into the London Bombings of 7 July 2005

Hearing transcripts - 10 March 2011 - Afternoon session

1 (2.15 pm)

2 LADY JUSTICE HALLETT: Mr Coltart?

3 MR COLTART: My Lady, before we pass on to the responses,  
4 can I deal with two short points, please? The first is  
5 I don't know whether my Lady's received a copy of the  
6 proposed revised wording --

7 LADY JUSTICE HALLETT: I have it, thank you.

8 MR COLTART: -- for recommendation (w), which is designed to  
9 deal both with documentation created before any major  
10 incident and also that which follows. So we've inserted  
11 in italics a new (i).

12 LADY JUSTICE HALLETT: I follow, yes, I've read it.

13 MR COLTART: Yes, so I'll circulate that draft. Others can  
14 consider it at their leisure, but that's what we are  
15 proposing.

16 The second is, although I've got no intention, you  
17 will be relieved to hear, of returning to the Emergency  
18 Responder Inter-operability Lexicon, I meant to inform  
19 my Lady that it's a document which runs to 67 pages, so  
20 if ever the tale were told by the length of a document,  
21 then perhaps it is so in relation to this particular  
22 issue.

23 LADY JUSTICE HALLETT: Thank you.

24 Ms Gallagher, do I understand you'd like to return  
25 to --

1 Further submissions by MS GALLAGHER

2 MS GALLAGHER: Yes, a number of brief matters, my Lady.

3 First of all, the families represented, with the  
4 exception of Mr Coltart who was otherwise engaged, as  
5 you know, over lunch discussed a particular issue  
6 relating to narrative verdicts in box 3 and we thought  
7 it appropriate to raise this.

8 I did indicate at the outset today, on behalf of all  
9 of the teams, that we generally agreed with the proposed  
10 formulation advanced by Mr Keith on 17 February. The  
11 reference is Day 65 at pages 94 and 95.

12 We've given some thought to paragraph 10 of the  
13 West Yorkshire Police submissions over lunchtime,  
14 my Lady, and paragraph 10 of the West Yorkshire Police  
15 submissions suggests that the verdicts can record that  
16 the unlawful killings were the result of an orchestrated  
17 attack and they suggest that could be done without  
18 infringing the embargo on expressly naming the  
19 conspirators. In Mr Keith's formulation, the suggested  
20 phrasing was "an explosion occurred when a device was  
21 detonated by another passenger".

22 As we've recognised in our February submissions,  
23 jointly submitted by all the families in paragraph 2.19,  
24 there's obviously understandable frustration felt by  
25 a number of the families that the formal result of these

1 inquests can't reflect the fact that their loved ones  
2 were murdered by a known and named individual. We fully  
3 understand why not in respect of rule 42, but we do want  
4 to give some further thought overnight to the  
5 formulation advanced in paragraph 10 of the  
6 West Yorkshire Police submissions.

7 Certainly, at the moment, none of the teams object  
8 to that, and in fact some representatives think their  
9 families will actively encourage that form of wording  
10 rather than the wording indicated by Mr Keith in respect  
11 of "an explosion occurring when a device was detonated  
12 by another passenger".

13 But --

14 LADY JUSTICE HALLETT: The first question is you, as  
15 lawyers, all have to satisfy yourselves that that is an  
16 appropriate way to go. West Yorkshire Police may or may  
17 not be right, and you've got to satisfy yourselves.

18 MS GALLAGHER: Precisely. My Lady, we can do it in one of  
19 two ways. We can come back and indicate our position  
20 tomorrow or we can deal with it in writing. There is  
21 a preference amongst the families to deal with it in  
22 writing, if that's appropriate, because, as we've done  
23 with other issues to do with different boxes on the  
24 inquisition, there's very personal details raised and  
25 we've been much happier with doing that in writing

1 privately with the Inquest team rather than airing those  
2 particular matters in open court.

3 Would that be acceptable?

4 LADY JUSTICE HALLETT: It is.

5 MS GALLAGHER: My Lady, there's just one final matter that  
6 relates specifically to two of my client families which  
7 I intend to take extremely shortly.

8 You will have seen in the London Ambulance Service  
9 submissions that reference was made to box 2, and  
10 Michael "Stan" Brewster and Miriam Hyman, and while they  
11 didn't make any submissions on how specific you should  
12 be in relation to box 2, they did draw to your attention  
13 the evidence of Colonel Mahoney.

14 Without going into any detail, my Lady, which would  
15 be improper, I did want to just draw your attention to  
16 one item in the transcript bundle. It's page 114 of the  
17 transcript bundle and it's page 83, and it's the  
18 question at line 17, my Lady, where Mr Keith, in  
19 questioning Colonel Mahoney, made it clear that he  
20 wasn't asked to address the question of what was the  
21 cause of death in each case because he was doing  
22 something different, which was to assess what was likely  
23 to have been the cause of death, and then they go on to  
24 describe what the task was and what the brief was and so  
25 on.

1 My Lady, in addition to the issues which we've  
2 raised in the witness submissions specific to the  
3 Brewsters and the Hymans, we'd also rely on that and, to  
4 the extent that there is any suggestion taken from the  
5 London Ambulance Service submissions in relation to  
6 those two families, that box 2 should be completed on  
7 the basis of Colonel Mahoney's evidence.

8 We would dispute that and suggest that the same  
9 wording "potentially injuries consistent with an  
10 explosion" or something along those lines is appropriate  
11 rather than anything more specific drawn from  
12 Colonel Mahoney's evidence.

13 I don't intend to go any further, my Lady, I hope  
14 that assists.

15 LADY JUSTICE HALLETT: Can I leave to you discuss that as  
16 well with the Inquest team?

17 MS GALLAGHER: Certainly, thank you.

18 LADY JUSTICE HALLETT: Thank you very much. Right,  
19 Mr Morton?

20 Submissions by MR MORTON

21 MR MORTON: My Lady, on behalf of Transport for London, I am  
22 pleased to say that my submissions will be relatively  
23 brief.

24 First, my Lady, as you know, Transport for London  
25 made clear at the outset of these inquests that it was

1 determined to do all that it could to assist you in the  
2 difficult task that you have taken, and it has, of  
3 course, sought to do so.

4 My Lady, you have conducted, on any view, the most  
5 thorough and wide-ranging enquiry.

6 Similarly, Transport for London made plain  
7 throughout that if there are further lessons to be  
8 learned from the appalling events of 7 July, then of  
9 course they must be learned, and that Transport for  
10 London is committed to doing so. There can be no doubt,  
11 my Lady, that your inquests have played a valuable role  
12 in that process and Transport for London is grateful to  
13 you and your team and, of course, to all of those that  
14 have given evidence, for that.

15 Our witnesses, most particularly Mr Barr, Mr Collins  
16 and Mr Dunmore, set out in detail, both in their oral  
17 evidence and in their witness statements, measures that  
18 have been taken since 7 July to improve yet further the  
19 response to major incidents. I don't, of course, and  
20 you wouldn't expect me to, repeat them all, but they  
21 include significantly improved radio communications,  
22 I think one of the witnesses referred to the new CONNECT  
23 radio system as a system that has revolutionised  
24 communications.

25 Improvements to major incident training. In

1 consultation with the London Ambulance Service,  
2 improvements to first aid equipment. A replacement of  
3 all and an increase in the number of stretchers, and in  
4 consultation with the London Fire Brigade, the  
5 introduction of a system of unique reference numbers for  
6 specific locations.

7 So I set that out just by way of background and  
8 context for what I'm about to say because --

9 LADY JUSTICE HALLETT: Sorry, just before you go on, and I'm  
10 very sorry, I should have mentioned it before, in  
11 relation to the radio communications, were you aware of  
12 the reservations Mr Taylor has expressed?

13 MR MORTON: I was not, no.

14 LADY JUSTICE HALLETT: I thought I'd mention it now so  
15 Ms Canby can, if necessary, take further instructions  
16 whilst you are on your feet.

17 MR MORTON: Certainly.

18 LADY JUSTICE HALLETT: Essentially, it comes to this:  
19 I don't think Mr Taylor accepts the assurances that the  
20 new systems are as good as everybody says they are and  
21 he also, I think, would like to be assured that people  
22 are going to be assessing them in operation and checking  
23 that they are working as they're meant to work.  
24 So he has reservations as to whether I've heard  
25 sufficient evidence on how good they are.

1 MR MORTON: Yes, well, certainly, my Lady, in relation to  
2 the latter point, I think I'm right in saying that  
3 Mr Collins, I think, on behalf of Transport for London  
4 made plain -- I'm not taking into account the particular  
5 reservations that may have been raised, but the more  
6 general point made absolutely plain that there's always  
7 a continuing review and a desire to improve the system  
8 if that is possible. But certainly, my Lady, I'll take  
9 on board the points you've raised and return to it in  
10 a moment, if I may.

11 LADY JUSTICE HALLETT: Thank you.

12 MR MORTON: That really touches exactly on the point I was  
13 going to move to in any event, which is that, as you  
14 would expect, Transport for London recognises that there  
15 may very well be room for yet further improvement, and  
16 whilst equally recognising that recommendations under  
17 rule 43 are entirely a matter for you in the exercise of  
18 your discretion, we are, and we make plain, nevertheless  
19 very grateful to the families, both first for their  
20 recognition of the steps that have been taken since  
21 7 July but also, and for present purposes importantly,  
22 their constructive and thoughtful suggested  
23 recommendations.

24 My Lady, we have set out our response to each of  
25 those suggested recommendations in our written



1 submissions, which I know that you will have considered,  
2 and I certainly do not intend to go through all of them.  
3 Nearly all of the suggested recommendations, if  
4 made, would, in our submission, require consultation  
5 between the interested parties to these proceedings,  
6 including some which, as presently drafted, are directed  
7 solely to Transport for London.  
8 So, to take two obvious examples, rendezvous points  
9 and traction current, clearly, if any recommendation is  
10 made in relation to either of those matters, it must  
11 involve others in addition to Transport for London.  
12 We think in general terms that it is important that  
13 any recommendation should not be too prescriptive, but  
14 we recognise and support the general approach that has  
15 been suggested on behalf of the families and, as I say,  
16 we have set out in our response what we hope you will  
17 find helpful and constructive responses.  
18 The format is we have either agreed with the  
19 suggested recommendation as drafted or we have suggested  
20 an alternative with reasons for doing so.  
21 There are only three of the particular  
22 recommendations that I propose to deal with in my oral  
23 submissions, and the first is the vexed question of  
24 rendezvous points, which my learned friend Mr Saunders  
25 has addressed you on this morning.

1 Can I make it absolutely clear that we recognise  
2 that there is an issue here that merits consideration?  
3 We want, and have sought, to be helpful in the way  
4 in which we have responded to the suggestion. There  
5 are, of course, existing principles and practice which  
6 are well-established and, in our submission, any  
7 recommendation should have regard to those.  
8 Further, by way of introduction to this point, we --  
9 this is a very good example, in our submission, of  
10 a recommendation which, although directed to Transport  
11 for London, plainly must relate to the emergency  
12 services as well.  
13 It seems to us that the proposed recommendation, as  
14 we say in our written submission, actually elides two  
15 separate issues. The first is a reception point within  
16 an Underground station for members of the emergency  
17 services when they arrive. That is to say a rendezvous  
18 point.  
19 The second, but it appears to us it may not  
20 necessarily be the same, is communication between the  
21 emergency services on arrival and we are dealing here,  
22 of course, by definition with the very early stages of  
23 the emergency, so before the Command structure has been  
24 established, and with the best will in the world, there  
25 is always going to be a period of time before that

1 structure can be put in place, and it's this which  
2 appears to us to be the real issue that Mr Saunders is  
3 driving at and, with respect, my Lady, the real issue  
4 that you seem troubled by in the questions that you have  
5 asked.

6 We simply say this: it's not at all clear to us that  
7 this is really an issue about rendezvous points at all,  
8 that it's -- the concept, as my learned friend  
9 Mr Saunders appeared to be describing it today, of  
10 having an arrangement whereby the initial members of the  
11 emergency services, when they arrive, meet, is not  
12 necessarily a desirable thing at all.

13 But even if it is, that's a matter for the emergency  
14 services and not necessarily for Transport for London,  
15 certainly not for Transport for London to ensure that it  
16 occurs. That's not to say we may not have some role to  
17 play in it, but the idea that Transport for London  
18 should ensure that members of the emergency services  
19 meet and get together is not, it seems to us,  
20 a particularly practicable one and, subject to the views  
21 of the emergency services -- and their views here will  
22 be paramount -- it may not be desirable either.

