

1 Tuesday, 21 October 2008

2 (10.00 am)

3 (In the presence of the jury)

4 Discussion re: timetabling

5 SIR MICHAEL WRIGHT: Before we start, can I just talk to you
6 all about timetabling arrangements for the next few
7 days. On Friday, for various reasons, we are going to
8 have to stop in the afternoon, which I don't suppose any
9 of you will mind very much. I do not want to lose
10 an afternoon's sitting time, so what I will ask you to
11 do, but tell me now if it's going to cause any problems,
12 I recollect that one of your number suggested sitting at
13 8; I will not do that but could you do 9?

14 Then what we will do is sit through from 9 until 2,
15 and that gives us five hours, which is pretty well
16 a full day's sitting. I'll arrange for lunch to be kept
17 for you so you can have it at 2 o'clock, and you will
18 have an unexpectedly early Friday afternoon which as
19 I say, I don't suppose you will mind very much.

20 Then on Monday, am I right in thinking one of your
21 number has a medical appointment? I can't remember who
22 it is. What time do you need to leave? 4.00/4.15,
23 right. Could we do what we did the other day and sit at
24 9.30. It will otherwise be an ordinary day but then we
25 can finish at 4.00 and you will have the time. Is that

1 okay? Fine, excellent, thank you very much.

2 Yes.

3 CODENAME "JAMES" (continued)

4 Questions from MR HOUGH (continued)

5 MR HOUGH: James, good morning.

6 A. Good morning.

7 Q. We had reached the stage, I think, where you had got
8 ahead of the number 2 bus in your car, you had picked up
9 Lawrence at the side of the road, and you were planning
10 to drop him off so he could get on the bus?

11 A. That's right, sir.

12 Q. Fixing this in time for us, based on surveillance --
13 rather based on CCTV film -- this would have been at
14 some time between 9.50 and 9.57?

15 A. I imagine it would be around about that time, sir, yes.

16 Q. While Lawrence was in the car with you and Ken, did you
17 have any discussion with him about the man whom you had
18 seen and the identification of that man?

19 A. Yes, I did, sir. That was really brought on by
20 a telephone call from the ops room, from Pat, the
21 surveillance monitor. Pat had asked me if we were in
22 a position to give a level of -- a percentage level of
23 how certain we were that this was the subject that we
24 were following, that this was the subject, Nettle Tip.

25 Q. What was your own immediate reaction to that question?

1 A. Well, first off I said: well, Pat, that's a ridiculous
2 question, who wants to know that question? Because it's
3 not something that I have ever come across before, being
4 asked for a percentage. In the case where you have got
5 possible, a percentage, it's a case of -- we had not
6 been on that follow very long. As far as I was aware,
7 not many of my team had had an opportunity to have a
8 look at the subject being followed, and therefore it's
9 a case of how many officers do you speak to, to gain
10 some sort of gauge on what they feel about the identity;
11 and if I was to go to, say, three or four officers, one
12 officer gave me a percentage figure, let us say, for
13 example, 51 per cent and another one said 40 per cent,
14 it leaves you --

15 SIR MICHAEL WRIGHT: What do you do, average it?

16 A. That's exactly it, sir; is it the mean or the mode or
17 the whatever, the average, so it --

18 SIR MICHAEL WRIGHT: It wasn't a concept that you had ever
19 been asked to do before?

20 A. No, sir.

21 SIR MICHAEL WRIGHT: I see.

22 MR HOUGH: But despite your reaction, did you tell Pat that
23 you would ask the other team members?

24 A. Yeah, I said I wasn't aware that anyone had had a good
25 enough opportunity to make such a determination, bearing

1 in mind the amount of time we had been on the follow and
2 bearing in mind the quality of the image that we were
3 given. But I said I wasn't aware, so what I would do is
4 I would put the phone down, so that he could listen to
5 radio; I would ask that question over the radio, and so
6 that he and I would both hear any reply coming from my
7 team in relation to some sort of percentage. I then
8 asked the team, over the air, over the Cougar radio, if
9 anyone could give me such indication.

10 Q. Did you receive any replies from your team?

11 A. No, I -- there was some sort of radio silence, I suspect
12 about three or four seconds, and I then said: I take it
13 from the silence that I have heard on the radio that
14 no-one is in a position to give me an indication as to
15 percentage ID. I mentioned this, got back in contact
16 with Pat and I mentioned to Pat that we weren't able to
17 assist him with a percentage.

18 Then he asked me: well, is there anything that you
19 can say about whether it's him or not? I then said:
20 well, look, only from my own observations, I saw him in
21 Upper Tulse Hill for a short period of time. That was
22 the reason why I commenced with the follow because
23 I thought he was a possible, and I said: well, given
24 what I have seen, I said I think it could be him.

25 SIR MICHAEL WRIGHT: "I think"?

- 1 A. "It could be him".
- 2 SIR MICHAEL WRIGHT: "I think it could be him"?
- 3 A. Yeah.
- 4 MR HOUGH: Did you say or might you have said, "I think it
5 is him"?
- 6 A. I think that's what I have got written down in my
7 statement, so I think I have written the words, "I think
8 it's him". I couldn't swear to the exact words that
9 I used, but either "I think it's him", or "I think it
10 could be him", yes, sir.
- 11 Q. I was asking you about a discussion you and Lawrence and
12 Ken had. Was that before or after you said those words
13 to Pat?
- 14 A. That was after, because I finished the conversation with
15 Pat, I hadn't had any forthcoming comment from any of my
16 team, despite the fact I had Ken, who obviously I had
17 put down earlier to have a look at the subject, and
18 Lawrence --
- 19 Q. Who was sitting next to you?
- 20 A. Who was sitting next to me in the car at that time, and
21 Lawrence in the back. I think Ken and Lawrence were
22 having a chat, about which -- I don't know, and as I put
23 the phone down Lawrence said to me, "I don't think it's
24 him", and -- excuse me, can I just ...
- 25 Q. Of course.

1 A. Thank you. I then said, "Right, why do you think that?
2 Have you had a good look at him?" And he explained that
3 me that he had had a look at the subject, as he drove
4 past slowly in Brixton Road, somewhere in between when
5 Mr de Menezes had got off the bus and prior to getting
6 back on the bus and he had driven past and had a look
7 and from what he had seen, he didn't think it was him.
8 I said, "Have you had a chance to have a look at the
9 briefing image again?" And he said no. I had a copy of
10 that in the side of the car, in the --

11 Q. This is the one we have already seen?

12 A. That's right, the front page of the briefing note, and
13 I said, I put my hand over the hairline and over the
14 beard and said: what do you think, if you take away the
15 hair and the beard which could have changed, what do you
16 think on that image? He wasn't certain. He said: well,
17 you know, I don't know, but I don't think it's him.

18 So it wasn't positive, if you like, in saying it's
19 definitely not him. That left me in a position whereby
20 I had sort of -- was wavering, if you like, on the sort
21 of 50/50 basis; maybe if I was saying, "I think it might
22 be him", and he is saying he thinks it might not be him,
23 really left me in a 50/50 no man's land at that stage,
24 and no real further on as to whether it was the subject
25 or it wasn't the subject.

1 Q. Perhaps we can have on screen page 462 of the documents,
2 which is part of the log.

3 I think here we see your account of what you --

4 SIR MICHAEL WRIGHT: Can I ask one question before you move
5 on. Did you get back to Pat after Lawrence had
6 expressed this view to you to tell him: well, I have
7 told you what I think but another of the team thinks it
8 isn't?

9 A. No, I didn't, sir.

10 SIR MICHAEL WRIGHT: Very well.

11 MR HOUGH: I think we see here your account of what we have
12 just been asking you about, supplementary D, 00 in the
13 column to the right, so your entry:

14 "At this time I was asked by the ops room..."

15 "this time", for your record, it's positioned -- D
16 is positioned at a point between 9.49 and 9.59?

17 A. Yes.

18 Q. "At this time I was asked by the ops room how certain
19 the team was in percentage terms that this person was
20 identical to Nettle Tip. I said I could not give
21 a percentage figure as this was impossible but I thought
22 it was Nettle Tip. I had already tasked 53 [53 would be
23 Tim] to get some video footage asap to assist
24 identification but that had not been obtained at that
25 time. Prior to getting on the bus 37..."

- 1 A. That would be Lawrence.
- 2 Q. "... had joined me in the car for a short period and
3 stated he didn't think it was Nettle Tip."
- 4 So just as you have told us:
5 "Shortly after this I became aware that 35..."
6 Ken?
- 7 A. That's right, Ken, yes.
- 8 Q. "... who was logging in the car with me was talking on
9 the phone with someone, telling him our and the
10 subject's current location".
- 11 A. That's right, sir. Yes, that incident with Ken was
12 after Lawrence had left the car. I had dropped Lawrence
13 at the bus stand and then this call came in.
- 14 Q. We know that there was a call from Trojan 84, the
15 firearms tactical adviser on the ground, to your mobile
16 phone at 9.56 for about two and a half minutes?
- 17 A. (Witness nods)
- 18 Q. Is that the call you think you are referring to in that
19 supplementary?
- 20 A. Yes, yes, sir.
- 21 Q. So that's a call made by the firearms team, effectively,
22 to your mobile but picked up by Ken?
- 23 A. Yes, sir.
- 24 SIR MICHAEL WRIGHT: That was basically an inquiry as to
25 where you had got to.

1 A. It was, sir. I didn't know that at the time. As I had
2 mentioned there had been a number of calls into my phone
3 during the follow asking, "Where are you?"

4 So I thought well, if it's another one of those
5 calls, Ken can deal with it, so I said, "Look, Ken, can
6 you deal with this", and I picked the phone up off the
7 hands-free, because it interferes with you listening to
8 the radio, and clearly we are at the position at this
9 point where he is on a bus potentially towards Stockwell
10 tube, that I really need my wits about me to know what's
11 happening and I am trying to make sure that I have got
12 proper contact between Lawrence and the subject on the
13 bus. So I hand the phone to Ken, and it's quite clear
14 that he's sort of leaning out of the window looking for
15 street recognition, something like that, looking for
16 road signs, and I perked up and said it's obvious we are
17 towards the A3, the Clapham Road and Stockwell, and we
18 are about 300 yards away from that junction.

19 MR HOUGH: Was it before or after this call that you dropped
20 off Lawrence?

21 A. I dropped off Lawrence before this call.

22 Q. Okay. Now can we have tab 11 of the jury bundle on
23 screen, please, page 23C. Can you help us with where
24 you dropped off Lawrence, and if it's below this map,
25 then we can go to the previous page, 23B.

- 1 SIR MICHAEL WRIGHT: There is a set of traffic lights,
2 I think, at Sydney Road.
- 3 A. Yeah, I think it would be somewhere in that region, of
4 around about Sydney Road. It did take quite a while for
5 us to make progress and get back ahead of the bus,
6 getting through the traffic, but yeah, it would be
7 around about that junction, I would guess, if there is
8 a bus stand there.
- 9 MR HOUGH: By that time you were a reasonable way in front
10 of the bus, so that Lawrence would be able to board at
11 a bus stop?
- 12 A. Yes, indeed.
- 13 Q. We can have that off screen, now. Did you continue up
14 the road towards Stockwell tube station?
- 15 A. Yeah, I adopted a position back behind the bus, whilst
16 this telephone call was going on, sir.
- 17 Q. At this kind of time, when you have dropped off
18 Lawrence, and you are receiving this phone call, had any
19 further views about identification been put out over the
20 radio by your team?
- 21 A. No. What had happened, obviously in this time, was we
22 were -- I was busy dealing with this conversation with
23 Pat, asking this question over the air, and in the
24 meantime obviously there was no surveillance officer on
25 the bus with Mr de Menezes, so any commentary that would

1 have been coming across would have been in relation to
2 the movement of the bus, and of course if it comes into
3 a stand with no-one on, the chaps just need to be aware
4 to make sure that no-one's got off the bus when it comes
5 into a stand. But basically any commentary going on on
6 the air is really in relation to the bus. Any further
7 commentary is basically me asking the team if they can
8 give a percentage identification, and then it's a case
9 really of then tones being given when Lawrence gets on
10 the bus.

11 So when Lawrence gets on the bus, he can't really
12 speak and we would normally deal with it by way of
13 tones, and I would normally give -- normally what would
14 happen is an officer would get on to the bus, they would
15 see the subject of the surveillance follow, normally
16 give three tones, three bleeps, which means that you
17 can't speak and it's a way of transmitting over the air.
18 And then someone on the ground would then say over the
19 air, "Do you have contact", and then presumably you
20 would get three tones back to say yes, three tones
21 meaning yes, I have got contact with the subject, so
22 there wouldn't be any further speech in relation to the
23 identification at that point.

24 Q. Coming back to the sequence, you have dropped off
25 Lawrence around 9.56, 9.57, and around the same time or

1 just after that, rather, you receive a call. You don't
2 receive a call but Ken receives a call on your mobile
3 phone, firearms team asking where you are.

4 Did the firearms officer Trojan 84 also ask where
5 the man was on the bus?

6 A. Yeah, that's the final question I got from Ken. Ken was
7 asking, "Where is he sat on the bus?" I said, "I don't
8 know, I'll have to ask".

9 Q. Did you ask?

10 A. Yeah, I asked over the radio if whoever had the eye at
11 the time, if the eye can give me a location within the
12 bus --

13 Q. And that's Lawrence, because he's the person on the bus?

14 A. That's right, sir, yes.

15 Q. Did he give an answer?

16 A. I understand at that point the indication we got was
17 that he was on the stairs and potentially about to get
18 off the bus.

19 Q. During this conversation between Ken and Trojan 84,
20 could you hear anything passed on by Ken about where
21 Trojan 84 and his team were?

22 A. No, I didn't hear about that, sir.

23 Q. Had you received any information before that stage about
24 where the SFO team was?

25 A. At that time, sir, the only information that we had had

1 was that we were being given at the briefing about SO19
2 not being available to be briefed at that time, and then
3 later that information coming from Derek, the red team
4 leader, that the firearms team at some point would be
5 coming to the Territorial Army base. No further
6 information about the SO19 teams had been passed to me,
7 sir, no.

8 Q. Did you know from the time that this call was finishing,
9 so 9.58, 9.59, that the CO19 team was en route?

10 A. At the end of the telephone call, I said to Ken: who was
11 that, obviously someone very keen to know where we were
12 and what we were doing; and he said it was SO19. And
13 I said: what did they want; and he said: they just
14 wanted to know where we were.

15 At that point, I sort of had visions of, right,
16 okay, what we have got potentially here is someone from
17 SO19, whether it be an SFO team or whether it be an ARV,
18 a marked armed response vehicle, or whatever, has been
19 brought out in extremis, coming quickly towards our
20 plot, potentially with blue lights and sirens, which in
21 the context of what we were doing would have caused us
22 problems in relation to covertness. So I thought, well,
23 best my team know that that's a possibility, and I then
24 asked for permission to speak over the air and said:
25 just so you know, there is a good likelihood or it's

1 possible that S019 are coming in to join our follow.

2 Q. When you broadcast that message, you would have been on
3 Stockwell Road?

4 A. Yes.

5 Q. About how far from the junction where the tube station
6 is?

7 A. I guess not long after that call ended when I mentioned
8 the fact that we were 200 to 300 yards from, so probably
9 about 200 yards from in slow-moving traffic towards that
10 junction, sir.

11 Q. Did you have any concern about, at that time, the
12 proximity of your team and presumably also the firearms
13 team to the tube station?

14 A. What starts to go through your mind at that stage, and
15 it did with mine, is that if you have got S019 coming in
16 and we have not had a chance to discuss any issues about
17 what they are doing or what their intentions are, and we
18 have got the subject at that point who is on the stairs,
19 and well, you don't put two and two together and make
20 five, there is a good chance, the next point of the
21 danger really for me is the tube station. We have
22 already had the subject off at Brixton. There is
23 a possibility that he may well go off into Stockwell
24 tube. So yes, at that point obviously I have got
25 concerns about potential blue on blue.

1 Because the situation wasn't ideal. In an ideal
2 situation you would brief together.

3 Q. You and the firearms team?

4 A. You and the firearms team, you would brief together, you
5 know that you are looking at the same images; you know
6 that you are getting the same information; you can
7 discuss any tactics that you wish to be done; you can
8 swap telephone numbers so you have got the ability to
9 talk to each other if you need to, to clarify matters.

10 Of course the other main point there is
11 identification, so that armed officers can identify
12 themselves to other armed officers because you are all
13 wearing plain clothes. None of you are in uniform. So
14 that's quite important. In the heat of the moment quite
15 important to be able to identify other armed colleagues
16 because when you see -- if guns are drawn, a great deal
17 of number of assumptions can be made if you don't know
18 who's pulled those guns, so those are the sort of things
19 going through my mind at that point in time.

20 Q. Did you manage, at a later point, to get past the bus
21 again?

22 A. I did. I overtook the bus with the intention of, again,
23 losing my loggist, not that I wanted to, but I wanted to
24 make sure that we had enough people on the ground to
25 further control the subject.

- 1 Q. You intended to drop off Ken so he could join in the
2 follow on foot?
- 3 A. Indeed, sir, yes.
- 4 Q. The information you had received from Lawrence that the
5 subject was getting up and going towards the stairs, did
6 you relay that?
- 7 A. I think it would have been relayed by whoever had asked
8 the question. Someone relayed it, whether it was me or
9 whether it was Harry, I think it might well have been
10 Harry, who relayed that information that was coming.
- 11 Q. Did you drop off Ken near the tube station?
- 12 A. I did, yes, sir.
- 13 Q. Can you tell us roughly where you managed to pull up and
14 drop him off?
- 15 A. I guess from having a look at the scene since, probably
16 somewhere in the region of the NatWest Bank.
- 17 Q. I think we have seen Binfield Road where --
- 18 A. Yeah, probably pretty close to there. I didn't actually
19 go into Binfield Road but we actually would have been on
20 the A3 itself. It would have been a very, very quick
21 stop getting out of the car at that junction, probably
22 Binfield Road.
- 23 Q. We know that a call was made from your mobile phone to
24 the operations room at 10.03 for about a minute and
25 a half. Can you recall that call being made?

1 A. Yeah.

2 Q. Was that by you or by Ken?

3 A. That was me. Ken was out of the car at that stage,
4 I think. Ivor called up and said, "Do you want me to",
5 or, "Do you want me to stop this man" -- I can't
6 remember what words he used, either "stop this man" or
7 "detain this man before he goes down the tube". I said
8 over the radio that he was to wait until I had spoken to
9 the ops room.

10 The clear problem I have got there again is I have
11 got SO19 potentially on way, and I do not want to
12 interfere with any plans that the ops room have got to
13 deal with that matter. So I dialled the number and
14 spoke to Pat and I said, "Look, very quickly, I need
15 an answer to this, you have got about 10, 20 seconds
16 maximum before the subject goes down the tube" --

17 Q. Pausing there, how did you know that he had that period
18 of time? Could you see the subject?

19 A. No, I couldn't, no. I had heard from the commentary
20 that the subject was off the bus, had turned left,
21 I think, towards the tube station, and just because of
22 the nature of where the bus had stopped, where the bus
23 stand was, I estimated that we didn't have much time.
24 I was basically asking for directions very quickly.

25 Q. Were you suggesting that, offering it or just putting it

1 out as an option?

2 A. We had been -- I was asked if we should detain, and
3 I was asking the ops room to consider it as an option.

4 Q. Did you receive a response to your offer?

5 A. No, I didn't. Strangely enough, I have heard obviously
6 from reading the papers and suchlike that the ops room
7 may have been busy or noisy or whatever at that time,
8 and one can understand that, but strangely enough my
9 phone was actually very quiet, and I wasn't getting
10 anything back, and any feedback, and I was getting a bit
11 agitated with Pat, saying: give me an answer, if you
12 don't give me an answer soon, then it will be pointless
13 because I won't be able to do anything about it; and
14 just kept asking him and he kept telling me to wait, and
15 they didn't have a decision for me.

16 Q. Did you think that your officers would be able safely to
17 stop the man?

18 A. Ivor has a great deal of experience at CT matters,
19 counter-terrorism matters, 10 years plus experience as
20 a surveillance officer, I have got a great deal of
21 confidence in him. I knew I had Ken down, who is
22 trained as an officer safety trainer, so he is very
23 aware --

24 SIR MICHAEL WRIGHT: Sorry, who was it who had the great
25 deal of experience, Ivor?

1 A. Ivor, yes. The most experienced member of my team,
2 without a shadow of a doubt, and if he was offering to
3 deal with that matter, then I felt confident that it
4 would be within his grasp to do that.

5 I put Ken down. I say Ken was a trained -- he has
6 more training than the average officer in officer safety
7 techniques, always carries handcuffs and other sort of
8 appropriate methods, other than -- alternative methods
9 other than the firearm.

10 Clearly I had other officers in and around that area
11 as well because I had seen their cars. I obviously had
12 Lawrence there as well who was armed. He had just got
13 off the bus with the subject.

14 MR HOUGH: I think we will hear that Malcolm was also close
15 at hand?

16 A. Malcolm was as well, yes.

17 Q. Did you hear a transmission from the firearms team over
18 the radio?

19 A. I did. There was a gap --

20 SIR MICHAEL WRIGHT: Forgive me, I'm not sure you actually
21 gave us a conclusion.

22 Having regard to the resources you had, did you
23 think that that combination could have made the stop
24 safely?

25 A. Yes, I did, sir.

- 1 MR HOUGH: Did you then hear a transmission over the radio
2 from the firearms team?
- 3 A. I did. What had happened at the end of the telephone
4 call is, I said: look, this is going on too long, I need
5 my telephone; and I said: if you don't give me a reply
6 in the next 10 seconds I am going to have to hang up.
7 At the end of that period I did hang the telephone up,
8 and I then started then to try to place my team in
9 preparation for a tube follow, which would have been,
10 I assumed, about to happen, bearing in mind the amount
11 of time that the subject had been off the bus. I had
12 heard the subject go through, through the barriers, and
13 down the escalators, and towards the platforms, and then
14 heard over the Cougar radio from Trojan -- the Trojan
15 control, "State red, state red".
- 16 Q. Taking that in sequence, then, you finish your call?
- 17 A. Yes.
- 18 Q. This would have been about 10.04, 10.05 because we know
19 the call started at 10.03 and lasted a minute and
20 a half?
- 21 A. Yes, sir, that's my recollection.
- 22 Q. Was it during that call or after it that you heard the
23 transmissions about the man going through the barriers?
- 24 A. I couldn't -- I couldn't say with any absolute
25 certainty. There would have been some communication

- 1 whilst I was on the telephone, but I was so -- so intent
2 on dealing with this telephone call to try to get
3 an answer, that anything that may well have been said,
4 I could have missed, and I can't say for certain, sir.
- 5 Q. I think you have suggested that it was after that call
6 that you received the transmission, "State red, state
7 red"?
- 8 A. Yes, sir.
- 9 Q. I think you have also indicated that the transmission,
10 "State red, state red" came after the announcement over
11 the radio that the man had gone down the escalators?
- 12 A. And towards the platforms, yes, sir.
- 13 Q. The announcement that the man had gone down the
14 escalators and towards the platform, would that have
15 gone through to the control room before the
16 transmission, "State red, state red"?
- 17 A. Sorry, could you just ask that again?
- 18 Q. We know that you are hearing the transmission --
- 19 A. Yes.
- 20 Q. -- that the man has gone down the escalators?
- 21 A. Yes.
- 22 Q. Before you hear the transmission, "State red, state
23 red"?
- 24 A. Yes, that's right.
- 25 Q. Would the first transmission, that he has gone down the

1 escalators, have got through to the control room?

2 A. It should have done. I can't say --

3 SIR MICHAEL WRIGHT: It was on Cougar.

4 A. It was on the Cougar radio. They should be able to hear
5 everything that I can hear because they have got
6 a boosted set, far more powerful than mine. Thinking
7 back to it, thinking back in terms of the chronology,
8 I must have heard that it was through the -- down the
9 escalators and towards the platform before I ended the
10 telephone call, because that is why I ended the
11 telephone call because at that point I had lost radio
12 communications with my team. I am just thinking that
13 through in my head, which is why I missed your question
14 there.

15 MR HOUGH: No, that's helpful. Can we get page 466 on
16 screen. This is how you describe the sequence of events
17 in the supplementary to the log, so during the debrief
18 of the log on the evening of the 22nd.

19 Sup E:

20 "Just as I made this entry at 10.03, I first heard
21 a call sign Trojan control on the air. This declared
22 a state red, which I assumed meant that S019 were now
23 deploying to engineer a hard stop. They then asked the
24 location of the subject, and I then replied on the air
25 that I didn't know which platform as we had lost comms

1 with our surveillance colleagues in the tube."

2 A. That's correct, sir, yes.

3 Q. Is that right, after you had put down the phone, heard,
4 "State red, state red", you then had a question over the
5 air asking you the location of the subject?

6 A. That's right, sir. Basically you get the state red and
7 in effect what's happening there is the armed team have
8 taken priority, it's now really gone from covert to
9 being overt, and really it's in their responsibility,
10 really, so I am sitting there thinking: I wonder what's
11 happened here, wondering really what next is going to
12 happen and what I should do next and then after a few
13 seconds this question: where is the subject, can you
14 tell us which platform he's on.

15 Q. You answer that you didn't know because you had lost
16 communications?

17 A. That's right, sir, yes.

18 Q. Did you then manage to park up?

19 A. I was parked up at that stage --

20 Q. So you remained in position?

21 A. I was quite close to the tube station at that point.

22 Q. What did you then do to find out what had happened or
23 what was happening?

24 A. There had been a period of some silence. Nothing was
25 forthcoming. Bearing in mind what had just happened

1 with the calling of the state red, I asked one of my
2 officers, I think he is coded as Adam, to try to find
3 out what was going on, and he walked down into the tube
4 station and then telephoned me and he informed me that
5 the subject of our follow, Mr de Menezes, had been shot.

6 MR HOUGH: Thank you very much. Those are my questions.

7 SIR MICHAEL WRIGHT: Yes, Mr Mansfield.

8 Questions from MR MANSFIELD

9 MR MANSFIELD: Good morning, James. My name is
10 Michael Mansfield, I represent the family of
11 Jean Charles de Menezes. Sorry, it's a bit difficult,
12 I am to your right asking the questions.

13 A. Good morning.

14 Q. I want, first of all, if I may, just to pull together
15 some general points before going into some of the
16 detail, not all. I'll deal with it chronologically.
17 These are just general points I want to establish
18 through you, particularly in relationship to the
19 management and command at control room.