23 LADY JUSTICE HALLETT: So why are you questioning -- are you  
24 just saying that the emergency services may say it's not  
25 desirable, or are you questioning whether it's

1 desirable?

2 MR MORTON: Whether it is or isn't desirable must  
3 principally be a matter for the emergency services,  
4 because the suggestion, as I understand it, is that the  
5 recommendation they've suggested is to try to ensure  
6 that the emergency services meet together. Well, that  
7 doesn't involve -- whether that's a good or a bad thing  
8 is not a matter for Transport for London. That must be  
9 a matter for the --

10 LADY JUSTICE HALLETT: So you're not necessarily questioning  
11 it, you're just saying I should establish whether there  
12 is a need first of all.

13 MR MORTON: First of all, whether it's actually a desirable  
14 thing in the first place. Because it strikes us -- but  
15 again, this may be a view that others take a different  
16 approach to -- that the real issue here, as I say, is  
17 not about rendezvous points at all, but is about  
18 communications between the emergency services.

19 LADY JUSTICE HALLETT: Well, it's about face-to-face  
20 communications which was mentioned. How important it is  
21 that, when the emergency services arrive, there are  
22 face-to-face communications, if only to share the very  
23 basic information that people have obtained. Not  
24 necessarily to say "Well, it's the London Fire Brigade  
25 who are going to do X and the Ambulance Service Y", and

1 what Mr Saunders argues is the person who's best placed  
2 to get those people together is the person who works in  
3 the Underground station.

4 MR MORTON: Yes, but I simply ask rhetorically, at what  
5 point is that supposed to happen? I mean, presumably  
6 the first ambulance crews on the scene are expected to  
7 go and attend to the injured. The first firemen on the  
8 scene are expected to attend the scene.

9 If it's being suggested that London Underground is  
10 supposed to say to a chief inspector, for example, "No,  
11 no, you mustn't go down there, you must wait by my  
12 rendezvous point, please, and you must wait there until  
13 a fireman arrives", and then he's to say to the fireman,  
14 "No, you can't go anywhere. You must wait there,  
15 please, until the Ambulance Service arrives."

16 LADY JUSTICE HALLETT: No, the role of the first responder,  
17 as I understand it, is to assess the situation. The  
18 idea is that you get together the first responders so  
19 that they can assess the situation together. "Right,  
20 what do you know?" "I know there's no fire. I know  
21 there's no CBRN. I know there are people dead and  
22 dying". It's to get together some just essential basic  
23 facts so that the responders can respond effectively.

24 MR MORTON: I understand that completely. I think perhaps  
25 the real area where I'm inviting you to consider there

1 may be difficulty is the time at which that happens.  
2 Obviously it must happen as soon as is possible or as  
3 soon as is reasonably practicable. But it appears to us  
4 there is always going to be some period of delay in that  
5 process, and the point I'm making in the context of this  
6 recommendation is it's not obvious to us that that is an  
7 issue that is resolved by asking yourself where the  
8 rendezvous point is, and it really comes to the point  
9 I was making a moment or two ago. It is a matter of  
10 communication between the emergency services.  
11 Now, don't misunderstand me, I'm going to go in  
12 a moment to the draft recommendation we suggest, and we  
13 make a suggestion that that needs to be reviewed and  
14 looked at. The point I'm making at the moment is it's  
15 not at all clear to us that this relates necessarily to  
16 rendezvous point.  
17 LADY JUSTICE HALLETT: But if, say, we're talking about  
18 Aldgate. The London Underground staff will know that  
19 the train is stuck in the tunnel because they'll see it  
20 on the CCTV. So they'll have information, basic  
21 information, to impart.  
22 MR MORTON: Of course.  
23 LADY JUSTICE HALLETT: "Where is the problem?" "The problem  
24 is half in the tunnel" --  
25 MR MORTON: No difficulty with that, my Lady. I'm sorry, we

1 are at cross-purposes. I absolutely understand the  
2 point that it's for London Underground to convey such  
3 information as they have to the emergency services when  
4 they arrive. No difficulty with that at all.

5 But the point seems to be going further than that,  
6 as I understand it, which is to say that Transport for  
7 London should have some obligation to ensure that  
8 members of the emergency services meet together.

9 LADY JUSTICE HALLETT: I think it's solely on the basis that  
10 that's the easiest way to make sure that whatever  
11 information you have gets to them or whatever  
12 information they have gets to each other and to you.  
13 I think that's the point.

14 MR MORTON: Then I simply -- I'm in danger of repeating  
15 myself as to whether that is either practical or  
16 desirable, if, in the early stages of an incident, it's  
17 being suggested that Transport for London should be  
18 directing members of the emergency services to stay in  
19 one place to arrange a meeting.

20 LADY JUSTICE HALLETT: What about advising the emergency  
21 services that, if they wanted to meet their counterparts  
22 from the Ambulance Service or wherever, that this is the  
23 place that everyone's been going? What about "This is  
24 where" -- I'm not quite following what the difficulty  
25 is, if you're the ones in situ with the knowledge of the

1 structure.

2 MR MORTON: The amount of information that is going to be  
3 available is, of course, going to be constantly  
4 changing, different people are going to have different  
5 information at different times, and different types of  
6 information is likely to be relevant to different  
7 emergency services.

8 All I'm saying at the moment is that the issue that  
9 is being raised as a potential recommendation is that  
10 Transport for London, as I've understood it, it's  
11 suggested should be arranging for members of the  
12 emergency services to meet together, and our submission  
13 is, first of all, query whether that's a desirable thing  
14 to happen at all, and that's a matter for the emergency  
15 services, but, secondly, even if it is, it's not at all  
16 clear to us that that's something we either should be  
17 expected to do or could reasonably achieve.

18 My Lady, what we've suggested in our proposed  
19 revision of the suggested recommendation is set out at  
20 paragraph 28 of our submissions. I wonder if I could  
21 take to you that, because it may meet the concerns that  
22 you're raising?

23 Does my Lady have that, paragraph 28?

24 LADY JUSTICE HALLETT: Yes, I do, thank you.

25 MR MORTON: The first point we make is that we recognise --



1 and I think this addresses your first concern -- that in  
2 relation to station RVPs, it is recommended that TfL  
3 review the London Underground RVP procedure to ensure  
4 that the station supervisor nominates at least one  
5 member of staff to meet the emergency services at the  
6 station RVP. That's the first point that is a matter of  
7 some concern.

8 Then we deal -- we've distinguished in the body of  
9 the submissions between the RVP and the major incident  
10 RVP, and then we set out a recommendation in relation to  
11 the major incident RVP which I won't read out.

12 But then in the next bullet point we suggest this,  
13 that it's recommended that TfL, and then we list  
14 a number of other organisations, consider together how  
15 to ensure that at an incident on the Underground network  
16 the first supervising officers from each of the  
17 emergency services liaise closely with each other and  
18 the supervising member of LUL staff at the earliest  
19 opportunity.

20 That appeared to us to be the real meat of what  
21 Mr Saunders was concerned about and it seemed to us that  
22 a review of that nature would be far more likely to  
23 achieve a result than linking any recommendation in this  
24 respect to rendezvous points, because it seems to us  
25 that the two don't go together.

1 LADY JUSTICE HALLETT: Why doesn't that link in with, on  
2 your previous page, you set out the LESLP advice for  
3 rendezvous point, the first bullet point:  
4 "A point to which, in the first instance, all  
5 emergency and specialist services may be directed prior  
6 to deployment to the scene of operations."  
7 MR MORTON: But that kicks in later on. I mean, the --  
8 LADY JUSTICE HALLETT: Does it?  
9 MR MORTON: Yes, that's not the station RVP. As you see  
10 from the last bullet point --  
11 LADY JUSTICE HALLETT: No, it's a major incident. It's  
12 a point to which all the emergency -- which may not be  
13 the station, the predesignated one agreed with London  
14 Fire Brigade. It may not be that one, but it's going to  
15 be a rendezvous point that has to be agreed upon.  
16 MR MORTON: Yes. But that -- as I understand it, that kicks  
17 in a little bit later on, I'm not talking about much  
18 later on, but a little bit later on, because that's  
19 a rendezvous point that's under the control of the  
20 police, and it's established, as I understand it, at the  
21 outer cordon. So this is the point I was making about  
22 the time lag.  
23 With the best will in the world, there is no system  
24 that is ever going to impose immediate order on the  
25 chaos that's created after events such as these.

1 LADY JUSTICE HALLETT: No, but it's trying to create order  
2 before the Command structure is up and running. As much  
3 order as possible.

4 MR MORTON: Absolutely, and that must be the aim and that  
5 must be what everybody seeks to do. No question about  
6 that. There's no disagreement about that. All I'm  
7 submitting to you is, my Lady, that the answer to that  
8 is not necessarily London Underground asking everybody  
9 to meet at a particular point.

10 LADY JUSTICE HALLETT: Right.

11 MR MORTON: So, my Lady, that's all I have to say about  
12 rendezvous points. We simply invite you to, as of  
13 course you will, consider with care our alternative  
14 suggestion. As I say, we recognise there's an issue, we  
15 recognise it needs to be addressed, but in our  
16 submission the way we have suggested is likely to be  
17 more productive.

18 My Lady, there are two other points and they are  
19 very short.

20 In relation to stretchers, notwithstanding the point  
21 that all the stretchers have been replaced and that the  
22 particular type of stretcher now used was decided upon  
23 in consultation with the London Ambulance Service and  
24 the NHS, we're very grateful to my learned friend  
25 Ms Gallagher's acceptance of our suggested

1 recommendation in that respect, and of course we will do  
2 all that we can to comply with that if you make such  
3 a recommendation.

4 Then the final matter I want to deal with, if I may,  
5 is Code Amber and Code Red.

6 As I have understood it from my learned friend  
7 Ms Sheff's submissions today, it is now accepted that  
8 London Buses were notified both of the Code Amber and  
9 the Code Red and, therefore, no recommendation is sought  
10 in respect of notification of other transport agencies.

11 The remaining area for review by way of  
12 recommendation is notification to the relevant emergency  
13 services and, in that respect, as I've understood it, my  
14 learned friend Ms Sheff accepts our suggested  
15 recommendation, which is at paragraph 41 of our written  
16 submissions, and we're grateful to Ms Sheff for that  
17 acceptance.

18 My Lady, those are my submissions. Unless there's  
19 anything further I can help you with, I will, in  
20 a moment, take instructions on the point you raised with  
21 me when I got to my feet and perhaps return to that.

22 LADY JUSTICE HALLETT: Of course. Could you also consider,  
23 please -- and, if necessary, take further  
24 instructions -- a suggestion that there ought to be more  
25 base stations for the Underground communications system?

1 MR MORTON: Thank you. I'll take instructions on that.

2 Thank you very much indeed.

3 LADY JUSTICE HALLETT: Thank you. Right Mr Watson?

4 Submissions by MR WATSON

5 MR WATSON: Yes, my Lady. May I indicate that I hope to be

6 brief and not even relatively brief? However, there

7 have been a number of comments made about the

8 recommendations from a pragmatic viewpoint and,

9 therefore, I need to simply comment on those as I pass.

10 May I begin by endorsing the remarks made at the

11 outset of the previous set of submissions, and may

12 I draw publicly to the court's attention our own

13 acclamation of the tone and the constructive approach

14 with which these proceedings have been conducted? We

15 have, in our submissions, at paragraph 13, paid tribute

16 to the part that the families have played in that

17 approach.

18 Secondly, may I draw attention publicly to

19 paragraph 15 of our submissions where the London

20 Ambulance Service indicates -- and we hope it's

21 accepted -- that we are genuinely receptive to

22 observations, refinements, further lessons, whether or

23 not those are contained within a rule 43 recommendation.