20 First of all, did you know at any time that day that
21 a DSO had been appointed?

22 A. After the event, sir, when we got back to the office.

23 Q. Right --

24 A. After the operation, if you like.

25 Q. First point: at no time between your arrival at

- 1 Scotia Road and parking up at Stockwell and the shooting
2 did you know there was a DSO?
- 3 A. No, sir.
- 4 Q. Let alone the identity, of course, of that DSO?
- 5 A. That's right, sir.
- 6 Q. Second point: did you know -- and I'll limit it to this
7 period to make it quicker -- at any time between that
8 same period, in other words arrival at Scotia Road and
9 then arrival at Stockwell, that a Silver had been
10 appointed?
- 11 A. No, sir.
- 12 Q. Once again, let alone the identity, which you obviously
13 didn't know either?
- 14 A. No, I didn't, sir, no.
- 15 Q. The corollary of that is that at no stage, therefore,
16 had Silver made any contact with you or your team?
- 17 A. No, sir.
- 18 Q. Silver theoretically and practically has
19 a responsibility for the location in terms of firearms
20 and surveillance, doesn't he?
- 21 A. Yes, sir.
- 22 Q. You would expect there to be contact between a Silver
23 and yourselves if the Silver is in control of anything?
- 24 A. Yes, sir.
- 25 Q. Moving a little further: as far as S019 or C019 --

- 1 interchangeably terms, I appreciate terms change -- but
2 the SFO teams were concerned, as far as your
3 recollection is concerned, you were never told when it
4 was they could be expected to arrive at Scotia Road?
- 5 A. That's correct, sir.
- 6 Q. Not only were you never told when they were expected;
7 you were never told when they actually had arrived at
8 Scotia Road?
- 9 A. No, sir.
- 10 Q. Just before we move to Scotia Road with these general
11 propositions, did you think yourself that this was --
12 first of all, do you know what Kratos means? I presume
13 you do, generically?
- 14 A. We had a PowerPoint presentation on it some months
15 before the incident, yes, sir.
- 16 Q. Right, so did you believe that this was a Kratos --
17 generic term -- style of operation?
- 18 A. No, sir.
- 19 Q. At Scotia Road, you had had the discussion with Derek,
20 the other team leader, about what to do in the absence
21 of S019 and the emergence of somebody who could be
22 identified as one of the suspects carrying a rucksack;
23 do you remember?
- 24 A. Yes, I do, sir, yes.
- 25 Q. Was it your understanding that this had been run past

1 the ops room, this plan that you had with him, Derek,
2 and as far as you were aware, the ops room had given no
3 directions suggesting that you should not do that,
4 should it be necessary?

5 A. I hadn't spoken to the ops room about this, and Derek
6 had done. The reason being obviously the red team had
7 been there obviously for some time, and as I explained
8 previously yesterday, only really one team can actually
9 control a plot, and if you like, Derek was in charge of
10 that plot. He had run that past the ops room, he had
11 told me, he had mentioned what he was planning to do and
12 asked me if I would support his tactics.

13 Q. And there was no suggestion via him that the ops room
14 were saying, "Under no circumstances should you do
15 this"?

16 A. No, sir.

17 Q. Pausing for a moment, I think you regarded yourself, or
18 maybe you didn't actually positively think it at the
19 time, but you were in the role of a Bronze Commander,
20 weren't you?

21 A. I would have been, yes, sir.

22 SIR MICHAEL WRIGHT: In relation to your team?

23 A. Yes, sir.

24 MR MANSFIELD: I will come to the question of identification
25 later in the chronology, but I just want to go on about

1 the general propositions of what you were -- what
2 directions you were not given by the control room.

3 Once you started the follow, that is he gets on to
4 the bus and your team begin the follow, all right? Is
5 that something you decided of your own initiative or did
6 that come from the ops room?

7 A. It was my decision to direct my team to follow the
8 subject, and I then informed the ops room by telephone
9 that we were with the subject and that we were on a bus
10 en route north up Tulse Hill, sir.

11 Q. Once he gets on and off the bus and so forth at Brixton,
12 once we get past Brixton, you wanted to know from the
13 control room what you should do; is that right?

14 A. Yes, sir.

15 Q. Once again, you got no instructions or direction from
16 the control room about that, did you?

17 A. No, sir, and in the absence of any contrary
18 instructions, we would then continue to surveill the
19 subject.

20 Q. In this same context, in other words we have gone past
21 Brixton, and just putting it together from what you have
22 said already yesterday, you were completely unaware that
23 the control room had in fact ordered or authorised, via
24 the Silver, an arrest team or detention team to move in
25 on the subject in order to gain intelligence; you knew

1 nothing about that?

2 A. I knew nothing about that. When I heard about it, sir,

3 I was very surprised.

4 Q. You were very surprised. When did you hear about it

5 first, do you remember?

6 A. No, some time, a long time after the operation had

7 ended, sir.

8 Q. A long time after the operation. Once again, as the

9 Bronze Commander after Brixton, because Derek has been

10 left back at Scotia Road?

11 A. Yes, sir.

12 Q. You would expect to be told if another team, this time

13 SO13, were going to move in -- and I'm just going to use

14 the vernacular -- on the plot?

15 A. Very much so, sir, because what we are dealing with here

16 is a possible. We don't know whether or not he has come

17 out of number 21. He could have come out of number 21.

18 If he wasn't identified as the subject, he potentially

19 could be part of a team. So indeed, if someone was to

20 come in and compromise the covert follow, I would want

21 to know about that before it happened.

22 Q. I'm not going to ask for the document, because we all

23 may remember where it appears, but there is

24 a suggestion, again at some point in the follow through

25 to Stockwell, that the follow you are conducting should

1 stop, should be withdrawn. Now, were you aware of
2 anybody asking for you to stop the follow?

3 A. No, sir.

4 Q. Once you get to Stockwell, you have just dealt with the
5 fact --

6 SIR MICHAEL WRIGHT: Could you pause one moment,
7 Mr Mansfield, sorry to interrupt. Something is puzzling
8 me very much about this and you may be able to help.
9 Your last communication with Pat before you spoke to
10 Lawrence was either "I think it's him" or "I think it
11 could be him"?

12 A. Yes, sir.

13 SIR MICHAEL WRIGHT: Then you had the conversation with
14 Lawrence.

15 A. Yes, sir.

16 SIR MICHAEL WRIGHT: When he was saying, "Actually I don't
17 think so".

18 Now, what is puzzling me, it seems -- you didn't
19 know this was happening, but it seems clear that the
20 control room, the ops room, got the idea that the
21 following team, your team, didn't think it was him
22 because, as Mr Mansfield has just been putting to you,
23 they sent in or gave instructions to send in the S013
24 arrest team who were unarmed?

25 A. Yes, sir.

1 SIR MICHAEL WRIGHT: Can you help as to how that impression
2 might have got through to the ops room?

3 A. Not through me, sir.

4 SIR MICHAEL WRIGHT: No, what I was wondering is if Lawrence
5 was in the car with you, and saying these things to you,
6 would the Cougar net have been open?

7 A. No. No, sir.

8 SIR MICHAEL WRIGHT: They couldn't have heard it from his
9 discussions with you?

10 A. No, sir.

11 SIR MICHAEL WRIGHT: Thank you.

12 MR MANSFIELD: We are getting to Stockwell, and from what
13 I understand of what you have said this morning, all you
14 know is that S019 may be joining the follow; is that the
15 status of your knowledge?

16 A. That's what I had at the briefing and what I have been
17 told from Ken is that S019 now want to know where we
18 are.

19 Q. Right. You are on the phone -- and the jury have seen
20 it on the telephone schedule, I don't ask for it to come
21 up, there is no dispute about it -- for 86 seconds, in
22 other words one and a half minutes roughly, 26 seconds?

23 A. Yes, sir, it did seem like a long time, but I was
24 surprised to learn how long that was when I saw the
25 billing.

- 1 Q. You were repeatedly asking again for instructions as to
2 what you should do?
- 3 A. Yes, sir.
- 4 Q. From the description you have given this morning, it
5 appears that you were first of all unaware that the
6 control room appears to have said at one stage, "S012 to
7 do it", and then, shortly afterwards, countermanding
8 that, saying effectively "S019 to do it". Did you hear
9 any of that?
- 10 A. I didn't hear any of that, sir, no.
- 11 Q. As the Bronze Commander, you would expect to be
12 consulted, would you not, about a command that S012
13 should do it?
- 14 A. Yes, sir.
- 15 Q. I know this seems very obvious but I just want to go
16 through it as a package at the moment. Even more
17 important is, of course, if you are not going to do it,
18 you need to know who is going to do it and the
19 circumstances in which that's going to happen?
- 20 A. Yes, sir.
- 21 Q. Just pausing for a moment, could we have on screen
22 please, this is what you told the jury at the Old Bailey
23 in the Health and Safety trial about this aspect of it.
24 If we may, it's quicker just to go through what you said
25 then, because I want to suggest to you it's a good

1 summary of the need for you to know. It's in fact the
2 evidence on -- sorry, I need to get the date --
3 8 October and it's on page 69 and page 70. May I just
4 read it -- it's quite a long answer -- and ask if this
5 reflects the concerns that you had about not being told
6 that S019 were going to come in. It starts at the
7 bottom of the page, 69, so I am -- it's a very long
8 answer. I am coming in halfway through it. May I just
9 read it to you and then would you please say whether you
10 want to add or subtract:

11 "The first I hear on the radio is Trojan control, or
12 from Trojan control 'state red, state red'. I'm
13 obviously quite surprised to hear that on my radio: (1)
14 because no-one's phoned me to say that they are coming,
15 no-one's sort of phoned to say: where are you, where is
16 the subject, what's the subject wearing, can you confirm
17 it? They've not asked: how are you controlling the
18 subject, how have you made any sort of identification,
19 what's the subject carrying, has he had any meets, who
20 is your eyeball at the time and how is he dressed?
21 Because clearly, someone coming on our plot like that
22 has not seen the surveillance team, doesn't know what
23 the surveillance team operators look like and my
24 concern, obviously, was that officer Ivor, who was down
25 on foot, was dressed identically to Mr de Menezes.

1 "He had denim jeans on, he had a denim jacket on.
2 In fact, he had a hat and a bag, which I suppose for
3 someone coming who is on to that plot and hasn't seen
4 the subject before, would maybe get confused. And in
5 fact Ivor was probably darker skinned than the subject
6 and one could see the possibility for some sort of
7 confusion."

8 That's only part of a much longer answer, but does
9 that encapsulate the problem of you not being consulted?

10 A. Yes, sir.

11 SIR MICHAEL WRIGHT: I think your answers today slightly
12 qualify that, because before you had heard "state red",
13 you or Ken had had a telephone conversation with
14 Trojan 84?

15 A. Ken had had a telephone conversation -- when he put the
16 telephone down had said to me --

17 SIR MICHAEL WRIGHT: You said, "Who's that?"

18 A. I said, "Who's that?" and he said it was S019.

19 SIR MICHAEL WRIGHT: S019. You did have an idea that S019
20 were around somewhere.

21 A. My assumption was that they would be coming because, why
22 on earth would they ask where we were, yes, sir.

23 SIR MICHAEL WRIGHT: But the "state red", assuming this is
24 right, was the first knowledge you had that they had
25 arrived?

1 A. Yes, sir.

2 MR MANSFIELD: Now, there are two aspects -- well, there are
3 many more but two main aspects out of that answer.

4 First of all, the S019 team clearly haven't had, as
5 you would put it, eyeball on the subject at any stage,
6 so if they suddenly arrive on the plot, how do they know
7 who they have got to detain, that's the key question,
8 isn't it?

9 A. It's a very, very pertinent question, yes, sir.

10 Q. Very pertinent question, and the other problem is -- so
11 that's, if you like, from the victim's point of view --
12 from the point of view of your officers, there is
13 a serious risk of what's been called blue on blue?

14 A. Yes, sir.

15 Q. Just for a moment pausing, I have been through a series
16 of general propositions; what went wrong on that day, do
17 you agree, was a serious lapse in communication between
18 the command at operation or control room and you on the
19 ground, wasn't there?

20 A. Sir, there obviously were failings. I don't think it's
21 my role to decide what did go wrong. I think that's the
22 job of this court, sir.

23 Q. All right. Now, having dealt with the general matters,
24 can I go back to some of the more specific aspects of
25 this. Again, I'll try and do it chronologically because

1 it's easier for you, possibly and everybody else, and
2 that's to go back to the briefing and the question of
3 identification really is what I want to deal with, with
4 you, as a theme.

5 You have already indicated, I don't ask for it to
6 come up on screen, that the image of Osman that you had,
7 would you agree, was not a very -- it's difficult to use
8 the phrase without it being too pejorative -- was a poor
9 image, would you agree?

10 A. I would say it was a poor image, sir, yes.

11 Q. You have explained why because if it's been taken by
12 a flash and so on. Not only is it a poor image, as you
13 pointed out, you asked a lot of other questions quite
14 naturally about when it was taken, how tall the person,
15 the build and all the rest of it, and you weren't given
16 any more information because they didn't have it.

17 So really you are operating solely on a poor image
18 of that person?

19 A. Yes, sir.

20 Q. Were you involved in an exercise by Special Branch,
21 an operation by Special Branch, the year before called
22 Ragstone?

23 A. I probably had been involved in part of that operation,
24 but I wasn't involved in the aspect where another of the
25 teams took suspects to a potential training camp and

- 1 took photographs; I wasn't actually on that aspect of
2 that operation, sir, no.
- 3 Q. You knew that photographs had been taken?
- 4 A. I know that photographs had been taken up north on
5 Ragstone, yes, sir.
- 6 Q. Have you ever seen them?
- 7 A. No, sir.
- 8 Q. Of course in Special Branch it wouldn't be difficult to
9 establish, once you know about Ragstone, that in fact
10 photographs had been taken, would it?
- 11 A. If we have those photographs and if those subjects have
12 been identified, then one would hope that that
13 intelligence would be available, yes, sir.
- 14 Q. The process of identification is one of the reasons why
15 the -- one of the reasons -- photographs were taken in
16 the first place; do you agree?
- 17 A. That would be one of the reasons why those photographs
18 were taken in the first place, yes, sir.
- 19 Q. Could we have, please, on screen the maps brochure but
20 not the map section, and the page is number 4. In fact,
21 you have it there in front of you. If you would kindly
22 turn back in that to number 4.
- 23 A. Is it the page 4? I am on 7 at the moment.
- 24 Q. Yes, it is.
- 25 A. Yes.