24 Even if, for example, those are observations expressed

25 in the course of deciding in the court's discretion not

1 to make a rule 43 recommendation.  
2 The points that I wish to make will simply  
3 concentrate, if I may do so, on the recommendations as  
4 discussed this morning from paragraph 19 onwards, and  
5 I will take those comments, if I may, in the  
6 alphabetical order in which they appear in the families'  
7 representations rather than the order in which they've  
8 cropped up in submissions.  
9 Submission (a), or recommendation (a), rather,  
10 inter-agency training.  
11 It was suggested this morning that the LAS takes  
12 issue with that recommendation. I leave aside entirely  
13 whether or not the court in its discretion decides to  
14 make any rule 43 recommendation at all. Accepting that  
15 that is, for the purposes of these submissions, the  
16 assumption on which I'm going to comment -- in other  
17 words, that such recommendations are going to be made --  
18 we would point to the fact that, at paragraph 19, the  
19 Ambulance Service does fully support the concept that  
20 there should be continuing improvement.  
21 Our refinement is that, firstly, such  
22 a recommendation should focus, as indeed we share, in  
23 this respect, the families' own perspective, it should  
24 focus on front line staff and, secondly, we believe that  
25 it should be more broadly phrased than the attempt that

1 has been made with good intention, but possibly in a way  
2 that sets a rigid framework. We would say that  
3 a broader based recommendation would be more  
4 constructive and we put that forward in paragraph 21.  
5 My Lady, I hope not to get stuck in the mire of  
6 debate on jargon, but lest Mr Coltart thinks that we  
7 don't appreciate his humour or his irony, we do. The  
8 reference in our submission to the Emergency Responder  
9 Inter-operability Lexicon, which of course is a title  
10 that I cannot abbreviate, it's not ours, it's chosen by  
11 the Cabinet Office and there it is.  
12 We draw attention to that document solely because it  
13 seems to us to be right to point out that the concept,  
14 the concept, of trying to draw together a common lexicon  
15 is being addressed in another part of the forest, and  
16 that it would be constructive, we felt, for this court  
17 to be aware of that process.  
18 We don't endorse the contents of that document.  
19 Indeed, some right-thinking individuals, not imbued with  
20 the jargon that your Ladyship has had to encounter,  
21 might agree that some of it does fall into the remit of  
22 gobbledegook to the ordinary man.  
23 But there it is, it is at the moment, it seems,  
24 a set of definitions to which the individual emergency  
25 services have not contributed and certainly we have not

1 yet. It may be that in further editions of this  
2 document or that process that we are brought on board.  
3 But that is all I say on that topic.

4 My Lady, jumping then to the now, it seems, vexed  
5 question of rendezvous points, I confess that our  
6 understanding of the submission made by the families,  
7 developed by Mr Saunders this morning seemed to us to be  
8 narrowly based and one which we understood and which we  
9 support, and we've indicated our support at  
10 paragraph 24.

11 We understood Mr Saunders to be at pains to say that  
12 this was a point, not at which there was a duty to make  
13 others meet, but a point at which those initially  
14 arriving, the initial responders, would be met, and  
15 would be met by somebody capable of giving each, as it  
16 were, set of arriving responders as they passed by,  
17 maybe on their way to their various functions, giving  
18 them each a common update of the basic information which  
19 only the person in charge of that incident site could  
20 possibly be in command of right at the outset, and we  
21 understood Mr Saunders to be distinguishing -- rightly  
22 or wrongly, our understanding was he was saying this was  
23 the initial phase, he was not intending this  
24 recommendation to be one that affected the way in which  
25 each service developed its own Command and Control



1 structures.

2 LADY JUSTICE HALLETT: That's how I understood it and  
3 Mr Saunders is nodding.

4 MR WATSON: On that basis, my Lady, I say that we simply  
5 stand by our submission at paragraph 24.

6 Passing on to paragraph 26, stretchers, it is, of  
7 course, a matter for London Underground as to what  
8 stretchers ultimately they purchase, have purchased or  
9 do purchase in the future.

10 Our reservation -- Ms Gallagher indicated this  
11 morning that they were unaware that there were  
12 reservations, but with respect, my Lady, the only point  
13 we understand that Neil Robertson stretchers were  
14 mentioned was the witness Mr Mugridge, we think, on  
15 Day 37, recalled these to be stretchers of a canvas kind  
16 that he had encountered in the Navy.

17 All we say about that, my Lady -- and I'm sure you  
18 don't wish and I am not capable of developing the merits  
19 of different types of stretchers before you -- all we  
20 say is that is a design which has now other more modern  
21 competitors on the market, as it were, to contend with,  
22 and if, as a result of their own review, LUL are going  
23 to move forward to acquire new stocks, it would seem to  
24 us, purely as a matter of common sense, that  
25 inter-operability would be preserved if account were to

1 be taken of the views of those who use stretchers on  
2 a daily basis.

3 LADY JUSTICE HALLETT: Sorry, with your expertise, do the  
4 LAS know whether -- or do they support the suggestion  
5 that there should be a review of the stretchers that are  
6 available in the LUL, or do LAS believe that the  
7 London Underground system has the appropriate  
8 stretchers?

9 MR WATSON: I'm not aware that we are currently in  
10 possession of, as it were, an audit of all the kinds of  
11 stretchers and models that they have. We've indicated  
12 that, if we were asked for our views, there are at least  
13 two products that have been mentioned to me that would  
14 be more modern, that would be certified, as the  
15 Neil Robertson stretcher is not, for helicopter use, and  
16 would have other advantages. The nature of the wooden  
17 and canvas construction of the Neil Robertson stretcher,  
18 as I understand it, may have been the most advanced  
19 solution at one time, but has been overtaken.

20 LADY JUSTICE HALLETT: So you can't say whether the  
21 London Underground do have the right kind of stretchers  
22 your experts would recommend for sub-surface operation,  
23 but you would be happy if a recommendation was made that  
24 they reviewed it in consultation with your experts?

25 MR WATSON: We would wish to be involved, but we don't

1 insist upon it.

2 LADY JUSTICE HALLETT: I follow, thank you.

3 MR WATSON: My Lady, turning, then, to the uncontentious  
4 recommendation concerning triage labels, as has been  
5 indicated this morning we agree with what is suggested  
6 regardless of the way in which this court decides to  
7 deal with the matter. We will be implementing that  
8 approach in any event and you have that commitment from  
9 the Ambulance Service.

10 Going on then to points that do require discussion.

11 Recommendations (l) and (m) are both recommendations  
12 which do not even stop short of asking us to consider or  
13 review but are specific recommendations sought by the  
14 families that we should alter in some way both our  
15 training or our category, our policy itself, in relation  
16 to triage.

17 Mr Saunders was quite right in relation to  
18 recommendation (l), the training aspect and the degree  
19 to which it encompasses or embraces the opportunity for  
20 basic treatment. He's quite right that balance is our  
21 concern and, if I may say so by way of a reference,  
22 your Ladyship may, in considering this and the next  
23 recommendation, wish to revisit Dr Moore's views about  
24 the priorities in triage at Day 72, pages 8 and 14. One  
25 word encapsulates her message, which is that the initial

1 sieve must be rapid, and one might add the implication  
2 that it must be rapid and simple.  
3 Our concern, my Lady, is not that the opportunity  
4 for basic treatment that can be given without  
5 compromising momentum -- and momentum is the crucial  
6 word to keep in mind -- we are quite happy to  
7 acknowledge as we do at paragraph 30 that all training  
8 should make reference to that opportunity which, of  
9 course, was then, and is now, on our action cards.  
10 But to go further, we say, in any precise,  
11 formulated recommendation does risk shifting the balance  
12 and it's a balance reached, as my Lady is well aware, on  
13 the basis of, as it were, harshly acquired experience.  
14 Dealing with that, the second element, the  
15 suggestion that there should be the introduction of  
16 a second sign, breathing being the predominant sign, but  
17 pulse also being taken into account, we take a similar  
18 but perhaps more entrenched objection to this  
19 recommendation. Again, Dr Moore gave evidence on this  
20 at Day 72, pages 77 and 78.  
21 Bearing in mind these factors, firstly, the points  
22 that your Ladyship mentioned this morning, that in the  
23 acquisition of P1 patients there would be a loss of  
24 momentum if, in these harsh circumstances, there were  
25 too many inclusions when otherwise they were not

1     merited, and I use that word "merited" only in the  
2     context of emergency sieve triage.

3     But, my Lady, the erosion of momentum would start  
4     even earlier. Because this is intended to be a rapid,  
5     robust process in which the guidelines --  
6     internationally, as I understand it, but leave that  
7     aside -- the guidelines have robustly maintained  
8     breathing to be the best symptom, if one introduces  
9     a second sign that paramedics, in these circumstances,  
10    must take into account in any way, that builds in, in  
11    our respectful submission, instantly the loss of  
12    momentum. There will be hesitation, there will be  
13    correlation, there will be the more frequent seeking of  
14    second opinions.

15    Without in any way criticising a paramedic who, as  
16    happened, in their discretion decided to, as it were,  
17    take an exceptional course in applying the triage  
18    algorithm, without criticising such an individual, the  
19    policy we think is the right one.

20    Moving to the questions of a medical kit dump,  
21    I only draw attention to Dr Moore's agreement with that  
22    on page 72, I think. No more needs to be said about  
23    that, save that it's accepted that any formulation  
24    should allow that equipment store or dump to be flexible  
25    in its location, and that is the philosophy behind our,

1 we hope, constructive suggestion at paragraph 35.  
2 Bomb blast training at recommendation (o).  
3 The position, we say, is quite clear on the  
4 evidence. It is in relation to training. At Day 72,  
5 page 29, Dr Moore indicated what the training does  
6 encompass and we've extended that by way of an assurance  
7 to indicate that it -- that bomb blast and catastrophic  
8 haemorrhage injuries are encompassed within both basic  
9 and refresher training, and in the refresher training  
10 it's for paramedics and EMTs.  
11 I say no more about that topic.  
12 Going on to recommendation (p), lest those who are  
13 not equipped with the written submissions before them  
14 misunderstand the position, although we question, at  
15 paragraph 38, whether this particular issue is one which  
16 is likely to recur in a way that will give rise to  
17 a risk in the future that is a qualification, our  
18 position is quite clear, we suggest, at paragraph 38,  
19 that we do agree, regardless of whether it gives rise to  
20 a risk or not, that we should give consideration to  
21 clarifying the policy.  
22 We've set out what we suggest is a simpler  
23 formulation at paragraph 38 in bold. It means, in  
24 effect, that if there is no triage card on a body which  
25 has been previously covered, that the paramedic policy

1 training, the documentation and the training, will be  
2 directed towards an approach which means that that body  
3 will then be included in the triage process.  
4 So we say, on a pragmatic basis, that concern we  
5 hope is addressed.  
6 As to recommendation (q) and then the  
7 recommendations concerned with HEMS, recommendation (q)  
8 is the recommendation concerning the MERIT support  
9 teams.  
10 My Lady, we state and we adhere to the position that  
11 we support and encourage the aims behind this  
12 recommendation. We sympathise and support it. Funding  
13 is the issue and we simply say that thought needs to be  
14 given to where such a recommendation should be directed.  
15 That is all.  
16 Your Ladyship has heard evidence already that the  
17 London Ambulance Service has, as it were, helped to set  
18 up under its own aegis the enhanced MERIT response, but  
19 funding remains the issue and the extent of the response  
20 remains an issue.  
21 We do say, in the light of the comments made this  
22 morning, that any recommendation should preserve the  
23 notion that the MERIT teams, certainly those that are  
24 operating, as it were, as part of the ordinary Ambulance  
25 Service, should remain under the LAS.

1 Clearly there is another variant of the MERIT team  
2 response that takes to the air. That's what makes it  
3 complicated possibly; that, as presently constituted, as  
4 I understand it, the MERIT teams, the advanced  
5 clinicians, the doctors in those teams, are clearly  
6 those who are either volunteering or taking under the  
7 new scheme some form of retainer, but the remainder of  
8 the infrastructure of that MERIT response team -- leave  
9 aside Command and Control, but the paramedics within  
10 those teams, and much of their equipment -- is, as it  
11 were, on loan or being used by the -- from the resources  
12 of the LAS itself.

13 My Lady, that introduces this potential complexity.

14 I haven't got a solution, but I raise the difficulty,  
15 that whilst HEMS is a voluntary organisation, it's  
16 easier for this informal interface of the use of LAS  
17 equipment being used by its own paramedics when they are  
18 wearing, as it were, their volunteer HEMS hat, that's  
19 easier for that to take place.

20 If too quick and too rapidly thought out  
21 a development were encouraged to suddenly transform HEMS  
22 into an independent organisation, there might be  
23 a number of governance and policy issues that would then  
24 be attracted.

25 So funding, we say, is the key and immediate way to



1 make an improvement to build on what is there, rather  
2 than trying to introduce something that is too radical,  
3 too quickly.

4 Clearly, if the pre-operative medicine discipline  
5 application takes hold and takes, as it were, its place  
6 in the lexicon idea, say, of medical specialties, if  
7 that occurs, clearly that will start to create its own  
8 structure of expertise and so forth, and it may be that  
9 that's where the future lies. But in the immediate  
10 future, we say funding is the key.

11 As to recommendation (r), we apologise for our  
12 initial error in suggesting that to create HEMS as  
13 a category 1 responder would require Parliament to give  
14 its thought, mind and attention to it. It is a lesser  
15 procedure. It's paragraph 13 of the Act. It is only an  
16 amendment by order, but when I say "only", my Lady, it's  
17 not our recommendation. It's not we who put it forward  
18 and, therefore, I'm afraid that is why I apologise we  
19 didn't think it through properly initially. We remain  
20 uncertain as to how rapidly a minister of the Crown  
21 could or would act, even if a recommendation were made.

22 Clearly, there are consultation processes to go through.  
23 Clearly, it is noticeable within the whole scheme of the  
24 Civil Contingency Act that all other category 1  
25 responders are, as it were, recognised NHS or local

1 authority or analogous bodies, all, as it were, with  
2 their own governance control structures set up.  
3 We don't say this to undermine the recommendation,  
4 quite the contrary. We simply advance it as the most  
5 practical way to avoid a recommendation being formulated  
6 which simply steers into a brick wall.  
7 We say that, because there may be consultation  
8 processes ahead, and who knows, that the more pragmatic,  
9 immediate way forward is that which we've indicated,  
10 which is that LESLP should be possibly given a firmer  
11 indication than before that the contribution that HEMS  
12 undoubtedly can make -- and we have acknowledged in  
13 evidence, and we do -- should be taken into account, but  
14 that for, as it were, constitutional reasons within the  
15 scheme of the Act, if that remained channelled through  
16 the LAS but they knew they had to take it into account,  
17 it would be a more immediate solution.  
18 So we put that forward in that, hopefully,  
19 constructive spirit.  
20 My Lady, I think that is all I wish to say about the  
21 various recommendation topics. We've said, I think,  
22 enough in our submissions on record-keeping. I note the  
23 observation that it should be extended to before the  
24 incident. There is obviously a philosophical concept as  
25 to how far before, who sets the parameters of relevance,

1 but I go no further.  
2 The remainder of our submissions concentrate on  
3 matters that I don't intend to develop. They simply, as  
4 it were, stand, for good or ill, on their own feet.  
5 We have been made aware this afternoon that  
6 additional representations have been made to  
7 your Ladyship by the Taylor family, and if your Ladyship  
8 will permit me, I will allow Ms Simcock just to indicate  
9 whether we have any observations to make on that.

10 LADY JUSTICE HALLETT: Certainly.

11 Yes, Ms Simcock?

12 Submissions by MS SIMCOCK

13 MS SIMCOCK: Thank you, my Lady. We were made aware of,  
14 I think, four points Mr Taylor made this afternoon.  
15 Firstly, that his view of the evidence was that  
16 Ms Taylor was 2.6 metres away from the bomb blast. In  
17 fact, my Lady, our submission is that the evidence is  
18 quite clear and we provide the reference at  
19 paragraph 68.1. It's Day 54, page 127, lines 1 to 11 of  
20 the transcript.

21 What Colonel Mahoney, who gave this evidence, was  
22 saying was that, on the basis of the witness evidence  
23 which had enabled the Metropolitan Police to produce the  
24 diagram of the carriage, it had indicated that Ms Taylor  
25 was 2.6 metres away from the explosion, and that, on

1 further review of -- by Colonel Mahoney's team of all  
2 the evidence they had concluded very firmly that she was  
3 closer than that.

4 That led to the further conclusion that the blast  
5 loading that she would have been exposed to was, in  
6 fact, greater than the initial figure that had been  
7 posited in that report by Mr Hepper of 350 kilopascals  
8 which would have been the figure had she been at  
9 2.6 metres away.

10 Given Colonel Mahoney and his team's conclusion that  
11 she was, in fact, closer than that, it stood to reason  
12 that the blast loading was in fact higher, although, as  
13 you may recall, my Lady -- and again, the reference is  
14 at 68.1 of our submissions -- Colonel Mahoney couldn't  
15 be more specific as to the precise figure. It's Day 55,  
16 page 94, line 9, to Day 55, page 95, line 7 of the  
17 transcript.

18 Mr Taylor stated in his further representations to  
19 you that Colonel Mahoney's evidence was that  
20 Carrie Taylor, his daughter, had died from blood loss.  
21 In fact, my Lady, our submission is that there isn't  
22 evidence in Colonel Mahoney's witness evidence to the  
23 court, expert evidence to the court, of that.

24 His conclusions were that it was very likely that  
25 Ms Taylor had suffered a significant primary blast lung

1 injury, had been thrown, and so probably also had other  
2 significant injuries, including head and spinal  
3 injuries. The reference for that, my Lady, is Day 54,  
4 page 129 at lines 10 to 16.  
5 That led Colonel Mahoney and his team to the clear  
6 conclusion, albeit that that conclusion was necessarily  
7 expressed on the balance of probabilities, his being  
8 unable to be certain, in circumstances that we're all  
9 aware of, of the evidence that he had to base his and  
10 his team's conclusions on, that survival of Ms Taylor  
11 was, unfortunately, unlikely.  
12 That remained his conclusion under further  
13 questioning by Mr Taylor himself and, again, my Lady,  
14 the references are set out for your reference at our  
15 paragraph 68.4.  
16 He clarified his view again in questioning that:  
17 "Answer: On the balance of probabilities, we think  
18 they were unsurvivable injuries, but I can't say for  
19 certain."  
20 My Lady, what we have to say about that is that that  
21 amounts to a rephrasing of the same view that survival  
22 was unlikely and not any alteration to it such that, in  
23 our submission, contained at paragraphs 64 and 65, there  
24 is no evidence, or at least no sufficient evidence to  
25 meet the appropriate test in front of you, to displace

1 any inference that Ms Taylor's injuries were not  
2 survivable. In fact, the evidence is all one way and  
3 it's the other way.

4 But that is, of course, only if your Ladyship  
5 considers it necessary to make any finding on this  
6 issue, and that is of course a matter that is clearly  
7 for your Ladyship and not for anyone else.  
8 Unless I can be of any further assistance on that,  
9 those are my submissions.

10 LADY JUSTICE HALLETT: Thank you very much, Ms Simcock.

11 MS SIMCOCK: I'm very grateful.

12 LADY JUSTICE HALLETT: Right. Ms Boyd, I think we'll go to  
13 you next. Mr Patterson, I'm terribly sorry, I didn't  
14 ask you whether you had anything you wished to add to  
15 the families' representations this morning?

16 MR PATTERSON: My Lady, no. It was so well covered by my  
17 colleagues that I had nothing to add.

18 LADY JUSTICE HALLETT: Thank you.

19 Ms Boyd, would you like to make a start or would it  
20 be easier to take a break now?

21 MS BOYD: My Lady, I'm very happy to go now because I don't  
22 anticipate being more than five minutes.

23 LADY JUSTICE HALLETT: Very well.

24 MS BOYD: Famous last words.

25

1 Submissions by MS BOYD

2 MS BOYD: My Lady, I don't intend to repeat or add anything  
3 to the written submissions which have been prepared.

4 I'm certainly conscious that, in addressing the  
5 evidential issues raised in the families' submissions,  
6 I may already have trespassed into areas prohibited by  
7 rule 40 and I don't want to go further than I have to.  
8 My Lady, I therefore intend to limit my oral  
9 submissions to two matters only.

10 The first matter is to clarify something that  
11 Ms Gallagher said this morning in her submissions on  
12 inter-agency training, and in particular her  
13 interpretation of paragraph 13.2 of our submissions.  
14 She read this as the London Fire Brigade saying that  
15 no witnesses at a high level with responsibility for  
16 training considered inter-agency training to be an  
17 issue, which she said was concerning.

18 My Lady, that was not intended. Paragraph 13.2  
19 should be read in conjunction with paragraph 13.3, which  
20 specifically refers to the evidence of DO Rigby, who was  
21 the head of training and rescue skills, and he gave  
22 evidence during the Aldgate scene and he outlined the  
23 multi-agency strategic and tactical training, including  
24 at grass roots, that was undertaken by the Fire Brigade.  
25 So, my Lady, what was intended there was an attempt

1 to highlight the evidence that had been adduced and the  
2 absence of evidence, but of course, it is a matter for  
3 your Ladyship.

4 LADY JUSTICE HALLETT: I think it's not so much whether the  
5 witnesses who were in charge of training -- because  
6 I think Dr Moore, who, as one of her many  
7 responsibilities, included training, they all suggested  
8 that the training was there and being given and  
9 received.

10 I think the problem came when one actually heard  
11 from the witnesses themselves who said "Well, actually,  
12 I haven't done that much, I might have done an hour here  
13 or there", and it was really the front line staff who  
14 some are arguing need to be better trained who were  
15 saying, well, they haven't really received it, I think.

16 MS BOYD: My Lady, I'm not sure that's entirely accurate in  
17 relation to the Fire Brigade witnesses.

18 LADY JUSTICE HALLETT: Right. I think that's a different  
19 point. If that's the case, then by all means make that  
20 plain. But I think that was the point being made. It's  
21 not that the people in charge don't say there isn't  
22 training. They do say there is training, and they do  
23 say it's given, but the people on the ground don't seem  
24 to be getting it. Certainly for some organisations,  
25 maybe not the London Fire Brigade.



1 MS BOYD: My Lady certainly, as far as London Fire Brigade,  
2 I'll stand corrected, but the evidence in relation to  
3 the front line staff, I think there certainly was  
4 evidence in relation to certain members of the  
5 paramedics or EMTs, and they were asked direct  
6 questions. Particularly, I remember Ms Gallagher asking  
7 questions during the Edgware Road scene, but my  
8 recollection is that there was no such evidence in  
9 relation to the firefighters.

10 LADY JUSTICE HALLETT: You had also London Fire Brigade  
11 visiting Underground stations I remember. You had that.

12 MS BOYD: My Lady, yes, that was the evidence of Mr Dunmore  
13 and, indeed, Assistant Commissioner Reason, and the  
14 evidence is very clear, that fire stations local to  
15 London Underground stations have a very good  
16 familiarisation and they go round those stations and,  
17 indeed, have to undertake inspections.

18 So there's considerable familiarity locally, and  
19 it's difficult to overcome the potential problem of  
20 crews outside the area having to come on to, perhaps,  
21 unfamiliar territory.

22 LADY JUSTICE HALLETT: I think the point that's been made is  
23 it's not just that each organisation trains their own  
24 and that they don't meet the odd other agency with whom  
25 they might have to work a fair bit, it's that the

1 agencies need to get together -- the front line staff of  
2 the various agencies need to get together so that they  
3 understand the seniority, the roles, in relation to the  
4 people they are likely to meet at the scene of a major  
5 incident. I think that's the --

6 MS BOYD: My Lady, yes, I go back to DO Rigby, who certainly  
7 outlined that, since 7/7, there was much more  
8 multi-agency training at grass roots levels, whereas, at  
9 that stage, in 2005, less so and only at strategic  
10 level, but certainly his evidence was that more recently  
11 that does take place and his evidence was that it takes  
12 place with -- I think he himself took some training  
13 which involved ambulance and police. That was his  
14 evidence. I think I've given the reference in my  
15 submission.

16 LADY JUSTICE HALLETT: Thank you.

17 MS BOYD: My Lady, the second matter that I was going to  
18 raise was in relation to the recommendation (u) that --  
19 the London Fire Brigade and operational discretion.  
20 My Lady, if the evidence were that firefighters have  
21 no discretion, then there might be room for  
22 a recommendation for consideration to building in an  
23 element of discretion into their procedures, but,  
24 my Lady, in my respectful submission, the evidence is  
25 very clear. There is a discretion and it is exercised.

1 Sub-Officer Curnick chose not to exercise his discretion  
2 or, in another way, he exercised it in the positive  
3 sense of complying with that until he received  
4 confirmation that the power was indeed off.

5 Assistant Commissioner Reason was very careful to  
6 explain that the various protocols and procedures are  
7 informed both by health and safety legislation and  
8 operational experience, sometimes following incidents  
9 where firefighters have lost their lives. They are, he  
10 said, there as a framework to inform decision-making and  
11 provide a safe system of work and not unnecessarily to  
12 restrict their discretion.