- 1 Q. You may not have seen this before so I'll do it --
- 2 A. I haven't, sir, no.
- 3 Q. All right. This, as you will see from the heading, is
4 the principal intelligence known to police prior to the
5 22nd. It's just coming up on screen but I'll carry on
6 because you have a copy and so have the jury.
- 7 You will see Operation Ragstone is mentioned there,
8 in the middle, well roughly in the middle, you see that,
9 May 2004?
- 10 A. Yes.
- 11 Q. Possibly training camp. Then that is linked to people,
12 telephones and vehicles; do you see?
- 13 A. Yes, sir.
- 14 Q. One of the vehicles that it's linked to is a blue Golf
15 L199 FPA, you see that to the left?
- 16 A. Yes, sir, yeah, I think that vehicle we were probably
17 briefed on in our briefing.
- 18 Q. Yes. So that's a vehicle plainly that was known, and
19 that vehicle was linked to the woman who's named above,
20 Girma. Now, clearly if somebody had taken the time, and
21 one appreciates of course it's a lengthy business, but
22 is there somebody in Special Branch whose job -- is
23 deputed to do as much research on these photographs as
24 possible, having spent three days in the Lake District
25 taking over 200 photographs or certainly over 100? Is

- 1 that somebody's job?
- 2 A. To be honest, I couldn't really comment on that because
- 3 I have not actually spent a great deal of time in the
- 4 investigation side, being principally a surveillance
- 5 officer. You would expect there to be. The photographs
- 6 would go to what's called a photographic intelligence
- 7 cell, and in those photographs, the identities of those
- 8 persons should be made, and then hopefully then
- 9 intelligence can be worked on to do further work on
- 10 those names, yes, sir.
- 11 Q. One appreciates that taking the photograph doesn't name
- 12 the person, so what you have to do is try and work out
- 13 the identities, possible identities, probable
- 14 identities, certain identities, by collateral
- 15 intelligence; do you follow?
- 16 A. Yes, sir, that's quite a lot of what our work actually
- 17 involves doing.
- 18 Q. I am going to ask if you could have what is essentially
- 19 now part of divider 54, in the jury's bundle, and that
- 20 is the latest -- I don't know if there is a spare clip
- 21 for the witness box. It might be there at the side of
- 22 the witness box. Divider 54, could you very kindly just
- 23 look that up and make sure that's where it is. (Pause)
- 24 A. Operation Ragstone photographs, yes, sir.
- 25 Q. I'll go slowly to make sure we have all got the same.

- 1 The first photograph is a white -- that's it. I'm going
2 to do it quite quickly because it's just one point
3 I want to make with you. There is a white DAF and the
4 next photograph you see is L199, that's the VW?
- 5 A. Yes.
- 6 Q. That you were briefed about?
- 7 A. Yes, sir.
- 8 Q. Photographed in the Lake District, and then just turn
9 over, there is another van. When we get to number 4, we
10 are told he had not been identified prior to 22 July,
11 but it is accepted that this is a photograph of Osman?
- 12 A. Very similar to the male Hussain Osman, I see, yes.
- 13 Q. Oh, I see, I wouldn't be good on surveillance. We have
14 different numbering. I am really sorry. Your bundle
15 and mine are the same, but this one isn't, so ignore
16 that. Can we move on, in our own bundles, or the one
17 I have, photograph 4, should be Osman with a stick?
- 18 A. Yes, with his head looking down towards his feet, yes.
- 19 SIR MICHAEL WRIGHT: Try 5.
- 20 MR MANSFIELD: Right, sorry, the numbering has gone, I am
21 sorry about that. No. May I just check with the jury
22 by holding it up, there in divider 54, the fourth
23 photograph is that one (indicated). That's the one.
- 24 Sorry, you were about to say that's very similar to?
- 25 A. Yes, that certainly looks like pictures of Hussain Osman

- 1 that I have seen previously, yes.
- 2 Q. Which pictures have you seen of Osman previously?
- 3 A. Oh, just the stuff on the news since the operation,
- 4 sorry.
- 5 Q. All right, stuff on the news, all right. If we flick
- 6 through, this is a series of photographs of him walking
- 7 with a stick past the white DAF, and ending up behind
- 8 that blue Volkswagen; do you see?
- 9 A. Yes, sir.
- 10 Q. Which on mine is number 9 but it may have been
- 11 renumbered wrongly.
- 12 SIR MICHAEL WRIGHT: No, that's right.
- 13 A. 9 and 10 and 11.
- 14 MR MANSFIELD: So it's beginning to look as though he might
- 15 have some association with that blue Volkswagen?
- 16 A. Yes, sir.
- 17 Q. We have blotted out others. If you go to 12, 13, it's
- 18 all the same, 14, 15, a whole sequence of photographs of
- 19 him around the blue Volkswagen. Then when you get to
- 20 17, hopefully the same, here he is in a white top,
- 21 possibly the same day or later because there is the
- 22 stick, maybe it's got hot and he has taken off his top
- 23 and there is a white top. Then 18, back to the camera,
- 24 but a profile?
- 25 A. Yeah.

- 1 Q. 19, again back, 20, I'm going quickly, just making
2 a point, there he is talking to somebody, still by the
3 blue VW, there he is in white, all the way through; 25,
4 he is still in white; 26, 27, 28 he is in a vest, and so
5 on. Just pausing for a moment, these photographs of him
6 with a white top on, whether it's a T-shirt or a vest,
7 these particularly number 22, if you just turn back to
8 it, number 22 in this sequence, do you have that one?
- 9 A. Yes, sir.
- 10 Q. It's not a full frontal but it's not a bad shot, is it,
11 for getting a view?
- 12 A. It's a very good image, sir, yes.
- 13 Q. If you had had this kind of image available to you at
14 some point before you got to Stockwell, well, certainly
15 at the briefing, this would have helped a great deal,
16 wouldn't it?
- 17 A. I agree, sir, yes, I think it would.
- 18 Q. Then there are photographs towards the end. There are
19 some that are not of him and I'm sorry, that's an error.
20 But there are photographs, 36 it should be, where it
21 appears -- I'm not putting it higher than that -- it
22 appears at photograph 36, do you have that?
- 23 A. Yes.
- 24 Q. That he's driving the VW away?
- 25 A. I think that's a reasonable assumption.

- 1 Q. I haven't put it higher. Thank you. Now, in addition
2 to those, were you ever made aware that in the rucksack
3 there were a series of other photographs of Osman?
- 4 A. No, sir.
- 5 Q. These are known as the wedding photographs; they were
6 torn and re-assembled, in fact before your briefing.
7 They are at divider 39 in the exhibit bundle that you
8 have there on the right, divider 39, if you just look at
9 those.
- 10 A. No, there is nothing in 39 I am afraid: it's on screen.
- 11 Q. Sorry, if you would like to put it down, I do not want
12 you to be cluttered.
- 13 SIR MICHAEL WRIGHT: They are on the screen. You made this
14 point with Derek, you know, Mr Mansfield, there has
15 never been any challenge about it; it's plain that they
16 are better than the gym card.
- 17 MR MANSFIELD: I won't take a lot of time but it's --
18 plainly when the officer comes to deal with this, he
19 gives an explanation as to why they weren't revealed,
20 but I just want this officer who was Bronze on the
21 ground -- can we go through them very quickly, flash
22 them across the screen, fleeting glances, I am afraid.
- 23 Simple question: had you had these images at the
24 briefing, they also would have helped, would they not?
- 25 A. Yes, sir.

1 Q. Thank you. Now I am going to move on.

2 SIR MICHAEL WRIGHT: Subject, I suppose, only to their age.

3 We don't know when they were taken.

4 A. No, sir.

5 MR MANSFIELD: But then you didn't know where the poor image

6 was taken either, did you?

7 A. No.

8 Q. What you really need is as broad a spectrum of

9 photographs of the same person as possible?

10 A. As good an image as possible, yes.

11 Q. As good an image as possible?

12 A. Yes.

13 Q. Just again on the question of identification, we will

14 put perhaps with your help one thing aside: the

15 identification codes, and I'm going to put it bluntly,

16 really are a complete waste of time, aren't they?

17 A. They are a guide -- well, I do appreciate that when you

18 come to dealing with North Africans or South Americans

19 or people of that ilk, then it can be very difficult.

20 SIR MICHAEL WRIGHT: They don't purport to tell you what

21 nationality the person is?

22 A. It is difficult, sir. You can describe some targets

23 that we do at the moment as possibly IC4/IC6/IC2. It's

24 a very, very difficult --

25 SIR MICHAEL WRIGHT: As I understand it, it's a way of

1 giving you an idea of the physical appearance, that's
2 all.

3 A. Yes, sir.

4 MR MANSFIELD: I really don't want to spend a lot of time
5 because we know that this particular subject was
6 described initially as IC1, then as IC2, then as IC6,
7 three different categories --

8 A. I think I referred to him as being similar in complexion
9 to a North African male.

10 Q. Yes, you give it a word description but we can see in
11 various log references that these different codes come
12 up for the same person, do you follow?

13 A. Yes, it is an awkward system and obviously each person
14 is giving their view or their impression, dependent on
15 their view, and you can get a number of discrepancies,
16 yes, sir.

17 Q. Has anybody thought about changing it and making it
18 rather more --

19 SIR MICHAEL WRIGHT: I don't suppose he knows the answer to
20 that.

21 A. Not to my knowledge, sir.

22 MR MANSFIELD: All right.

23 Now, at the briefing, are we to understand that, as
24 far as you know, you are the only one that you know of
25 who actually took a copy of the Osman image with you?

- 1 Others may have done but you just don't know?
- 2 A. I don't know, yes.
- 3 Q. Is it your responsibility, as the Bronze Commander, to
4 make sure that your team who are going to be out in the
5 field do have a copy with them, otherwise they are going
6 to have to keep rushing back to your vehicle and saying:
7 I need to refresh my memory; and that won't look too
8 good, so is it not part of your function to make sure
9 they have got them?
- 10 A. I don't think it is, sir, no. Mostly the officers won't
11 take images because they know that if they lose those
12 images, they would probably be --lose their place on
13 the unit.
- 14 Q. Yes, one does understand that, but what one is looking
15 for is, since you are doing an identification exercise,
16 really that you have to trust them and they have to
17 trust themselves that they are not going to lose the
18 very item they are entrusted with. Let us look at it
19 objectively. It really is really quite ridiculous, to
20 use your word, to send them out into the field without
21 the image, isn't it?
- 22 A. That's what they normally do, sir. They look at the
23 image at the briefing and they keep that image in their
24 head and then they will normally come back to me at some
25 stage in the operation, once they have had a look at the

1 subject, to have another look at the photograph. That
2 invariably happens, sir.

3 Q. That's extremely long-winded, if you don't mind me
4 saying, isn't it?

5 A. I can accept what you are saying, sir. It's not ideal,
6 but because I am not getting out of my car every five
7 minutes, because controlling, I am mainly sitting in the
8 car and don't get out a lot, but these officers have to
9 get out and (inaudible) extremely quickly, to jump on to
10 tube trains and on to buses, then they wouldn't trust
11 themselves to leave that image behind maybe in the car
12 where it could be broken into and lost, or elsewhere, or
13 lost out of their pocket.

14 SIR MICHAEL WRIGHT: A witness some time ago told us if they
15 were dropped or lost, picked up by somebody else, that
16 that would be a matter taken seriously.

17 A. Very seriously, sir, yes.

18 MR MANSFIELD: So I think you are accepting that it's not
19 ideal for the person in the field to not have the image
20 with them, and having to come back to you or whoever's
21 got it.

22 Who in the team knew who had got the image?

23 A. They would always know that I would have an image, sir.

24 Q. Would anybody else have one in your team?

25 A. I don't know, sir.

1 Q. As a normal rule, would anyone else in the team have at
2 least one?

3 A. As a rule, sir, I don't think there is a rule, no.
4 Certainly I would have a copy and anyone else if they
5 wanted to could take a copy out with them, sir.

6 Q. Again, I am moving from the briefing just to deal with
7 one aspect of your arrival at Scotia Road, and that is
8 your plan with Derek or your agreement with Derek that
9 there should be an interception by your team, that is
10 your joint teams, if S019 are not there. One question
11 on that: did you have any idea how that would be
12 accomplished by S012 at Scotia Road? In other words,
13 the vicinity of Scotia Road. Did you work that out?

14 A. No, sir.

15 Q. So you hadn't, or had you worked out a place, was it the
16 junction of Marnfield Crescent and Upper Tulse Hill; had
17 you worked that out?

18 A. In relation to Scotia Road, as I said, what you had
19 there was the red team had control of that plot, and in
20 fact we had been warned off going anywhere near that
21 plot to do our own recce, by a member of the red team.
22 That would be Edward, who warned off one of my officers
23 and said, you know: you are coming on to our plot,
24 please keep away. So we were, if you like, prevented
25 from doing our own recce on the area. So the reds would

1 be, if you like, the immediate first officers in if that
2 was to happen and we would come in and back them up.

3 My feeling was, is that if the subject had
4 potentially moved towards bus stand, any identified
5 person towards the bus stand immediately outside, then
6 that would have to be, if you like, the first point of
7 containment. If that person perhaps would have moved
8 away from that bus stand, then it could have been done
9 at a more convenient point, but I don't think it was set
10 in stone as to exactly where --

11 Q. That's understandable --

12 SIR MICHAEL WRIGHT: You may have explained to us, why would
13 reds not want you coming on to their plot?

14 A. I can only assume that they must have felt that we would
15 be likely to blow their cover by --

16 SIR MICHAEL WRIGHT: Too much movement around with more
17 people there.

18 A. Yes, sir. I think it's a fine balance. Obviously I
19 want my team to go in there and have a look because we
20 may have to take over that plot from them. It's like
21 you mentioned a school yesterday, sir. I wasn't aware
22 of that. I hadn't been down to recce the plot.
23 I looked at my map, I couldn't see any schools in the
24 immediate environment, but you know, that would be
25 ignorance on my part from not having to actually get

1 down and actually check the plot, sir.

2 MR MANSFIELD: One other question on that: irrespective of
3 exactly where you would do it because you had not --
4 that wasn't fixed in stone, were you confident about how
5 the officers would do it?

6 A. Yes, but it would have been a hard challenge, an armed
7 challenge, from cover, sir.

8 Q. Right. Just moving on, or can I just ask you: if it's
9 a hard challenge from cover, does that somebody's going
10 to have to shout something out?