13 My Lady, the discretion, as I say, is there, and the  
14 London Fire Brigade would say that it's not possible to  
15 prescribe the level of discretion because it has to be  
16 exercised individually dependent on the circumstances  
17 incident to incident.

18 My Lady, any attempt to prescribe the level of  
19 discretion will put in place a further level of protocol  
20 effectively, which in itself would inevitably fetter, or  
21 at least seek to define, the exercise of that  
22 discretion.

23 So the net result, in my respectful submission,  
24 would be to erode that discretion and, indeed, may also  
25 serve to undermine the protocol or procedure.

1 My Lady, unless there's anything else I can assist  
2 on?  
3 LADY JUSTICE HALLETT: Can we just go back to the question  
4 of risk assessment?  
5 MS BOYD: The dynamic risk assessment?  
6 LADY JUSTICE HALLETT: I think the word "dynamic" is there,  
7 what, presumably to mean that it changes with  
8 circumstances, is that what the word "dynamic" is meant  
9 to imply.  
10 MS BOYD: My Lady, I believe so.  
11 LADY JUSTICE HALLETT: Right. So if you have the policy,  
12 which I completely understand, about breathing apparatus  
13 and Leading Firefighter Roche's decision, for which he's  
14 not in any way being criticised but it's just looking  
15 at, as it were, how policies and risk assessments  
16 operate. He carries out a risk assessment, he says,  
17 "Right, I'm told there's smoke in the tunnel. This is  
18 breathing apparatus protocol, and I've got to wait for  
19 backup".  
20 What is the training or the scope for discretion  
21 when, as -- I appreciate you're going to say to me there  
22 weren't that many minutes that had elapsed before he  
23 allowed Newton and whatever to go down to the  
24 platform -- but what is the training? Well, use the  
25 evidence of your eyes and ears and, yes, there may be

1 smoke coming from the tunnel, but you can still -- when  
2 you see the situation is developing, you can still send  
3 them down at least to the platform. I mean, how are  
4 they trained in that? They're just trained to, what,  
5 to --

6 MS BOYD: As I understand Mr Reason's evidence, it becomes  
7 intuitive so that they are constantly reviewing the  
8 circumstances. So having arrived at King's Cross to an  
9 incident with smoke in the tunnel, Mr Roche immediately  
10 asked for the backup and refused permission to go any  
11 further into the incident.

12 Then, as soon as he realises it's taking bit of time  
13 for backup to arrive, he allows the two -- Mr Newton and  
14 Shaw -- down to the platform. So there he is  
15 effectively reviewing his decision, he's not sticking  
16 rigidly to waiting for backup. He's allowing them to go  
17 further into the incident but not to start up their  
18 breathing apparatus and go into the tunnel.

19 That would be a step too far.

20 Then the point was made by Mr Coltart that, by 9.30,  
21 Inspector Mingay and Mr McGrotty were back from the  
22 tunnel, so that they knew at 9.30 that there was no fire  
23 in the tunnel. But my Lady then, at that stage, the  
24 situation changes, because it's not a question of  
25 whether they can be deployed into the tunnel in

1 breathing apparatus. There was no fire. That wasn't  
2 the question at that stage. The issue then is they now  
3 know what is in the tunnel. They're not seeking to  
4 investigate that themselves with breathing apparatus.  
5 It becomes then a different situation whereby they need  
6 effectively the cutting equipment to go into -- on to  
7 the train and access the carriage, and if your Ladyship  
8 recalls the evidence of Mr Newton, it was actually  
9 suggested to him why didn't he go into the tunnel at  
10 that stage, and he replied "There was nothing we could  
11 do at that stage. We had to get further resources".  
12 So he goes back up to the surface, they then make  
13 pumps 8, so further appliances arrive, and they wait for  
14 further resources, because, at that stage, yes, he could  
15 have gone in to offer comfort to the casualties, but  
16 indeed was assisting casualties in any event, but the  
17 whole situation has developed, so it's not a question of  
18 sticking rigidly to breathing apparatus policies. Those  
19 are effectively abandoned at that stage, and one is into  
20 a different situation.

21 LADY JUSTICE HALLETT: So you would argue that this all goes  
22 back to the question of communications and that we  
23 wouldn't have had what obviously to many people was this  
24 unfortunate delay in getting firefighters to the very  
25 scene where they could try to rescue people from where

1 they were trapped? These days, because we have a so  
2 much better communication system, then this is not, or  
3 should not, be a problem?

4 MS BOYD: My Lady, no. There were obviously two problems.  
5 One was mobilisation. We wouldn't be having this  
6 discussion if, in fact, appliances had been mobilised  
7 correctly to King's Cross because there would have been  
8 ample resources and they would have been straight in to  
9 the tunnel. So the question --

10 LADY JUSTICE HALLETT: That's the unique reference number?

11 MS BOYD: My Lady, yes. The question wouldn't have arisen,  
12 and communications, my Lady, clearly, once Mr Roche had  
13 arrived at the ticket office, had CONNECT radios been  
14 available, the two employees -- I forget their names --  
15 who had made their way to the train would have been able  
16 to communicate that information back up top. That was  
17 about 9.15, if my recollection of the time-line is  
18 correct, so that, when Mr Roche arrived, he would have  
19 been given the information that "There is no fire,  
20 there's been a bomb, an explosion, in the tunnel, and we  
21 need X, Y and Z".

22 So that combination of mobilisation and  
23 communications, both of which have been addressed, would  
24 prevent this particular situation arising.

25 LADY JUSTICE HALLETT: Whilst you're on your feet and just

1 before I take a break for the transcribers, that leads  
2 me really to a question that I pose for everybody.  
3 No recommendations have been suggested for my  
4 discretion relating to communications matters other than  
5 the matter I raised from Mr Taylor. But that still  
6 leaves me very troubled, and I question how appropriate  
7 is it for me to go into this matter, given what I can  
8 and can't do under rule 43. That leaves me with the  
9 concern: why did it take so long for Airwave and CONNECT  
10 to be up and running to the extent that it now is, and  
11 that it's said to have revolutionised communications?  
12 This is not a criticism of you, this is for  
13 everybody to consider. I appreciate that the  
14 responsibility is going to lie with a number of  
15 different agencies, the complexities, the contractual  
16 problems, I remember the evidence.  
17 But when one thinks about what Sir Desmond Fennell  
18 said in -- I think his letter to the Minister was  
19 dated September 1988, but certainly 1989, if that's the  
20 official date of the report, about the importance of  
21 communication sub-surface to surface and between the  
22 various agencies, I just -- I still have this very major  
23 concern in my own head that a recommendation that goes  
24 to issues of life and death for millions of passengers  
25 each year was left not fully implemented for 15 years.



1 I just wondered if anybody wanted to address it in any  
2 way, because I don't want to make recommendations that  
3 go to the question of saving people's lives and think  
4 that it's going to lie on a shelf for 15 years.

5 Now, I'm getting many assurances and I do understand  
6 and accept them, but it may not always be in the hands  
7 of the agencies who are giving me the assurances, and  
8 I just would like to know whether there's anything  
9 anybody wants to say about whether I could comment  
10 legitimately about my concerns that it took quite so  
11 long.

12 It's a long way round of saying, does anybody want  
13 to say anything more about Airwave?

14 I'll take the break now so you can all consider it.

15 (3.27 pm)

16 (A short break)

17 (3.39 pm)

18 LADY JUSTICE HALLETT: I gather you've been busy,  
19 Ms Gallagher, or is it Mr Saunders? I was told somebody  
20 was going to raise something?

21 Further submissions by MS GALLAGHER

22 MS GALLAGHER: Yes, my Lady, it is a matter for you whether  
23 it's appropriate to deal with this now, I'm not sure if  
24 the London Fire Brigade had concluded. They had.

25 In response to your question, the five legal teams

1 for the families have just spoken and we have, on the  
2 hoof, as it were, my Lady, come up with another  
3 recommendation, increasing our wishlist from 32 to 33,  
4 and I suppose, just following the alphabetical scheme,  
5 this is recommendation (x), which is perhaps  
6 appropriate.

7 So my Lady, in essence, the recommendation is  
8 recommendations should be taken seriously, and just to  
9 go a little further, recommendations on rule 43 matters  
10 which by their very nature are on life and death issues  
11 should be taken seriously and acted upon in a timely  
12 manner.

13 Just by reference to rule 43(1) we suggest that this  
14 plainly can fit within the scheme of rule 43(1) in  
15 itself. So you don't need to go to the fallback  
16 position I outlined in respect of de Menezes falling  
17 outside of rule 43, because, if you run through the  
18 three preconditions in 43(1), plainly (a) is satisfied,  
19 as we know, because of the fact that this is an inquest  
20 in which we are sitting.

21 In relation to (b), you've heard, my Lady, evidence  
22 in respect of Fennell, you've heard evidence in relation  
23 to the lengthy delay of more than a decade in  
24 implementing those recommendations. Plainly, it causes  
25 you concern and, if that type of delay were to continue,

1 it plainly could have life and death implications, as  
2 indeed it had here.

3 In respect of (c), 43(1)(c), it's quite clear,  
4 my Lady, from your question that you appear to be of the  
5 view that action must be taken, and it's very  
6 understandable, and the families agree, that in making  
7 any recommendations under rule 43 nobody wants a report  
8 to be dust-gathering on a shelf, particularly on issues  
9 quite as important as this.

10 Could we just say also, it's all the more concerning  
11 in respect of communications that there was a specific  
12 threat recognised to the London Underground. We are all  
13 aware of the operation in 2003 where there was  
14 a simulated attack on the Underground which turned out  
15 to be quite prophetic, my Lady, but this isn't  
16 a situation where the recommendation that was made is  
17 indirectly linked to what happened. In fact there's  
18 a very direct link to the recommendation made in  
19 1988/1989, and to what eventually went wrong on 7/7.

20 My Lady, the last thing which we just wanted to  
21 address briefly was the vexed issue of who any such  
22 recommendation should be sent to, and we propose three  
23 categories.

24 Firstly, all of the organisational interested  
25 parties, interested persons, in these proceedings.

1 Secondly -- I'm afraid we haven't got to go through  
2 it -- secondly, to all of those who received or were  
3 affected by Fennell in the first instance, recognising,  
4 of course, that a number of those will have altered in  
5 the time since and that there will be an overlap,  
6 a significant overlap, with the current organisational  
7 interested persons.  
8 Finally, my Lady, we'd also suggest that it should  
9 go directly to HM Government.  
10 Unless I can assist further, my Lady.  
11 LADY JUSTICE HALLETT: Thank you very much.  
12 MR PATTERSON: My Lady, I wonder if I might, just following  
13 on from that, make this observation? In particular, it  
14 might be of assistance if your Ladyship were to consider  
15 the Ministry of Justice, because there is no enforcement  
16 mechanism in rule 43, and although it proceeds on an  
17 essentially consensual basis with the organisations in  
18 question preparing and serving to the coroner  
19 a response, in theory, if the response is along the  
20 lines of "We do not think anything further needs to be  
21 done", that's the end of it. The coroner is functus and  
22 there is no mechanism for anything to be done in terms  
23 of seeking to argue with that response or, if the  
24 response is along the lines of "Steps are in hand",  
25 again there's no mechanism for seeing that that's done.

1 Therefore, your Ladyship may think it appropriate to  
2 send that -- to direct that recommendation, if one is  
3 made, to the Ministry of Justice to consider whether  
4 further refinement of rule 43 itself might be of  
5 assistance to the general public in having better  
6 enforcement or a better procedure under the rule 43  
7 system, which is becoming more and more important every  
8 year, I would respectfully submit.

9 LADY JUSTICE HALLETT: Mr Patterson, I understand the point  
10 you're making. My having raised it, I'm not going to  
11 ask any of you to deal with it on the hoof anymore. We  
12 are back tomorrow. I appreciate we are meant to be  
13 dealing with other matters, but we can all return to it.  
14 I think you all need time for mature reflection as to  
15 whom it should be directed, if I was satisfied I (a)  
16 have the power, and (b) should make this recommendation,  
17 because, for example, I suspect that Mr Gibbs might say  
18 on behalf of the British Transport Police, "Well, along  
19 with the Metropolitan Police, we were taking it  
20 seriously and we were pushing for it".  
21 So I think I need to give you all time for a bit  
22 more mature reflection.