11 A. Oh yes.

12 Q. Right.

13 A. There would be a lot of shouting, sir.

14 Q. Yes, we have heard that in relation to another witness.

15 Moving on from that intention that you had, if it
16 was necessary, to you moving out of Roupell Road, you
17 can turn back to plan number 7, please, in that
18 brochure. It's easier for you to follow. I'm going to
19 use this because it has more detail on it than the
20 bigger one you were shown yesterday which obviously
21 deals with a much bigger area.

22 Roupell Road there is on the left-hand side of this
23 plan. It's not marked in name, but it's underneath the
24 two inserts, "Bus route from these stops", and then the
25 plan and insert of London; do you see that?

- 1 A. Yes, sir.
- 2 Q. You are in part of that road. I am not going through
3 that. Then you decide to drive into Upper Tulse Hill.
- 4 The first thing that you have told us about is
5 seeing another officer whose name you wrote down last
6 night. Others have established that this person is
7 known to us as Tango 2, the one you wrote down last
8 night.
- 9 A. Sir.
- 10 Q. Can you just place on this map that you have in front of
11 you, by reference to anything that's written on it,
12 where it was that you saw Tango 2 from the red team?
- 13 A. On the offside footway, probably just to the east of the
14 bus stand that you have marked, the 201 bus stand, so
15 probably just north of Valens House.
- 16 Q. I have the bus stand for the 201.
- 17 A. If you come east of that, you have got a block there
18 marked as Valens House on this map anyway. On the
19 opposite carriageway, you have number 149.
- 20 SIR MICHAEL WRIGHT: That's not the right part of the
21 screen.
- 22 A. That's it.
- 23 MR MANSFIELD: These are the two bus stops that are opposite
24 each other.
- 25 A. I think the officer was in front of Valens House on the,

- 1 if you like, the south footway, opposite the block 149
2 which is marked on there.
- 3 Q. Sorry, he is on the south footway?
- 4 A. Yes. I think, is it Rickard Close? It's covered up
5 here by the thing for TA Centre. Just before that
6 junction there.
- 7 Q. Right, in that stretch of pavement on the south side,
8 that's where he is?
- 9 A. That would be my best guess, sir, yes.
- 10 Q. All right. In the Health and Safety trial you
11 indicated -- you didn't give the name, you weren't
12 asked, of this officer but you did talk about this
13 officer, indicating that you had actually heard
14 a commentary that he was making. You may not remember
15 this?
- 16 A. He was commentating but he was saying, the main thing
17 that I picked up on was that he was too far away --
- 18 Q. But he could see the person?
- 19 A. Yes, sir.
- 20 Q. So he is saying he could see him, but he was too far
21 away to catch him up?
- 22 A. He definitely did see him because I identified
23 Mr de Menezes on the left-hand side and --
- 24 Q. On the north pavement?
- 25 A. On the north footway, yes, and asked that officer,

- 1 Tango 2, if that was the male that he was currently
2 surveilling, and he identified that he was.
- 3 Q. I'm asking you this in a little detail because we have
4 statements from all the Tango officers, including
5 Tango 2, and at the moment he doesn't say anything about
6 this sighting or where he was. So can you help us, when
7 you saw Tango 2 and then you saw Mr de Menezes and
8 wanted to sort of tie the two up, where was de Menezes,
9 was he where you indicated yesterday?
- 10 A. He must have been just short of the junction
11 Ewen Crescent.
- 12 Q. Right.
- 13 A. My recollection at the time was that there was some
14 distance and for some reason in my head I had sort of
15 150, 200 metres. When I have been back to the scene to
16 look, because your sense of distance can be distorted,
17 it clearly wasn't that far away, but that's where
18 I guessed between, certainly just before the junction of
19 Ewen Crescent on the north (inaudible).
- 20 Q. Please understand I am not going to pin you to metres,
21 but we need a feel for what it was and I appreciate it's
22 a long time ago now.
- 23 A. Yes, sir.
- 24 Q. Just to summarise your evidence and then I have some
25 questions: what you do is you drive towards Jean Charles

- 1 de Menezes on his side of the road, and you in fact pass
2 him while Ken is still in your car?
- 3 A. Yes, sir.
- 4 Q. You are driving, I think you told Health and Safety, at
5 a normal speed?
- 6 A. A normal road speed for that road at that time; as
7 I say, I think there was traffic slowing down for the
8 traffic at the junction ahead.
- 9 Q. What, something between 15 and 20 miles an hour?
- 10 A. I guess so, yes.
- 11 Q. Is that fair?
- 12 A. Yes, sir.
- 13 Q. You are having to drive, and you are having to look out
14 of your window across somebody, and I appreciate you are
15 trying to do the best you can, but would you agree that
16 the sighting you had was no more than a fleeting glance?
- 17 A. Yeah, I would say yes, it was a fleeting glance, yes,
18 sir.
- 19 Q. That is the only time you were able or were in
20 a position to have a look at this man, wasn't it?
- 21 A. Yes, sir.
- 22 Q. Now --
- 23 SIR MICHAEL WRIGHT: You were driving at the time?
- 24 A. I was driving. In my mind at that time, Ken was doing
25 the looking for me, Ken would do that for me. As

1 I indicated yesterday, I was happy to blow Ken's cover
2 for the purposes of getting that identification sorted
3 as early as possible.

4 MR MANSFIELD: That's why you let him out of the car. Now,
5 I appreciate you say you don't know exactly what he did.
6 We will hear from him later but not today about what he
7 says he did do.

8 Just concentrating on your fleeting glance, as you
9 have agreed it is --

10 A. Yes, sir.

11 Q. -- leaving aside codes and all the rest of it, do you
12 agree that there is a fairly -- fairly -- logical
13 progression of levels of identification? May I just put
14 them to you to see if you agree. The lowest or highest,
15 however you look at it, the first one is: it's not
16 Osman, so you exclude him, right, that's the first one?

17 A. Yes, sir.

18 Q. The second one is: I really don't know one way or the
19 other, I just can't tell?

20 A. I imagine you could get to that scenario, yes, sir.

21 Yes.

22 Q. I am just trying to frame --

23 A. It's not the way that we do it, but I can understand
24 what you are saying and I can imagine those words being
25 used, yes.

- 1 Q. I'll come to the way you do do it in a moment. Then
2 above that or next is: it could or might be Osman, in
3 other words it's a possible?
- 4 A. Yes, sir.
- 5 Q. Then above that, there is a good possible, which really
6 is the same as saying it's probable?
- 7 A. No, I wouldn't agree with that, sir, no.
- 8 Q. All right, I'll come to how you put it in a moment.
9 Then obviously I'm suggesting the final thing is, well,
10 it is him, all right?
- 11 A. Yes, sir.
- 12 Q. You have made a positive identification, that's him?
- 13 A. Yes, sir.
- 14 Q. That's what I have put to you, but perhaps in fairness
15 to you, how did you do it at the time, was the squad
16 dealing with these things?
- 17 A. By ways of a possible -- as I say, there can be a broad
18 range of views and it would depend, I think, on how good
19 a view you got and how good the image was. There are so
20 many variable factors, so if you are looking at a good
21 quality image that you know is a good likeness of the
22 subject, you get a good look at the subject, I think you
23 can say you are more confident that that person is
24 a good possible. If the image isn't great and the view
25 you have got isn't ideal, and it depends on lighting

1 conditions as well, then you can say that person is
2 a possible, but you could be erring towards the side of,
3 well, I really can't say but it could be.

4 It is very inexact science, I am afraid. It's not
5 great, I wish we had a better system, but possibles are
6 always going to be in play in our field of work.

7 SIR MICHAEL WRIGHT: You don't have any formalised language?

8 A. No, sir, not really.

9 MR MANSFIELD: So I know you haven't put what's either side
10 of possible. Do we understand that really it's either
11 he isn't or he is, and in between is a whole range of
12 possibles?

13 A. Yes, sir.

14 Q. That's how it worked?

15 A. Yes, sir.

16 SIR MICHAEL WRIGHT: "possible" is about as big a grey area
17 as you can possibly imagine, as between no, it's not him
18 and yes, it is him, and everything in between is
19 possible.

20 A. Clearly skin tone has a lot to do with it, and obviously
21 the image that we had, it is hard to work out skin tone
22 and, you know, obviously if someone is put out and they
23 are clearly white and obviously if they are clearly the
24 wrong age group or something, then it is easy to turn
25 round and say no, it's definitely not the subject.

1 SIR MICHAEL WRIGHT: I think what you and other witnesses
2 have been telling us, one thing is absolutely clear,
3 that if you are using the word "possible", doesn't
4 matter whether it is good possible, middling possible or
5 poor possible or whatever, it's not an identification.

6 A. No, sir.

7 SIR MICHAEL WRIGHT: That's absolutely clear in your mind?

8 A. Yes, sir.

9 MR MANSFIELD: Sir, I wonder if that's an appropriate
10 moment?

11 SIR MICHAEL WRIGHT: Yes, is that a suitable moment for you?

12 MR MANSFIELD: Yes, it is.

13 SIR MICHAEL WRIGHT: Very well, 20 to, ladies and gentlemen.

14 (11.32 am)

15 (A short break)

16 (11.45 am)

17 (In the presence of the jury)

18 MR MANSFIELD: We had got to near the junction with
19 Tulse Hill where you had had the fleeting glance. Would
20 it be fair to say that as a result of the fleeting
21 glance, the most you could really say is, "I can't rule
22 him in, and I can't rule him out"; would that be a fair
23 summary?

24 A. Yes, sir.

25 Q. Right. So we go round the corner, and I'm going to, as

1 it were, shoot on ahead through Brixton to the point at
2 which you have a call from the control room about
3 percentage, and we have been through all that, so
4 I don't ask you again about that, just so you place it
5 in your mind. That's where I want to go to now.

6 And Lawrence is in your car, having driven past,
7 himself, and then parked up, he has come to your car.
8 You have told the control room that it's a ridiculous
9 question to ask you for a percentage, and you have given
10 all your reasons. So that's the context.

11 First of all, when you were telling the control room
12 that you weren't in the business of giving a percentage
13 and the rest of the team effectively hadn't added
14 anything to it, did you tell them -- I will put it the
15 other way round: first of all, it was extremely
16 important at that stage to take very great care about
17 how you expressed what the view was, either of yourself
18 or anyone else to the ops room; do you agree?

19 A. We were being asked, or I was being asked for the team
20 to give an assessment, and I gave that best assessment
21 that I could, sir, in good faith.

22 Q. Do you agree that giving an assessment of identification
23 has to be done, if you haven't got a league table and
24 you haven't got, you know, a particular gradation that
25 you are using, it's got to be expressed carefully,

- 1 hasn't it?
- 2 A. I did qualify how the view that I had had when I passed
3 on my comment, yes, sir.
- 4 Q. So you say you were making clear to the ops room that
5 you had really -- you may not have used the word
6 "fleeting", but you had only had a glimpse or a quick
7 look or something like that?
- 8 A. Yes, sir.
- 9 Q. So they knew that?
- 10 A. Yes, sir.
- 11 Q. The learned Coroner today asked you whether you told the
12 ops room about Lawrence's opinion, and you said you
13 didn't tell them that.
- 14 A. That's right, sir, I didn't.
- 15 Q. Is there a reason why you didn't tell them at this point
16 about Lawrence's different opinion?
- 17 A. Lawrence didn't make any comment whilst I had asked the
18 relevant question of my team, and he only mentioned this
19 comment after I put the telephone down, and once I had
20 asked him what sort of view he had had, it was clear to
21 me that he had had no real better view than I had had
22 myself which was a fleeting view on a drive past, and
23 that also he was in the area of being a possible but he
24 didn't think it was him. But in my mind he was still
25 saying it possibly could be.

- 1 Q. Would this be a fair summary, at this position, this
2 point in the journey, the best that the -- and please
3 understand this is not a criticism, I am just trying to
4 summarise the position of what you say happened here --
5 the best one could say about the grey team's
6 identification was an equal balance between you thinking
7 he might be a possible --
- 8 A. Yes.
- 9 Q. -- and another fleeting glance, thinking he might not?
- 10 A. There is that, sir, and also Ivor had had a look at him
11 on the bus, Ivor, I think, had commented that he wasn't
12 in a position to make an identification, but that the
13 subject had Mongolian eyes.
- 14 Q. Ivor had had, roughly anyway, much more time than you
15 had had because he had been on the bus?
- 16 A. Certainly, sir, yes, that was my assumption --
- 17 SIR MICHAEL WRIGHT: This is what you described as being
18 "50/50 no man's land"?
- 19 A. Yes, sir.
- 20 MR MANSFIELD: So if it's "50/50 no man's land", you see,
21 I want to try to see if we can ascertain how on earth
22 the control room got completely the wrong impression, do
23 you follow?
- 24 SIR MICHAEL WRIGHT: How does he know?
- 25 MR MANSFIELD: He doesn't, except -- and I'll come to the

1 point right now.

2 Do you think it's possible that you did express your
3 opinion rather more strongly than "no man's land" and
4 say to the control room, "I think it is him"?

5 A. No.

6 Q. Well, the reason I ask you that question, I think you
7 will anticipate, that is the wording that you put in
8 your statement, page 228, please. The jury don't have
9 it.

10 A. I think the wording I use, "I think it's him", yes, sir.

11 Q. That's just what I put to you.

12 A. You said, "I think it is him", yeah.

13 Q. You wouldn't be saying to the ops room, I'm trying to
14 put it in real time, 228 so we see the paragraph,
15 between 9.49, do you see that:

16 "I replied over the telephone that this was
17 impossible to do..."

18 That's the percentage question?

19 A. Yes.

20 Q. "... but that I thought that it was Nettle Tip."

21 Obviously you are reporting here in a statement?

22 A. Yes.

23 Q. So what you would say is -- "I thought it was", you
24 would probably say "I think it is"; do you follow? In
25 real time?