23 MR PATTERSON: Certainly.

24 LADY JUSTICE HALLETT: Thank you.

25 Ms Boyd, you had finished?

1 MS BOYD: My Lady, might I reflect a little longer and just  
2 check the transcripts and the evidence in relation to  
3 Airwave and perhaps come back to you on that? But apart  
4 from that ...

5 LADY JUSTICE HALLETT: As I say, it's a simple point.  
6 Whether you look just at Sir Desmond Fennell's  
7 recommendations or whether you look at the body of the  
8 report, it is absolutely plain that he highlights  
9 communications as a problem. He has a whole chapter  
10 headed "Communications". So those to whom his report  
11 were directed should not just have been looking at  
12 specific recommendations, they should be looking at the  
13 thrust of what he was saying, and the thrust of what he  
14 was saying was that this needs to be fixed and it needs  
15 to be fixed now.

16 MS BOYD: My Lady, certainly so far as the communications to  
17 sub-surface and extending the leaky feeder from  
18 sub-surface to the platform, that was done and there was  
19 no delay in that.

20 LADY JUSTICE HALLETT: Right, so why didn't that system work  
21 on this occasion?

22 MS BOYD: No, my Lady, the recommendation from the Fennell  
23 inquiry was to extend the leaky feeder from the surface,  
24 from the RVP on the surface, to the platform, and that  
25 was done. There was no recommendation to extend it into

1 the tunnel.

2 LADY JUSTICE HALLETT: I see heads are being shaken. I've  
3 raised it. I think we'd all better -- otherwise, we're  
4 going to take up time unnecessarily. Let me leave it to  
5 you all to consider the evidence. That wasn't how I'd  
6 read it, but maybe I'd read it very quickly.

7 MS BOYD: My Lady, Ms Canby, who is the engineer on this  
8 inquest, is nodding that I'm right.

9 LADY JUSTICE HALLETT: I thought Mr Morton was shaking his  
10 head.

11 MR MORTON: No, I was agreeing, I was agreeing.

12 LADY JUSTICE HALLETT: Anyway, whatever -- if one -- I was  
13 going back, I wasn't going back just to the  
14 recommendations, I was going back to the body of his  
15 report which talked about communications, as  
16 I understood it, sub-surface to surface and between  
17 various agencies.

18 It's not just a case of saying "Oh well, we put in  
19 a leaky feeder from X to Y". The case is, plainly, the  
20 need was recognised to have a proper system, as Airwave  
21 and CONNECT, I am told, are. If the need was  
22 recognised, why did it take so long, is still my  
23 question.

24 MS BOYD: My Lady, may I come back to your Ladyship on that  
25 when I've checked --

1 LADY JUSTICE HALLETT: As I say, I think we heard a bit  
2 about contractual problems.

3 MS BOYD: There were certainly contractual problems,  
4 my Lady. For the London Fire Brigade's part, of course,  
5 Airwave is only part of their main scheme radio, not  
6 their handheld radio --

7 LADY JUSTICE HALLETT: Indeed.

8 MS BOYD: -- so there were two going in parallel.

9 LADY JUSTICE HALLETT: Which is why, as I say, this isn't  
10 directed at you. It was only because you happened to be  
11 on your feet at the time that I thought I'd raise it.

12 MS BOYD: My Lady, yes. I do recall there was a working  
13 party to consider the inter-operability between BTP and  
14 the London Fire Brigade and, for various reasons, it was  
15 considered it wasn't appropriate to have the  
16 inter-operability radios at that stage.

17 But, my Lady, as I say, perhaps I can return to it.

18 LADY JUSTICE HALLETT: Thank you.

19 MS BOYD: Thank you.

20 LADY JUSTICE HALLETT: Right, is it Ms Ormond-Walsh next?  
21 Submissions by MS ORMOND-WALSH

22 MS ORMOND-WALSH: I'm grateful. Thank you, my Lady.  
23 Can I first of all start by endorsing Mr Morton's  
24 submissions that he made earlier this afternoon when he  
25 said these inquests have been particularly thorough and



1 certainly all the interested persons have been able to  
2 ask all the questions that they need, it seems to me, of  
3 the witnesses?

4 My submissions clearly follow that of the families  
5 and there is an overlap in my submissions with that of  
6 Ms Sheff. I'll try not to be repetitious, but you'll  
7 see from my written submissions on behalf of Barts and  
8 the London Trust and the HEMS doctors I have five  
9 recommendations I am suggesting that you use under your  
10 powers under rule 43.

11 I'm suggesting that all of these very, very easily  
12 slip into the new rule 43 2008 under (c), which is  
13 wider, and Ms Gallagher referred to this this morning  
14 where, in the coroner's opinion, action should be taken  
15 to prevent the occurrence or continuation of such  
16 circumstances or to eliminate or reduce the risk of  
17 death created by such circumstances.

18 All of the five recommendations would, in my  
19 submission, prevent future loss of life, each and every  
20 one. The first one I'd like to give my submissions  
21 about is (a) on page 2 of my submissions:

22 "The Department of Health consider making available  
23 additional public funding for London's air ambulance to  
24 be dedicated to the issues of emergency preparedness and  
25 major incident management and ensure that at least four

1 teams are available 24 hours per day in readiness for  
2 multiple simultaneous incidents."  
3 It's been specifically worded, my Lady, as quite  
4 tight there in relation to ring-fencing any resources.  
5 The situation we've got at the moment is we have  
6 a service that started in 1988 and there is now in the  
7 general public arena in London a very real terrorist  
8 risk to the public that is quite different from that  
9 which was in 1988.  
10 We also have a large capital, dare I say it,  
11 over-populated city where there are large numbers of  
12 people in small areas; for instance, trains. And that's  
13 extremely frequent.  
14 We have the Olympics coming up soon, and yet we have  
15 a system where, tomorrow, if July 7 happened again, we  
16 would have the London Air Ambulance attending with one  
17 doctor and one paramedic, and that cannot be right.  
18 A number of the witnesses that you've heard give  
19 evidence as HEMS doctors on July 7 have a military  
20 background, a work history of working in war scenes, and  
21 that means a good proportion of the HEMS doctors would  
22 have expert knowledge and practice to bring to any  
23 scenes such as we saw on July 7.  
24 I've got a list here of the number of major  
25 incidents that the HEMS doctors have attended since

1 1988, and I think it probably stops at 2005 and there  
2 have been some since, but we've got 16 major incidents,  
3 and ten were bombs.

4 We also have a situation where we've got a team of  
5 HEMS, we've got one doctor and one paramedic going to  
6 seven to eight incidents a day.

7 Now, if that situation was to remain, that means if  
8 a major incident, if another terrorist bomb or any such  
9 event was to happen in London, and it happened to be at  
10 a time when the HEMS team were at one of those seven to  
11 eight incidents, there wouldn't be anybody attending.

12 We've heard the evidence, the very measured, careful  
13 and modest evidence of Dr Gareth Davies, who isn't  
14 expecting the earth in asking you for your assistance in  
15 recommendations. There were 27 doctors there on July 7.

16 He is suggesting four teams, if there was funding to  
17 provide four teams, this would be practical and  
18 reasonable. It would be practical and economical  
19 because those doctors wouldn't be idle when they're not  
20 called. They would be working in Accident and Emergency  
21 departments under the NHS.

22 Now, I've heard what you have to say, my Lady, and  
23 I respect what you have to say in relation to funding  
24 and the difficult situation with funding. The  
25 difficulty with giving a recommendation just to have

1 funding in general, not actually pointing towards the  
2 fact it's got to be central is it doesn't -- it won't  
3 give a consistent and a resilient service, which is what  
4 the London Air Ambulance are wanting and which is what  
5 I believe the families in these inquests and the general  
6 public in London would want too.

7 These are very specialised doctors. I have felt  
8 throughout these inquests as the luckiest person in this  
9 court with the witnesses I've had under my wing. They  
10 are as professional outside court as they are in. Very  
11 patient, focused, very kind, very caring, but also, as  
12 you know, my Lady, very specialised in their field.

13 There are many other countries that have  
14 a resilience service which is properly, centrally funded  
15 and, for some reason, it has taken July 7 for everybody  
16 to realise now we have a situation where, by fortune,  
17 things went quite well and a very good service was  
18 provided on that day by the HEMS team, but we would be  
19 in a totally different situation if it hadn't been for  
20 a clinical governance meeting that was going on that  
21 day.

22 I may have misunderstood Mr Watson in his  
23 submissions, which I found slightly surprising a moment  
24 ago. If I can just make a comment about the clinical  
25 governance side of the London Air Ambulance, it's not

1 a fledgling organisation. It has a fully developed  
2 governance structure, and it could absorb any funding  
3 quickly to produce four teams.

4 You've seen how knowledgeable and expert witnesses  
5 such as Dr Davies are when he's given evidence and they  
6 are as astute and have as much expertise in relation to  
7 management too.

8 This isn't a situation of any ego massaging or any  
9 power that's sought by the London Air Ambulance. It's  
10 simply a fact that they would like to be able to provide  
11 London with a better service, a proper service, and in  
12 my submission, my Lady, that would require funding from  
13 a central source.

14 Clearly, in the alternative, if you felt you could  
15 not do that for some reason, then some funding would put  
16 us in a better position than we are at the current time,  
17 but if I can then move on to my next recommendation to  
18 do with LESLP and being involved in this panel, which  
19 brings into the equation whether the London Air  
20 Ambulance, was HEMS, is a category 1 responder.

21 Now, I've pored over the Civil Contingencies Act for  
22 the last few months enough times, and there is  
23 a possibility, because the doctors in the London Air  
24 Ambulance are NHS doctors, it could possibly be seen  
25 that they are covered without any amendment to that Act.

1 You've seen I've stopped slightly short of actually  
2 asking you to make a recommendation that we are  
3 a category 1 responder in my submissions, but we do not  
4 disagree at all, in fact we'd very much like to be  
5 category 1 responder, but the caveat to that -- and this  
6 has to be a caveat -- is, before that happens, we would  
7 have to have state funding, proper funding, regular  
8 funding, that would provide us with the four teams to  
9 give us a resilience service to any events that were  
10 going on, more than one in London at any one time.  
11 In the alternative, if there wasn't the central  
12 funding but there was more funding, you will see in my  
13 submissions that I've stopped slightly short. I've said  
14 the London Air Ambulance be identified as a formal  
15 independent contributor to LESLP. That has to be right,  
16 my Lady, with the military background, if nothing else,  
17 of the doctors and their rich operational experience of  
18 major incidents in London, that they would bring to the  
19 table an awful lot to a LESLP.  
20 For all the reasons I've mentioned already, the  
21 third recommendation is that the Department of Health  
22 consider making available funding for research in  
23 respect of the emergency preparedness needs of London.  
24 That slightly goes hand in hand with the next one,  
25 which you'll understand is the General Medical Council

1 accreditation of pre-hospital emergency medicine as  
2 a discrete sub-specialty.  
3 We've heard from Dr Davies that there are very, very  
4 good reasons for the future why there should be  
5 a sub-specialty accredited through the GMC so that young  
6 doctors can learn about this field and, ultimately, the  
7 general public benefit.

8 It has to be that it's more and more relevant with  
9 the population as it is and the number of people, for  
10 instance, in London and that these doctors have  
11 a particular expertise to do with the environment that  
12 they're treating patients in and the types of injuries  
13 that they have.

14 There isn't, at the moment, from the research point  
15 of view, any ring-fenced research monies as far as the  
16 Air Ambulance Service are aware.

17 LADY JUSTICE HALLETT: Well, I detected from the Colonel  
18 that the research is going on in military circles, isn't  
19 it?

20 MS ORMOND-WALSH: Certainly from Dr Davies' point of view  
21 there's nothing been filtered down that he is aware of.

22 LADY JUSTICE HALLETT: Sorry, not London emergency care, but  
23 as far as responding to trauma out of a hospital  
24 situation, it seemed from the Colonel's evidence that  
25 his department are doing a lot of work in that sphere.

1 Are you suggesting that this research should be London  
2 focused or trauma focused?

3 MS ORMOND-WALSH: I have no particular instructions,  
4 my Lady. London is peculiar because it's so large and  
5 there's such a lot of people here, but I suspect  
6 Dr Davies would say any research that would lend itself  
7 to making decisions, and doctors being doctors, research  
8 is the grounding of pretty much all the decisions that  
9 they make.

10 I've said at paragraph 11 that major incidents are  
11 diseases and that they have the epidemiology of any  
12 other disease in relation to the who, what, where, why  
13 and how questions.