- 1 A. As I say, the exact words I used, I couldn't be
2 100 per cent on. I say I did qualify the identification
3 that I was going to make because no-one else from my
4 team at that point was able to give any identification
5 and I had been further asked by the ops room: is there
6 anything you can say about the identification of this
7 man; and I said that I had seen him in Upper Tulse Hill
8 and from the view that I had seen which wasn't great but
9 that I thought it was.
- 10 Q. You see, that wording could we have now on screen,
11 please, the grey team log, page 231, supplementary D,
12 which we have seen already but it's just the wording,
13 same point:
- 14 "Couldn't give a percentage figure, impossible, but
15 I thought it was Nettle Tip".
- 16 A. Yeah, I think the words I probably used were "I think
17 it's him" or "I think it could be him".
- 18 Q. There is a difference --
- 19 A. I do appreciate there is a difference, and I cannot for
20 the life of me confirm exactly what the words were, sir.
- 21 Q. The reason I ask you was when you were being asked this,
22 did you know why the control room was so anxious to find
23 out from you what was the position on identification?
24 Did you know why they needed --
- 25 A. No, they didn't ask that, sir, they just said could you

1 give the percentage.

2 Q. Did you appreciate, if they based it on what you said,
3 and I am not in a position to know who gave them the
4 material, but if they based it on what you were saying,
5 then it would be a very unsatisfactory basis for
6 authorising a firearms operation, wouldn't it?

7 A. I would have liked to have known the reasons why they
8 were asking me that question before I answered that,
9 sir.

10 SIR MICHAEL WRIGHT: Remind me, Mr Mansfield, I have lost
11 the timing from my memory at the moment, that was when
12 they were parked in front of the bus at Brixton, when
13 this discussion took place?

14 A. This discussion took place when --

15 MR MANSFIELD: No, a bit later.

16 SIR MICHAEL WRIGHT: The point is, what I'm trying to sort
17 out in my own mind and for the jury's mind, this is
18 an interesting discussion but it precedes, from what we
19 have heard from other witnesses, what purports to be the
20 calling off of the follow and the sending in of the S013
21 team.

22 MR MANSFIELD: No, it doesn't.

23 SIR MICHAEL WRIGHT: I have got muddled in my own mind, it's
24 all right.

25 MR MANSFIELD: So I appreciate what you are saying, namely

1 you would have liked to have known why they wanted to
2 know and they didn't tell you. I have to ask you this:
3 do you think at that time -- and I'm going to put it in
4 a colloquial way -- you may have just overegged the
5 pudding a bit and they got the wrong end of the stick?
6 Do you follow what I am putting?

7 A. I have given the best assessment I could when I was
8 being pushed to give some form of identification, sir,
9 that's all I can say.

10 Q. All you can say; well, I would like you to look at what
11 Lawrence has written in the log about this at page 11.
12 I am asking you, because you have signed the log,
13 I think on each page, haven't you?

14 A. Yes, sir.

15 Q. 235 is an entry by Lawrence, 37 is the code, and he's
16 talking about the discussion with you. At the time of
17 the debrief, did you read this?

18 A. At the time of the debrief, what -- the way the debrief
19 took place was we discussed the follow chronologically,
20 and when we got to a relevant point where somebody said
21 they had an entry to make which wasn't already included
22 in the log, then that would be passed to them. They
23 would verbally say what they were going to -- what they
24 had seen and what they had heard. Then they would write
25 into the log and that log would be passed to me and we

1 would carry on but I didn't check what they had written.

2 No, sir.

3 Q. I want to ask you if you can help, and I think you
4 obviously know because you have been asked in the past
5 about this entry. Can I just read down to the bottom of
6 the page:

7 "Reference the discussion I had with James relating
8 to the identity of NT, I saw the male who is referred to
9 at NT [or is it "as NT"] on the Brixton Road after he
10 had left the number 2 bus [reference to the time, 9.47].
11 I saw a side view of his face as I slowly drove past him
12 whilst he walked along the nearside footpath. Looking
13 back I had a split second view of his face and believed
14 it was ..."

15 You see the word "not" has been inserted?

16 A. That's an allegation, yes, sir.

17 Q. You know that it is an accepted allegation in the sense
18 it's been added?

19 A. Yes, sir.

20 Q. Right. I am not suggesting you did it, and plainly you
21 didn't do that, did you?

22 A. No, sir.

23 Q. Did you know at the time that it originally read:

24 "I believed it was ..."

25 A. No, sir.

- 1 Q. Is there any possibility that the discussion you had
2 with Lawrence about covering up the hair and all the
3 rest of it ended with Lawrence agreeing with you that
4 maybe or "I believe it was", is there any possibility of
5 that?
- 6 A. No, sir.
- 7 Q. If it wasn't like that, and we leave it for Lawrence to
8 explain how that came about, and your understanding was
9 that he stuck by an opinion that it wasn't, it's back to
10 the question the learned Coroner asked you: why did you
11 not phone the ops room back and say, "Look, I have told
12 you my view but you ought to know that it's somebody
13 else's view that it wasn't"?
- 14 A. Well, I didn't make that call, sir, I have made that
15 clear, why I didn't, I just didn't. As I said, we had
16 had a discussion; he said, "I don't think it is him", or
17 "I don't think it's him", and I said, "Well, look, have
18 another look", and I believe that his view had softened,
19 if you like, in relation to it being more, "I don't
20 think it's him but I am not absolutely certain", sir.
- 21 Q. Did it soften so much that he agreed with you?
- 22 A. No.
- 23 Q. So you have no explanation for not ringing back. Would
24 it be that you didn't ring back because you didn't at
25 that stage realise how significant what you were saying

1 about the identification was? Is that why you didn't
2 ring back?

3 A. I would agree with that --

4 Q. You would agree?

5 A. Yes. Yes, sir.

6 Q. Thank you very much.

7 I have only one other matter that ask you about, and
8 that is really coming right on to the end, some of which
9 you have already dealt with. Difficult, and it's
10 hypothetical, and please say if you feel it can't be
11 answered by you. But can I put you back in the car, you
12 are hanging on for a minute and a half for an answer
13 about whether he should be detained or not. Right?
14 Now, suppose that you had not had to ask the control
15 room for directions, and you had been left to your own
16 devices as a Bronze Commander; what would you have done
17 at that point?

18 A. That is very much hypothetical, sir. It depends so much
19 upon the environment at the time, how many people there
20 are around, the location of the subject.

21 Q. Can I put to you, based on observations you have made in
22 the past, that actually what you were planning to do was
23 to continue the follow, and you had actually considered
24 sending one of the officers up to the Oval in advance?

25 A. Yes, sir.

- 1 Q. So that's what was going through your mind, wasn't it?
- 2 A. That was in my mind until Ivor had offered to --
- 3 Q. Stop?
- 4 A. -- do the stop, yes, sir.
- 5 Q. All right. Then just dealing with that aspect, once he
- 6 had offered to do the stop and you were confident about
- 7 the fact that he could do it, he being experienced,
- 8 I think you said the most experienced member of the
- 9 team?
- 10 A. Yes, sir.
- 11 Q. If you hadn't had to go back to the control room, are we
- 12 safe in assuming you -- if it had been left to you --
- 13 would have said, "Get on with it"?
- 14 A. That is a hypothetical, sir, I -- because I knew that
- 15 there is a chance that 19 were coming towards us,
- 16 I couldn't make that call on my own because of the
- 17 potential blue on blue, sir.
- 18 MR MANSFIELD: All right, I understand the dilemma. Yes,
- 19 thank you very much.
- 20 SIR MICHAEL WRIGHT: Mr Stern.
- 21 Questions from MR STERN
- 22 MR STERN: James, I ask some questions on behalf of C2 and
- 23 C12. There is no need to face me, if you find it easier
- 24 to talk into the microphone that way.
- 25 A. Okay, sir, thank you.

- 1 Q. Can I ask you some general matters first of all: it's
2 right, isn't it, that you didn't know that
3 21 Scotia Road had a communal door?
- 4 A. I didn't know that 21 had a communal door at the time of
5 the briefing, sir. I believe that I may have heard it
6 over the radio from Frank when we arrived on scene and
7 I asked for a sit rep, and I'm pretty certain that he
8 mentioned he was looking at a door and I think he did
9 say it was a communal door, but how many flats there
10 were beyond that communal door, I wasn't aware of, sir.
- 11 Q. Right, and you were never aware of how many flats there
12 were within that block?
- 13 A. No, sir.
- 14 Q. I think it's also right, isn't it, that when the Cougar
15 radio fill transferred from the red to you, I think you
16 adopted the fill that they had; is that right?
- 17 A. I think you may be confused between channels and fill,
18 sir. Everyone on that operation would have been on the
19 Theseus encryption fill. That just allows everyone to
20 talk to each other. You have then got an opportunity to
21 select certain channels.
- 22 Q. Right. You would have been on a different channel from
23 the red team, let me put it in that way?
- 24 A. The red team were on channel Alpha Zero. We joined them
25 on channel Alpha Zero. The only difference was, sir,

1 that the van itself was transmitting on a different
2 radio system and that was being relayed on to the Cougar
3 system.

4 Q. I am sorry, you have lost me a bit there.

5 A. Sorry.

6 SIR MICHAEL WRIGHT: Frank was using Airwave.

7 MR STERN: I appreciate that.

8 SIR MICHAEL WRIGHT: That's what you mean, isn't it?

9 A. Yes, sir.

10 MR STERN: The red surveillance team did not hear what it
11 was that the grey surveillance team were saying?

12 A. They didn't after we moved away from the scene, because
13 we remained on that channel and they then changed to
14 a channel Alpha One. So we had joint communications up
15 until around about the time that the subject got on to
16 the bus.

17 Q. Yes, so about 9.39, something like that?

18 A. Yes, sir, that amount(?) time.

19 Q. In a MASTS operation, it's right, isn't it, that
20 surveillance carry out the identification and point out
21 the suspect to the firearms team; I put it very simply
22 but that's essentially what happens?

23 A. That's essentially it, sir, yes.

24 Q. You have dealt with this to some extent but I want to
25 just ask you a little more about it. There is some

1 suggestion from the command team that there was
2 a non-identification from the consideration of this
3 suspect at some stage up to about 9.48 at the latest;
4 you are aware of that now?

5 A. I am aware of that now, sir, yes.

6 Q. I don't think any of the firearms officers hear this but
7 I want to explore one matter with you that emerges from
8 it. It's right, I think, on the evidence that you have
9 told us that the only person who expressed to you
10 directly that he was in doubt as to the identification
11 is that of Lawrence?

12 A. Yes, sir.

13 Q. No one else at all?

14 A. No.

15 Q. That was not transmitted by you over the radio?

16 A. No, sir.

17 Q. It was not transmitted by you over the phone?

18 A. No, sir.

19 Q. Did you hear anyone transmit it over the radio?

20 A. No, sir.

21 Q. Can you help with how it was -- I take up the question
22 of the learned Coroner -- how it was, is it
23 a coincidence, then, that at around about the same time,
24 the command team had a view that there was
25 a non-identification when Lawrence was expressing that

- 1 very same theme?
- 2 A. I don't know how they reached that opinion, sir.
- 3 Q. Do you know whether Lawrence spoke to anyone else on the
- 4 phone?
- 5 A. I don't think so, sir, but I don't know.
- 6 Q. We know that you called the operations room at 9.41 for
- 7 about 14 seconds?
- 8 A. Yes, sir.
- 9 Q. Was there anything in that conversation that you think
- 10 may have elicited or given that type of information to
- 11 the command team? It's difficult to think back now,
- 12 I appreciate that.
- 13 A. Yes, it is. I mean, all I can recall, as I have
- 14 mentioned, I think it was yesterday, I was letting them
- 15 know that we had adopted the follow, that we had
- 16 a possible for Nettle Tip and that he was on the bus and
- 17 we were following him.
- 18 Q. So is the answer you can't think of anything that you
- 19 may have said?
- 20 A. I can't think of anything that I may have said which
- 21 would have given them any reason to think that he was
- 22 a negative. If he was, I would have been telling them
- 23 that he was a negative and obviously we are pulling off
- 24 the follow or asking to pull off the follow.
- 25 Q. We know very shortly thereafter that an arrest team from

- 1 S013 were called on to go and stop the suspect?
- 2 A. I heard that now, sir, yes. I wasn't aware of it at the
3 time, sir.
- 4 Q. You didn't know it at the time?
- 5 A. No.
- 6 Q. But the position is this: that it is quite easy, is it
7 not, then, for words to be spoken and be interpreted by
8 others in a way that possibly you, thinking about it at
9 the particular time, did not intend to convey?
- 10 A. It's possible that somebody could read things into other
11 people's words. I don't think there would have been any
12 confusion between me and Pat at that time, at 9.41, that
13 we were going with the subject because I had just looked
14 at the photograph and decided he was a possible and we
15 should go with it.
- 16 Q. But in any event, it seems as if that message or that
17 thought process got through to the command team somehow,
18 you can't say how?
- 19 A. I don't know how it did, but yes, sir, it would appear
20 that it did.
- 21 Q. Yes. Yesterday, when you were giving evidence, you made
22 it clear that at one point when you came out of
23 RouPELL Road and turned right on to Upper Tulse Hill,
24 you spoke about the relevant surveillance team officer
25 on the offside footway and you have told us about him

1 and that he was concentrating on the subject ahead of
2 him:

3 "... I came up on the radio and said, 'Is this the
4 subject?' and I described the chap wearing the denims on
5 the left-hand footway and he said yes..."

6 A. Yes.

7 Q. Just one other example of the same thing, a little later
8 on -- sorry, for anyone's reference that was page 196,
9 I'm now going to page 207 and 208 -- you were asked
10 about at 9.42, one of the officers, Ivor, got on the bus
11 further up at Tulse Hill. Then a little later on you
12 said that there was a confirmation on the dress, dress
13 description, just to make sure it was still the same
14 person, and then the question was:

15 "Same man because wearing jeans and jeans jacket?

16 "Answer: Yes, sir?

17 A. My understanding is that that is what would have
18 happened, yes.

19 Q. I am sure it was not the only time that that happened on
20 that day, because continuity of the identification of
21 a person who's being followed is critical?

22 A. Yes, sir.

23 Q. It's in short absolutely essential to confirm that the
24 same person who gets on a bus, for example, is the same
25 person who was being followed up until that point?

- 1 A. Very much so, sir. In a position that we had there
2 whereby Mr de Menezes had got on the bus and there was
3 no officer with him, it would be normal for the next
4 officer to make contact to describe exactly what he was
5 seeing.
- 6 Q. And to confirm that it was the same person?
- 7 A. To -- by way of describing them in the fullest way they
8 can, you are assuming that that is the same person
9 because the identity will appear to be the same. My
10 understanding was that Ivor had seen Mr de Menezes
11 before he boarded the bus, and therefore it was quite
12 likely that he would be able to make that continuation
13 when he got on the bus and joined him, yes, sir.
- 14 Q. It's not just that instance but on a number of instances
15 we know that sighting was lost, for example at Brixton?
- 16 A. Yes, it was, sir, yes.
- 17 Q. We know because we have seen the CCTV that it was very
18 crowded before he got back on the bus and he went away
19 and then came back and then got on the bus and then, as
20 you say, Ivor -- Lawrence got on quite a few stops
21 further down?
- 22 A. Some further way down the road, yes, sir.
- 23 Q. So it would be important, would it not, to confirm that
24 you have the same person in your sight as the person who
25 had been seen before?

- 1 A. Yes, sir.
- 2 SIR MICHAEL WRIGHT: Sorry, Mr Stern, what's the point?
- 3 There is no suggestion that there was any mistake like
- 4 that, they followed the same man throughout. So what's
- 5 the point?
- 6 MR STERN: I am just going to come to it, if I may.
- 7 SIR MICHAEL WRIGHT: All right.
- 8 MR STERN: Now, we know that, as I say, Ivor lost contact
- 9 and we know Lawrence lost contact; yes?
- 10 A. Ivor lost contact with him, ie he didn't get back on the
- 11 bus with him, and then Lawrence then joined him on the
- 12 bus some time afterwards, yes, sir. So there was
- 13 a period when he wasn't actively being looked at.
- 14 Q. How would it be confirmed that the identification of the
- 15 person was the same?
- 16 A. As I explained earlier, it would be normal for that to
- 17 be dealt with by way of tones. I can't say for certain
- 18 if, on this occasion, that happened, but it would be
- 19 more than likely that the subject -- that the officer
- 20 would get on the bus, see the subject, and then give
- 21 three tones, and then that would be interpreted over the
- 22 radio, sir.
- 23 Q. That would be interpreted as definite, definitely the
- 24 same person, would it?
- 25 A. That would be normally asked by, "Do you have contact

1 with the subject?", normally it would be followed by
2 three tones, yes.

3 Q. That would be interpreted and put out over a radio as
4 confirming that position?

5 A. Yes, sir.

6 Q. If there is a loss, there should be included in the log
7 reference to that, should there not?

8 A. There should be, sir, yes.

9 Q. Could you just have up on the screen page 456, please.
10 Is there any reference to a loss?

11 A. Running towards number 2 at 9.48, and then the possible
12 on the mobile phone, right, it goes over to page 3, sir,
13 right hand, right ear, on to number 2 bus, double
14 decker. It gives the registration number of the bus,
15 which is the same bus and it doesn't say that there is
16 no person on the bus with him, but it's not a loss at
17 that stage, as such. I know what you mean, sir, but
18 it's not a loss because we have still got control of
19 him. We know he is on that bus. It's just that no one
20 is actually physically looking at him at that time.
21 It's a bit like if someone walks into a house, you know
22 he is in the house, it's not a loss but you don't see
23 him again until he comes out of the house.

24 Q. It's slightly different, isn't it, because a bus is not
25 quite the same as a house. A bus in this instance moves

1 along and nobody gets on the bus for, I think, three
2 stops, Lawrence gets on three stops after he has got on?

3 A. That's right, sir, and it's not that unusual for
4 surveillance teams sometimes not to put anybody on
5 a bus. If the bus stop itself is quiet, and there is
6 only a couple of people on the bus, we might decide as a
7 tactic not to put anyone on the bus and pick someone up
8 when they get off the bus.

9 Q. The point I am making to you is there is a possibility
10 that you could have lost contact with him. He could
11 have got off at one of those stops?

12 SIR MICHAEL WRIGHT: I'm going to make a nuisance of myself,
13 Mr Stern: what is this all about?

14 MR STERN: Well, if one looks at the log and I'm going to
15 look at it now --

16 SIR MICHAEL WRIGHT: Forgive me. There is no suggestion
17 other than that whatever the gaps may have been, they
18 started with Mr de Menezes at Scotia Road and they
19 finished with him at Stockwell.

20 MR STERN: But there were a number of confirmations, that's
21 the point I am dealing with. There are a number of
22 confirmations that they have the same person.

23 SIR MICHAEL WRIGHT: All right, so what?

24 MR STERN: It affects what people may have heard over the
25 radio.

1 SIR MICHAEL WRIGHT: As quickly as possible, please, and let
2 us move on to something else.

3 MR STERN: Could you look at the surveillance log at 456.

4 If we look at the final entry on that page, 9.49,
5 that "N, on mobile phone", is that Nettle Tip?

6 A. I discussed this with Ken, that's his entry, and I asked
7 him: what does that N with a circle mean? He said:
8 well, I looked at your N with a circle in your entry at
9 9.39 and presumed that that's what you were using for
10 an abbreviation for "possible with Nettle Tip". That's
11 my abbreviation for "north". That is what he explained
12 to me, that's what he was using as an abbreviation for
13 "possible with Nettle Tip".

14 Q. If we look at 9.39, the reference you have put, "N in
15 Tulse Hill"?

16 A. Yes.

17 Q. You meant north in Tulse Hill?

18 A. Yes, I did, sir, yes.

19 Q. But the other references are references to Nettle Tip,
20 are they?

21 A. The other references are, again as I explained, Ken
22 explained to me, because I said: what does this N with
23 a circle mean, I don't understand it; and he explained
24 to me that it was his way of writing the subject that
25 was being followed, it was the possible for Nettle Tip.

- 1 Q. The question I'm asking is the other Ns equal Nettle
2 Tip, that's what we should understand --
- 3 A. The other Ns equal the subject, yes, sir.
- 4 Q. If we look, the part of the log that deals with the
5 follow at page 456 going from 9.39 over the page to 457,
6 just down to 10.03, which is about a page and a half,
7 just under, is there anything in that log, just looking
8 at that particular aspect of it, that would indicate to
9 another individual that this person had not been
10 identified?
- 11 A. It's just commentary about what's happening with the
12 subject that we are following, sir.
- 13 Q. Yes, but if N equals Nettle Tip, the tenor of it is that
14 the person you are following is the suspect Nettle Tip,
15 isn't it?
- 16 A. No, it's already been explained that N is Ken's way of
17 describing the possible or the subject that's being
18 followed.
- 19 SIR MICHAEL WRIGHT: In other words it's confirming that
20 it's the same chap that you are following all the time?
- 21 A. Yes, sir.
- 22 SIR MICHAEL WRIGHT: Not who he is?
- 23 A. No.
- 24 MR STERN: But not U/I?
- 25 A. Not U/I, no. I mean, it is a U/I but what he has put

1 down is possible for Nettle Tip. As I say, I didn't
2 understand it when I saw it, when I read it, and I asked
3 him what it was and that was how he thought I was
4 referring to a possible or the subject being followed.
5 That was what his N with a circle is. He explained it
6 to me that was his abbreviation for the subject who was
7 being followed.

8 Q. Then it's right, as we have already seen what you said
9 in your statement and indeed in the log, you have made
10 it clear, have you not, that it was your view that you
11 thought that it was Nettle Tip; that's the way you put
12 it, not maybe or might be?

13 A. It was, as I say, it was a qualified view after being
14 asked that by the ops room. To give a percentage, if
15 I thought 100 per cent it was Nettle Tip, that would
16 have been an easy answer to make to the ops room when
17 they asked me for a percentage. I would have said yes,
18 it's him, it's 90 per cent, 100 per cent, 95 per cent.
19 That was impossible to do from the view that I had and
20 as far as I was aware, no-one on my team had made any
21 view known about whether or not it was the subject.

22 Q. No, I appreciate that, but the words that you spoke --

23 A. Yes, sir.

24 Q. -- never mind what was in your mind, because obviously
25 the person at the other end could only know what you

1 were saying?

2 A. Yes, sir.

3 Q. Not what's in your mind, and what you are saying is that
4 you thought it was Nettle Tip?

5 A. I thought that based on the view that I had, back in
6 Upper Tulse Hill, which was the reason for why we had
7 started the surveillance in the first place, and I made
8 it clear that I hadn't seen the subject since, was that
9 I thought it could be or it was or that -- yes, I think
10 the words I used, "I think it's him".

11 Q. You told Pat all those other things, did you?

12 A. Yes, I did, sir, yes.

13 MR STERN: Thank you.

14 SIR MICHAEL WRIGHT: Thank you. Ms Leek.

15 Questions from MS LEEK

16 MS LEEK: James, I ask questions on behalf of Trojan 84 and
17 a number of other officers within CO19.

18 I just want to ask you very briefly about the
19 conversation that Ken had with Trojan 84, because you
20 were sitting next to Ken at the time?

21 A. I was, yes.

22 Q. You have said that you were surprised when you heard
23 "state red" because nobody had phoned to say that they
24 were coming, nobody had phoned to say, "Where are you,
25 where is the subject, what's the subject wearing, can

1 you confirm it"?

2 A. Yes.

3 Q. Now, in your various statements that you have given, you
4 simply say, "Ken told me that somebody had phoned to ask
5 where we were"; yes?

6 A. I asked Ken: who was that on the phone; and he said: it
7 was SO19. I said: what did they want; and he said: they
8 just wanted to know where we were; yes.

9 Q. So in fact you don't know the full content of the two
10 and a half minute conversation that was had at that
11 time?

12 A. No, I don't, no.

13 Q. So we have heard from Trojan 84 in evidence in this
14 court that in fact he gave the description that he had.
15 He said:

16 "Look, this is what we have got, is this correct?
17 I gave the description I had already given, IC2, North
18 African appearance, wearing denims, I think that's about
19 it really but, you know, just the basics, and I got
20 a yes."

21 So in fact somebody had phoned and confirmed what
22 they thought at that stage, hadn't they?

23 A. I don't know that, but if they did, then they did, but
24 I was not aware of that, because I am not listening to
25 that side of the telephone call.

- 1 Q. But you were aware that he had asked for the location
2 where you were and where the subject was?
- 3 A. Indeed, yes.
- 4 Q. And the registration number of the bus and the fact that
5 the subject was on the bus were given out to him over
6 the telephone?
- 7 A. I can't recall that, I don't actually -- I'm not aware
8 what Ken -- I first became aware of Ken looking out the
9 front window, looking for landmarks, and I offered to
10 help, to, you know, try and deal with that call. I am
11 not aware of what conversation was going on between
12 them, I am sorry, I didn't take that in.
- 13 Q. If you had wanted to know exactly where the firearms
14 team were at that point, and what they were doing,
15 I think there would have been no reason why you couldn't
16 have phoned them back and said, "What's the position,
17 where are you?"; is that right?
- 18 A. I did not have a telephone number for them, no.
- 19 Q. I see, but there had been a phone call to you, and you
20 could have asked Ken to ask, couldn't you?
- 21 A. At the time when Ken put the phone down, and I said to
22 Ken, "Who was that?", he said, "It was S019". At that
23 point I -- normally with most of the phones, I don't
24 know for certain with this, I doubt if he could have
25 called back because most of the numbers are barred, they

1 are not displayed. If it had been displayed, then
2 potentially, yes, I could have asked him to phone me
3 back. At that point when that call ended, the subject,
4 Mr de Menezes, was actually coming down the stairs and
5 just about to get off the bus before Stockwell, so
6 I agree I could have investigated that possibility but
7 because of what was happening I didn't.

8 Q. There were other things going on at that stage?

9 A. Yes.

10 Q. As far as you were aware, you were at stage green,
11 I think still at this point?

12 A. If you can --

13 Q. You are aware of the traffic light system?

14 A. I am very aware of the traffic light system. There was
15 no reason to suspect that we were at anything other than
16 green.

17 Q. It was fair for you to assume that if you were at state
18 green, that the firearms team would have been some
19 little way back behind the surveillance team, because
20 that's what normally happens at state green --

21 A. That's what would happen at state green. At that stage,
22 I say I hadn't actually discussed with any firearms
23 officer anything about tactics, and so I didn't know
24 what stage they were at. But when surveillance is
25 behind a subject, we normally refer to that in firearms

1 operations as being at state green, yes.

2 Q. That's the point of the traffic light system. You know
3 what each stage means?

4 A. Yes.

5 MS LEEK: Red, amber, green. Thank you.

6 SIR MICHAEL WRIGHT: Thank you. Mr Perry.

7 Questions from MR PERRY

8 MR PERRY: Thank you very much, sir.

9 James, for these purposes I am asking questions on
10 behalf of Commander Dick, just so you understand that.

11 A. Yes.

12 Q. May I just try to examine the sequence of events,
13 please. The first time that you called Pat, the
14 surveillance monitor, in the operations room was at
15 9.41 am that morning?

16 A. That's the first time I had any contact with him, yes.

17 Q. By which time you were saying, "This subject is possibly
18 identical with Nettle Tip and he's on a number 2"?

19 A. Yes.

20 Q. What you didn't say to Pat at this time was, "I have
21 only had a fleeting glance when I tell you it's possibly
22 identical with Nettle Tip", did you?