14 LADY JUSTICE HALLETT: I'm afraid you've lost me there,  
15 Ms Ormond-Walsh. In simple terms, you're saying ...?

16 MS ORMOND-WALSH: It's slightly new to me, my Lady. This  
17 is, again, Dr Davies explaining that, even though major  
18 incidents themselves don't seem like how a disease as,  
19 for instance, cancer would, they produce -- the  
20 background to them has the same questions to be asked.  
21 So research into it will provide answers that will  
22 help the doctors to make a decision about the clinical  
23 care, the treatment, the decision-making process.

24 LADY JUSTICE HALLETT: It's a complex situation, really,  
25 rather than --



1 MS ORMOND-WALSH: That is the very thing, my Lady, that  
2 we're saying, that it is a sub-specialty that deserves  
3 people's attention in the medical world and the funding  
4 to go with that so that it can get even better.  
5 Dr Davies' understanding is that the GMC  
6 accreditation process has stopped at stage 2 for the  
7 time being and they would have to re-submit to carry on  
8 with it, and that it is not a fait accompli that they  
9 would get to the end result of being given the  
10 sub-specialty special title that they're asking for.  
11 Lastly, my last submission, again, it falls a little  
12 bit back to the LESLP scenario, but the London Air  
13 Ambulance doctors would like to be more involved in the  
14 future in any inter-agency training, exercising and  
15 planning. Notwithstanding the fact, just going back to  
16 my first main submission about funding, which is  
17 fundamental, that there is just one doctor and one  
18 paramedic available 24/7, they still would like to be  
19 part of any inter-agency training because of the  
20 expertise that they have, and what they could actually  
21 bring to the table, and also for them to go away with as  
22 well, and work in situations such as July 7 with  
23 everybody understanding everybody else, if you like.  
24 If I can just return for one minute to the main  
25 point, as you'll see, my Lady, trying not to be

1     repetitious, about the funding issue here, the London  
2     Air Ambulance doesn't want to be, and isn't, a service  
3     which is a bonus to have. It is an essential service  
4     and, in order to do that, it is not a question of just  
5     raising them to the category 1 status and leaving things  
6     where they are. In order to do that, they have to have  
7     sufficient funding to have the least number, and four is  
8     the fewest number that we say would give London  
9     a resilience service, even if there were just two bombs  
10    going off at the same time, or one bomb and another  
11    incident with somebody under a train, for instance.  
12    If I can just take a minute to take any further  
13    instructions just to see if there's anything else, thank  
14    you.

15    LADY JUSTICE HALLETT: Certainly, I think you've covered  
16    everything.

17    MS ORMOND-WALSH: Thank you very much.

18    LADY JUSTICE HALLETT: Thank you. Mr Hill, are you next?  
19    Submissions by MR HILL

20    MR HILL: I am my Lady, I think, yes, and I shan't be long.  
21    The Metropolitan Police Service recognises and  
22    supports the bereaved families' desire to ensure that,  
23    where appropriate, lessons are learned. We say that at  
24    paragraph 17 of our written submissions where we turn to  
25    these issues, and we mean it.

1 I don't seek to take you extensively to those few  
2 recommendations, and there are a few only, put before  
3 you by those who act for the families in which the  
4 Metropolitan Police are or might be thought to be  
5 engaged. I want to make a comment or two for your  
6 assistance about recommendation (a) and (d), and then  
7 just a little beyond that.

8 As to recommendation (a), inter-agency training,  
9 we've said what we can for your assistance in our  
10 paragraphs 20 and 21, and it is apparent from all of the  
11 submissions that you've received that there's a shared  
12 concern, if I can put it that way, as to the impact,  
13 particularly on front line response staff, to the sort  
14 of additional inter-agency training that those acting  
15 for the families have in mind.

16 LADY JUSTICE HALLETT: I think the problem is, Mr Hill, at  
17 the moment we're not really sure, or I'm not really  
18 sure, what inter-agency training is going on at the  
19 moment, so I'm not really sure how -- to what greater  
20 extent I would be imposing upon the Metropolitan Police  
21 Service -- and I do appreciate the number of officers  
22 you have --

23 MR HILL: Quite.

24 LADY JUSTICE HALLETT: -- if I made the recommendation. It  
25 really isn't clear to me the extent of the inter-agency

1 training at the moment.

2 MR HILL: I think there are two answers to that. One is  
3 that insofar as the direction, the target, of this  
4 recommendation is not exclusively but primarily directed  
5 at front line officers, as you've just kindly noted,  
6 there being 32,500 serving Metropolitan Police officers  
7 who, on one definition, one might call front line staff,  
8 each and every one of them, and given the resource  
9 issues and the jurisdictional issues that the  
10 Metropolitan Police faces, there could be very  
11 considerable consequences for the future if those staff  
12 are to be further trained.

13 That's the first point.

14 The cost of that, whether one describes it as, in  
15 bringing with it insurmountable logistical and  
16 operational difficulties, which the City of London  
17 Police indicate at paragraph 3.1, or the fiscal problems  
18 that the British Transport Police refer to at  
19 paragraph 3(a) of their submissions, is a matter for  
20 a value judgment.

21 What I say on behalf of the Metropolitan Police is  
22 that, of course, if minded to so recommend, we would  
23 engage with that recommendation.

24 To come to the second answer to the question you  
25 pose, the London Emergency Services Liaison Panel, it

1 may be thought, is the right body to whom to direct such  
2 a recommendation, because that really is the embodiment  
3 of inter-agency planning, and to a degree, therefore,  
4 where planning amounts to training, training for events  
5 such as this -- and we've noted in the families'  
6 submissions that the LESLP doesn't feature in  
7 recommendation (a) in the families' submissions in their  
8 paragraph 3.3, but what does feature -- we appreciate  
9 this is not the primary focus of the recommendation, but  
10 to use their own words, that the recommendation should  
11 also be sent to -- there are a number of national bodies  
12 who are named, and we are inviting you to exercise some  
13 caution about the directive nature, if this were in your  
14 mind, of recommendation (a) insofar as it might impact  
15 on national bodies who are neither engaged in these  
16 proceedings, nor could be in the sense that these are  
17 London proceedings driven by a London event.  
18 I don't want that to be taken to say that the NPIA,  
19 the National Policing Improvement Agency, should not be  
20 informed. Of course we'd see to it that they are.  
21 I don't want it to be taken to say that the Association  
22 of Chief Police Officers should not be informed. Of  
23 course they should be.  
24 But in terms of pursuing this recommendation, if  
25 made, we would say that it might be that the most

1 suitable, the best framework, is LESLP.

2 Can I give some support to the submissions just made  
3 to the extent that HEMS, or the London Air Ambulance, as  
4 they're now called, are not panelists under LESLP and,  
5 to the extent that anyone listens to what we say, we, of  
6 course, for the Metropolitan Police, would agree to the  
7 suggestion that they should be included on the LESLP  
8 panel.

9 Really, I think that is all that we wish to say as  
10 to inter-agency training.

11 We want to indicate that it is a major undertaking  
12 that is encompassed within recommendation (a), and it is  
13 not for me now, of course, even before the  
14 recommendation has been made, to give any expressions of  
15 hope or as to the availability of resources to carry out  
16 what it may be some of the families instructing some of  
17 my learned friends have in mind.

18 But I repeat, that doesn't mean to say that we won't  
19 do our best to engage if a recommendation is made in  
20 those terms.

21 Can I move on to recommendation (d) straightaway,  
22 which is the only other matter on which I had something  
23 really substantive to say. This is the  
24 hydrogen peroxide purchase point, of course, and you've  
25 heard evidence about it culminating in evidence given

1 really rather in his guise as coroner's officer by  
2 Detective Chief Superintendent McKenna and a report that  
3 he produced.

4 There are considerable difficulties, we submit, in  
5 making a meaningful recommendation in relation to the  
6 future restriction of sales of hydrogen peroxide. There  
7 is, to put it another way, an entirely understandable  
8 fixation in these proceedings, for good reasons, on  
9 hydrogen peroxide, when, in fact, the fixation perhaps  
10 should be on improvised explosive devices, which, on  
11 this occasion, amounted to the abuse of a domestic  
12 product containing hydrogen peroxide, but which, in  
13 a myriad of other scenarios, could involve the abuse of  
14 other household items.

15 It is the nature of the evil that came to London on  
16 7 July 2005 that a product containing hydrogen peroxide,  
17 a mixture which has a legitimate use in hairdressing  
18 applications, pipe cleaning and even contact lens  
19 cleaning -- not my words, but those from Chief  
20 Superintendent McKenna's report, INQ11410 at  
21 paragraph 5.3 -- and in the context that there are some  
22 30,000 chemical outlet venues in this country where,  
23 amongst many other chemicals, hydrogen peroxide might be  
24 found.

25 So it's a matter of extreme difficulty. If the test

1 that is being posited -- and I don't want to take  
2 Ms Gallagher's words out of context and I don't suggest  
3 that the formulation I'm about to repeat is what was put  
4 in writing or is the test that you, my Lady, would be  
5 applying -- but the test advanced orally earlier today  
6 was "if the product has the capacity to be dangerous".  
7 With the best will in the world, that is not, we  
8 respectfully submit, a meaningful formulation that would  
9 allow anybody to restrict a product such as this which  
10 has household uses as well as illegitimate uses.  
11 We, therefore, beg to question whether, if what the  
12 recommendation would tend to is the wholesale banning of  
13 hydrogen peroxide or products available on the High  
14 Street containing hydrogen peroxide, that could ever be  
15 accomplished.  
16 Put it another way, you might take some solace in  
17 the fact, as follows from the evidence of Chief  
18 Superintendent McKenna, that considerable steps have  
19 been taken over the last six years to restrict the  
20 availability of hydrogen peroxide, and you might come to  
21 the conclusion that those restrictions now in place, and  
22 to be consolidated under EU regulation, really do what  
23 one can sensibly do in respect of a product which many  
24 people use, frankly, to bleach their hair, and unless  
25 one is to restrict the ability to do that, it's hard to



1 see how one could go much further.

2 The fact is that high-concentration, domestically  
3 available hydrogen peroxide is now increasingly  
4 regulated. There has been a major campaign under the  
5 auspices of NaCTSO, which you heard about from  
6 Mr McKenna, the "Know Your Customer" campaign, and it is  
7 no longer the case, and increasingly under European  
8 regulation will continue not to be the case, that those  
9 with misdemeanours in mind will be able to get hold of  
10 high-quantity, high-concentration hydrogen peroxide.  
11 But we have to remember that the hydrogen peroxide  
12 in this case was of comparatively low concentration and  
13 purchased over a period of time, and often in quite low  
14 quantities. The hydrogen peroxide schedule, which is on  
15 the system at INQ11005, and is internally referred to in  
16 Mr McKenna's report, tells us that between February,  
17 March and July 2005 a large number of outlets were  
18 visited by the bombers and that the containers of  
19 hydrogen peroxide purchased ranged from 5-litre  
20 containers to 1-litre containers and, as the schedule  
21 tells us, on some occasions 250-millilitre containers.  
22 Therefore, although, as I say, the rolling out of  
23 the "Know Your Customer" campaign, one would hope has  
24 done a great deal to capture multiple purchases,  
25 certainly in high quantity, it is and is always going to

1 be extremely difficult, we submit, with great regret, to  
2 capture the sort of criminal activity that was involved  
3 here: namely, taking a period of --

4 LADY JUSTICE HALLETT: 5-litre containers of bleach is quite  
5 a lot of bleach, hair bleaching, for a bunch young men.

6 MR HILL: Indeed, but for the purpose of cleaning pipes,  
7 cleaning other household or general domestic products,  
8 it's still more than one 1 litre, but we're not talking  
9 here about a single purchase in the tens, 50s or  
10 hundreds of litres.

11 LADY JUSTICE HALLETT: Mr Hill, I'm sorry to interrupt you,  
12 I do understand what you are saying, of course I do, but  
13 I don't understand that Ms Gallagher's and the families'  
14 recommendation is going much further than -- I detected  
15 Mr McKenna himself was encouraging me.

16 I didn't detect that he was saying "You don't need  
17 to do anything more, it's all in hand", I got the  
18 distinct feeling that the rather modest proposal to  
19 consider whether further steps might be taken to try to  
20 prevent or report sales, I got the feeling from him that  
21 he would be happy with that.

22 MR HILL: From a policing perspective, given that enormous  
23 resources had to be donated to the criminal  
24 investigation following 7 July, of course a senior  
25 investigating officer like Mr McKenna will want to see

1 that everything possible is done to close down the abuse  
2 of otherwise ordinary products, and that, I think, is  
3 the sense of what Mr McKenna was saying.  
4 Therefore, it doesn't follow from my submissions  
5 that I'm resisting the recommendation or suggesting that  
6 there is nothing you, my Lady, can meaningfully say, but  
7 I am saying that, as Mr McKenna's report indicated, and  
8 as expanded upon in his evidence, really these steps  
9 have been in hand ever since the first hostile  
10 deployment of hydrogen peroxide in this country, which,  
11 as we know, was 7 July 2005.  
12 So it may be that my Lady is absolutely right, that  
13 it's not being suggested that there be wholesale banning  
14 of hydrogen peroxide. I've already made the submission  
15 that that would be very difficult, if not impossible, to  
16 achieve, and we say that the curve of activity is very  
17 well developed in this field, and the  
18 Metropolitan Police lend their support to that.  
19 LADY JUSTICE HALLETT: Is there a downside to my  
20 recommending that consideration be given to whether  
21 further steps could be taken?  
22 MR HILL: I think it would be wrong to categorise it as  
23 a downside. There is a lot of work that has already  
24 been undertaken. I suppose one can envisage that, if  
25 a recommendation were made, then of course it would be

1 researched very thoroughly, you would expect to receive,  
2 and would receive, a response, but --

3 LADY JUSTICE HALLETT: So it's, in fact, the response to my  
4 recommendation that takes up resources?

5 MR HILL: Undoubtedly, it would do that. Again, I'm not  
6 saying for a moment that we wouldn't engage in that, but  
7 we have done our best, at your earlier request, to  
8 gather together all the materials to indicate steps  
9 taken, and they are considerable.

10 So it really comes to this: if it were the case that  
11 nothing had been done to restrict even the  
12 high-concentration or purchase of high-concentration  
13 hydrogen peroxide, we'd still be at the starting point  
14 here, and a recommendation would spur people to action.  
15 There's been so much action over the last five years  
16 that I'm not saying nothing can be done, but it is hard  
17 to see, short of wholesale banning, whether there's any  
18 means of achieving the ultimate aim that lies behind the  
19 recommendation.

20 That's all I really want to say about (d).

21 Insofar as RVPs at (f) are concerned, can I, mindful  
22 of the time, because I have very little written down  
23 anyway, just submit to you that the reformulation by  
24 Transport for London at their paragraph 28 is one to  
25 which we would lend our support.

1 That perhaps is a quick way of cutting through the  
2 submissions today, which at times have been confusing,  
3 at least to me, as between an understanding of what the  
4 recommendation is designed for, whether it's designed to  
5 enforce meetings or simply to ensure that there's  
6 a reception point and a member of TfL staff there to  
7 receive emergency responders.

8 The only reason that I'm on my feet at all in  
9 respect of that is because there are a number of  
10 well-worked protocols around rendezvous points. For  
11 example, documents produced by Commander Broadhurst in  
12 his evidence to you, in which -- this is a document  
13 called "Bombs: the police response", the reference is  
14 INQ10173. To take one simple example, from a policing  
15 perspective, an RVP, a rendezvous point per se should  
16 never be in the same place twice, and there are security  
17 reasons why that is contained within the document.

18 Now, we understand that the purpose of the  
19 recommendation is more complex than that. We understand  
20 that you, my Lady, understand the difference between  
21 reception point on initial response and then the placing  
22 of RVPs under the guise of the senior police officer who  
23 is within the outer cordon. All of that comes much  
24 later.

25 We submit, therefore, that paragraph 28 and the

1 reformulation by Mr Morton and Ms Canby just helps to  
2 clarify the issue.  
3 That's all I want to say about (f).  
4 As far as (b) and (c) are concerned, almost nothing  
5 to say. We agree in our submission, at paragraph 22,  
6 that you may find that there's evidence to support  
7 a recommendation under (b). Plain English is a goal for  
8 all of us. It shouldn't, of course, be confused with  
9 jargon, nor does it follow that the use of plain English  
10 equals the removal of jargon, and in one sense, although  
11 it's expressed in plain English words, the declaration  
12 of a major incident, moving from (b) to (c), is the use  
13 of jargon. It's the use of jargon you would immediately  
14 recognise which is understandable by others, but has  
15 a particular meaning to the body that makes the  
16 declaration. It mandates a certain activity.  
17 LADY JUSTICE HALLETT: It's a term of art, it is not jargon.  
18 MR HILL: I'll accept the correction as to how one describes  
19 it.  
20 LADY JUSTICE HALLETT: "Jargon" is pejorative --  
21 MR HILL: So be it.  
22 LADY JUSTICE HALLETT: -- when I use it.  
23 MR HILL: There is the need, as identified by Mr Gibbs at  
24 paragraph 4 of the British Transport Police submissions,  
25 for clarity and brevity.

1 The London Ambulance Service make the same point at  
2 paragraph 22. It doesn't follow, on all occasions, that  
3 English words susceptible to understanding by the  
4 average man or woman in the street should always be used  
5 by emergency responders. I think that's the point I'm  
6 trying to get across, and I've not used a single  
7 mnemonic in doing so.  
8 That's all I want to say about (b) and (c). I think  
9 that leaves me with two very short final points.  
10 The first goes to recommendation (p) and I do not  
11 want it to be thought that, in going to recommendation  
12 (p) at all, which I didn't in writing, the  
13 Metropolitan Police are cutting across the very  
14 well-reasoned dignity in death point that lies behind  
15 recommendation (p).  
16 The only matter for your note is that, as expressed  
17 in the London Ambulance Service submissions at  
18 paragraph 39, generally speaking police guidance is  
19 sought before covers are placed over deceased persons.  
20 Clearly, we would make the point -- and I am  
21 instructed to simply make the obvious point -- that  
22 there are evidence recovery and scene integrity  
23 considerations which always apply when the police attend  
24 at the scene of an incident, which then marks the  
25 commencement of a criminal investigation. That is

1 separate to dignity in death, with which we do not  
2 interfere, but it's something that's very much in the  
3 mind of police officers attending at scenes.  
4 Finally then, record-keeping, recommendation (w).  
5 We would invite you to reflect, perhaps, on whether  
6 Mr Coltart went a little far orally today in suggesting  
7 that documents created before the major incident which  
8 may thereafter appear to have a greater relevance than  
9 was originally thought is a formulation that is going to  
10 work. How is it to be decided, when a document is being  
11 created, whether that may necessarily have a relevance  
12 in the hindsight of a major incident which has not yet  
13 occurred.  
14 I can't really develop that point. I can tell you  
15 that it is a general rule within the Metropolitan Police  
16 Service that documents are retained for seven years.  
17 That is always the aspiration. But, of course, you  
18 know -- and we've commented on this in other contexts in  
19 our argument -- the response to a multiscene incident  
20 such as the terrible events of 7 July drew in officers  
21 from all over London.  
22 We had Inspector Mugridge and officers from Sutton  
23 based nowhere near King's Cross where they ended up.  
24 Record-keeping is always necessary, one always  
25 aspires to do the best with it, but there's a lot of



1 geographical ground between Scotland Yard and police  
2 stations all around the Metropolitan district.

3 So with the best will in the world, that can create  
4 difficulties.

5 Can I pause and check that I've covered everything?

6 Yes, unless I can help any further.

7 LADY JUSTICE HALLETT: Thank you. Ms Ventham, are you going  
8 next?

9 Submissions by MS VENTHAM

10 MS VENTHAM: Yes, my Lady. May I, on behalf of the City of  
11 London Police, echo the willingness and commitment  
12 expressed by all organisational interested persons to  
13 learn lessons from this dreadful event.

14 As we have indicated in our written submissions,  
15 City of London Police will, of course, comply with its  
16 obligations under rule 43A as the recipient of any  
17 rule 43 report, and I can assure both the court and the  
18 bereaved families that City Police will take full  
19 advantage of the 56-day period available to explore,  
20 together with fellow members of the emergency services,  
21 any and all possibilities for improving plans and  
22 procedures for dealing with major incidents.

23 We, like the Metropolitan Police, have mentioned the  
24 practicability point in relation to the inter-agency  
25 training, and the way we put that, purely in an attempt

1 to assist your Ladyship in the formulation of any  
2 rule 43 recommendation, was that this would likely  
3 present insurmountable logistical and operational  
4 difficulties. But this should not, please, be taken as  
5 an indication of any reluctance on the part of  
6 City Police to engage fully with any recommendations  
7 that your Ladyship may make, including in relation to  
8 inter-agency training, the vital importance of which is  
9 recognised.

10 My Lady, other than that express clarification,  
11 I have nothing to add to all of the submissions that you  
12 have heard.

13 LADY JUSTICE HALLETT: Thank you very much.

14 Mr Gibbs, I noticed you kept your head down this  
15 morning when references were made to you.

16 MR GIBBS: I fear I wasn't paying sufficient attention, but  
17 I looked at the transcript afterwards and I was pleased  
18 to see that the word I had hoped would give pleasure  
19 had, perhaps more universally even than was intended.

20 Submissions by Mr GIBBS

21 MR GIBBS: As your Ladyship knows, we, in the BTP, are  
22 always looking for ways to do our jobs more effectively.  
23 We've learned a lot from these inquests like others, no  
24 doubt, and we welcome any recommendation which you may  
25 make as to how we might increase the number of lives

1 saved in a future emergency.  
2 We don't presume to dictate any draft  
3 recommendations to a judge of the Court of Appeal,  
4 particularly in an area governed by discretion and by  
5 the absolute prohibition of rule 40, but we do invite  
6 you to consider three areas as candidates. I've set  
7 them out in our short written submissions.  
8 The first is inter-agency training. Your Ladyship  
9 might think any review of that might perhaps best be  
10 conducted under the aegis of LESLP.  
11 Secondly, as to the broadcasting of a declaration of  
12 a major incident, in particular by means which don't  
13 depend upon a telephone call, knowing how difficult  
14 those are and what the congestion on the lines is like.  
15 So, for instance, CAD or its equivalents.  
16 Thirdly, Airwave capacity underground.  
17 At the moment, as your Ladyship has heard, at most  
18 Tube stations there are only three channels available  
19 for the police and the emergency services underground.  
20 A second base radio unit would raise that number to  
21 seven. How vital that might be in a future major  
22 incident is, of course, for you and not for me to say.  
23 We know that in deciding whether to make any  
24 recommendation, or any particular recommendation, you  
25 will have three general considerations in mind.

1 The first is cost. Any recommendation will have  
2 a cost implication, whether that be measured in the  
3 amount of money it costs or the opportunity cost to the  
4 organisation to which it's directed.

5 On the subject of cost, your Ladyship issued  
6 a general invitation to comment further upon  
7 Sir Desmond Fennell's observations about radio  
8 underground. I don't want to give evidence. It  
9 wouldn't be right to do so. But your Ladyship will  
10 remember that the witness, in fact, from the BTP,  
11 Mr Short, gave, when he came to this court, and also in  
12 a report which is on Lextranet, dated September of last  
13 year, quite a good account on one view of the history.

14 The second general consideration which we are  
15 confident you will have in mind is the need to look at  
16 the whole of the evidence and not just at the  
17 eye-catching fragments. We lawyers tends to fix upon  
18 fragments because we're trained to do so. The media  
19 tend to fix upon fragments because they have  
20 a commercial interest in doing so. The thing about  
21 fragments, of course, is that they will often be  
22 entirely unrepresentative of the general state of  
23 affairs. We are all alive, I'm sure, to the risk that  
24 outliers, outliers which suggest a problem, may attract  
25 more attention than they deserve.

1 The third and final general consideration is that,  
2 of course, although any recommendation that you make  
3 will spring from the evidence from these four murder  
4 scenes, they will not be premised on an assumption that,  
5 the next time our enemies strike, it will be in the same  
6 place or in the same way.

7 LADY JUSTICE HALLETT: Thank you very much, Mr Gibbs.

8 Right, well, I'm extremely grateful to everybody for  
9 a very quick turnaround in producing the submissions --  
10 I appreciate how tight the deadline was -- and for  
11 completing today's submissions within the timetable.  
12 Yet again, it's all down to the enormous effort put  
13 in by those involved. Thank you all very much.

14 (4.35 pm)

15 (The inquests adjourned until 10.00 am the following day)