23 A. I think at this stage I said to him, "I have had a look
24 at the pack, it's a possible, we are going with". There
25 wasn't time in a 14 second phone call to make that

- 1 clear, sir.
- 2 Q. The answer to my question is: yes, I did not say to Pat
3 that I had only had a fleeting glance?
- 4 A. I can't remember what words were used, sir, but I think
5 it's probably unlikely that I would have said that.
- 6 Q. Yes, and you said that the follow was to continue, and
7 you didn't say to Pat, did you, "I can't rule him in and
8 I can't rule him out"?
- 9 A. I don't think I could have said everything within
10 a 14-second phone call, sir. Words -- I can't say.
11 That was what was going through my head, sir.
- 12 Q. It may have been going through your head but what is
13 important is what has been conveyed to other people,
14 isn't it?
- 15 A. Yes, sir.
- 16 Q. You know the importance of communications because you
17 have been asked a lot of questions about them?
- 18 A. Yes, sir.
- 19 Q. You have been very quick to criticise others.
- 20 SIR MICHAEL WRIGHT: That's a comment, I think, Mr Perry.
- 21 MR PERRY: Very well, I won't press it.
- 22 Now, at this time when you are giving information to
23 the operations room, Harry was saying that the subject
24 was acting in a wary manner and appeared nervous?
- 25 A. Yes, sir.

- 1 Q. He was one of your team, wasn't he?
- 2 A. Yes, sir.
- 3 Q. That's what he was saying before 9.41 when you made the
4 call to the operations room:
- 5 "The subject is acting wary and in a suspicious
6 manner."
- 7 A. Yes, sir.
- 8 Q. So that was something else that added to your impression
9 of what was going on, wasn't it?
- 10 A. I had certainly had to consider it, yes, sir.
- 11 Q. Well, of course you would have to consider it. You are
12 the team leader. It's important, isn't it, one of your
13 team members who you have been listening to is saying,
14 "This person's acting in a suspicious and wary manner".
15 That's obviously important to you, isn't it?
- 16 A. Yes, I think he said he was wary and looking over his
17 shoulder at the bus stand.
- 18 Q. So that's a factor you take into account?
- 19 A. Yes, sir.
- 20 Q. What I want to do now is see whether we can shed some
21 illumination on the events that led to the operations
22 room believing that there had been a negative
23 identification. Do you understand that?
- 24 A. Yes, sir.
- 25 Q. So that's what we are focusing on. After the person

1 that you thought was possibly identical with Nettle Tip
2 had got on to the number 2, a short time later Ivor got
3 on to the same bus, didn't he?

4 A. Yes, sir.

5 Q. Ivor was on the bus for the period when it was
6 travelling from Tulse Hill into Brixton?

7 A. Yes, sir.

8 Q. If we look at 9.43 on the telephone schedule -- I won't
9 ask anyone to turn it up, but if we just have it on the
10 screen, 9.43 on the telephone schedule, 9.43 am. It's
11 9.43 and it's call 258. There is a call, isn't there,
12 from Harry of the grey team to what was originally
13 a redacted number but we can now see it's Ivor of the
14 grey team?

15 A. Yes, sir.

16 Q. That was when Ivor was on the number 2 with the subject
17 before it arrives at Brixton?

18 A. I believe so, sir, yes.

19 Q. Well, that would fit in with the timing, wouldn't it?

20 A. Yes, it would, sir.

21 Q. Can you recall the position was, at that time, that Ivor
22 was saying that he could not make any positive
23 identification?

24 A. That's quite likely that he did say that and he came out
25 with the comment about Mongolian eyes.

- 1 Q. Exactly. Because if Ivor is saying to Harry, that call
2 from Harry to Ivor would have been made for one purpose
3 and one purpose only, wouldn't it?
- 4 A. A call from Harry to Ivor is probably just to make sure
5 that he was happy, because it's difficult transmitting,
6 as I said, over the radio --
- 7 Q. Well, hang on a second. Harry is a surveillance
8 officer, isn't he?
- 9 A. Yes, sir.
- 10 Q. Ivor is a surveillance officer?
- 11 A. That's right, sir.
- 12 Q. Who's got the eye?
- 13 A. Ivor has got the eye at that stage.
- 14 Q. Who wants to know whether Ivor is making a positive
15 identification or not? (Pause)
- 16 It's important. You have told the control room,
17 haven't you, you are going to continue the follow?
- 18 A. That's right, sir, yes.
- 19 Q. Because you think it's Nettle Tip?
- 20 A. I think it's a possible.
- 21 Q. Possibly identical with Nettle Tip?
- 22 A. Possibly, yes, sir.
- 23 Q. And if Ivor's got the eye, what's the obvious thing
24 Harry's going to ask him?
- 25 A. I think he's going to ask him, "Have you got control of

- 1 the subject, are you happy, is there anything more about
2 the identification, or is there anything you can tell us
3 about the description?"
- 4 Q. I am happy with --
- 5 A. I am guessing what he's saying, sir, I don't know.
- 6 Q. It would be obvious, wouldn't it, at this stage for
7 Harry to be saying, "What do you think of the person you
8 are observing? Is it Nettle Tip?"
- 9 A. I think it's quite likely he would ask that, sir, yes.
- 10 Q. He did, didn't he, because we can see from the log at
11 page 468, if we put that up, and this is, just so
12 everyone knows, all before Brixton. I am very sorry,
13 sometimes I find this writing a bit difficult to read
14 but it's the entry further to supplementary C, isn't it?
15 This is Ivor's writing, isn't it?
- 16 A. Yes, it is, sir, yes.
- 17 Q. We need not turn back but just so everyone has it in
18 mind, C appears underneath the 9.47 entry in the log.
19 Remember yesterday you were asked whether it was a 7 or
20 not? It looks like a continental 7 with a cross?
- 21 A. That's right, sir, yes.
- 22 Q. If we see here, further to supplementary C:
23 "Whilst I was on the number 2 bus with the subject
24 [so this is Ivor in the time before Brixton] I received
25 a telephone call from Harry..."

1 So we know from looking at the telephone schedule
2 this is 9.43, so we know it's a few minutes before they
3 arrived in Brixton:

4 "... enquiring as to the identity of Nettle Tip."

5 Now, that's the obvious purpose for making the call,
6 isn't it? If you are on surveillance and you are -- you
7 have set them on the follow, the only purpose of having
8 the follow is to firm up or to discount the
9 identification, isn't it?

10 A. The purpose of the follow, sir, is to control the
11 subject out of the address and secondly to try to gain
12 some clue as to his identification, yes, sir.

13 Q. All right, let us see:

14 "I confirmed that I could not positively identify
15 the subject as Nettle Tip."

16 So that's what Ivor was saying to Harry?

17 A. Yes, sir.

18 Q. We can see that from the log. Now, if Harry's getting
19 that information from the telephone, Harry would be
20 putting that out over the Cougar channel, wouldn't he?

21 A. I would assume so, I can't actually recall but it's very
22 likely, sir, yes.

23 Q. It's very likely and if he is putting it out over the
24 Cougar channel, the people who could hear that would be
25 the people who were conducting the surveillance, the

- 1 grey team; is that right?
- 2 A. That's right, sir, yes.
- 3 Q. And Pat the surveillance monitor because he would be
- 4 listening in?
- 5 A. Yes, sir.
- 6 Q. And anyone else who could listen in to the Cougar
- 7 channel and the surveillance chatter?
- 8 A. Yes, sir.
- 9 Q. So Harry would be saying, because he is recounting
- 10 second-hand what Ivor has said to him, something along
- 11 the lines of, "Ivor says positively he can't make
- 12 a positive identification".
- 13 A. I can't recall exactly what words were said over the
- 14 air, but that is what he has written down. It possibly
- 15 was something like that that came over the air, sir,
- 16 yes.
- 17 Q. The effect of it would be Ivor has not identified him?
- 18 A. Has not identified him as Nettle Tip, that's right, sir.
- 19 Q. So that's before Brixton. Let us pick up the sequence
- 20 of events, because that would have gone out over the
- 21 Cougar system, of course, at around about 9.43. We know
- 22 that from the timing of the telephone calls, don't we?
- 23 That would have gone out pretty quickly after 9.43,
- 24 wouldn't it?
- 25 A. I think so, sir, yes.

- 1 Q. Shall we just see the sequence again to see whether we
2 can be a little more precise about these events, and we
3 know from the telephone schedule -- thank you very
4 much -- that the next contact that there is, we have
5 got -- I am going to pick it up at around the time of
6 Brixton, if I can, because we have a 9.45 S012
7 operations room to you; do you see that on the telephone
8 schedule?
- 9 A. Yes, I do, sir.
- 10 Q. At 263. I want to pick it up, if I may, at 9.50, when
11 you make a call lasting 32 seconds --
- 12 A. That's right, yes.
- 13 Q. -- to the operations room. Now, may we just get one
14 thing clear before we go through these, because I just
15 want to establish something. When we see James calling
16 S012 operations room or S012 operations room calling
17 James, may we take it that the person that you would be
18 speaking to on each and every occasion would be Pat, the
19 surveillance monitor?
- 20 A. That would be my assumption, sir. I would believe that
21 I was speaking to Pat on each occasion. I don't know
22 the officer well but I recognised his voice and I would
23 say that it was, sir, yes.
- 24 Q. I suppose we can get to it in another way; you weren't
25 speaking to different people?

- 1 A. No, sir.
- 2 Q. The person you spoke to on every occasion was the same?
- 3 A. That's my understanding, sir.
- 4 Q. Thank you. This 9.50 call, that would be when the
5 subject under surveillance would be at Brixton; that's
6 right, isn't it?
- 7 A. That's right, sir, yes.
- 8 Q. At this time, he would be off the number 2, because it
9 arrived in Brixton, and you were saying, weren't you, to
10 Pat or whoever it was in the operations room, "Are you
11 getting the surveillance chatter on this"?
- 12 A. Yes.
- 13 Q. Because all of a sudden, the Cougar system sprung to
14 life with a lot of chatter, didn't it: "He is off the
15 bus, he is making a telephone call, he is texting"?
- 16 A. There would have been -- obviously what would have
17 happened before, sir, is that you got commentary on a
18 bus and now you have commentary on a subject, yes --
- 19 Q. All of a sudden, it's coming to life, isn't it?
- 20 A. Yes.
- 21 Q. He is off the bus, he is using a telephone?
- 22 A. Yes.
- 23 Q. He is texting?
- 24 A. Yes, sir.
- 25 Q. He is going back on the bus. Shall we see what you said

- 1 about this in the -- well, before we do that, let us
2 follow this through and we can look at what you said
3 about these events before. That's the 32 seconds call.
4 Then the 9.50, there is another operations room call to
5 you, isn't there, just after --
- 6 A. 8 seconds, yes.
- 7 Q. So there is the 32 call, the 8 second call, then the
8 9.51, there is the operations room to you for 28
9 seconds, we can see that there. This was Pat, wasn't
10 it, seeking information from you about the subject?
- 11 A. I phoned Pat to let him know what was happening, and
12 I was looking for directions. I can't recall what Pat
13 said in that second call.
- 14 Q. I am going to -- you see, with the telephone schedule,
15 we may be able to be more precise about what was going
16 on, but you have accepted, haven't you, that when we get
17 to Brixton, all of a sudden the surveillance chatter,
18 there is more of it and you are on to the operations
19 room saying, "Are you getting this?"
- 20 A. Yes, indeed. First of all I am thinking: is this
21 subject about to go down to the tube system, and if he
22 is going to go down to the tube system, obviously I am
23 going to need some ops room help with that.
- 24 Q. Yes, but he didn't, did he?
- 25 A. He didn't.

- 1 Q. He got back on?
- 2 A. That's right.
- 3 Q. So you are being asked by the operations room, aren't
4 you, they are calling you twice here within the space of
5 a minute and it was Pat seeking information from you,
6 wasn't it?
- 7 A. I don't know, I can't recall, sir.
- 8 Q. Well, why would he be calling you?
- 9 A. I imagine so, sir, yes.
- 10 Q. So we can proceed, can't we, safely on the assumption
11 that if Pat is calling you, he is doing it to obtain
12 from you information about what's going on at Brixton?
- 13 A. I should think so, sir, yes.
- 14 Q. Then we see, 9.52.30, there is a 45-second call from
15 Detective Constable McAuley to you, the leader of the
16 grey surveillance team?
- 17 A. Yes, sir.
- 18 Q. Mr McAuley is part of Mr Dingemans' arrest team and we
19 can see that at 9.48 there was a call from Mr Purser to
20 Mr Dingemans, 9.48.50, and that was the deployment of
21 the arrest team which we know comes after the time when
22 Harry is saying, "Ivor can't give a positive
23 identification of the person on the number 2". Do you
24 understand how it fits in sequence?
- 25 A. Yes, sir.

- 1 Q. Here we are with Mr McAuley now calling you, and it's a
2 45-second call?
- 3 A. That's what is down there, sir, yes.
- 4 Q. Was this you using your telephone or was it someone in
5 your team using your telephone?
- 6 A. No, that's a call from McAuley to my telephone, to me in
7 my car. It would be my hands-free in my car.
- 8 Q. Later, you see, the reason I ask you that, is later you
9 say that Ken was using --
- 10 A. I see, I beg your pardon, yes, no, that phone was on
11 hands-free and it was on hands-free all day, apart from
12 the call with Ken --
- 13 Q. When you say hands free, so if it's in the car we hear
14 --
- 15 A. Yes, sir.
- 16 Q. -- the conversation, so if it's Mr McAuley saying: we
17 are an arrest team with Detective Sergeant Dingemans, we
18 are coming in to arrest this person, where is he; that
19 would have been heard by everyone in your vehicle?
- 20 A. That would have been heard by Ken as well, sir, if that
21 had been said, yes, sir.
- 22 Q. What was this conversation about then?
- 23 A. I can only assume that, because I don't remember anyone
24 ever saying that they were from S013, that this call
25 was: where are you, where are you, what's going on.

- 1 Q. Where are you, what's going on --
- 2 A. Because I had a number of calls like that during the
3 morning, wanting to know an update.
- 4 Q. Sorry.
- 5 A. Sorry.
- 6 Q. Yes, we can see an awful lot of activity from the time
7 of Brixton onwards, because it does look, doesn't it, as
8 we go through the telephone schedule, that the sea
9 change, the time of change appears to be around the time
10 of Brixton, doesn't it?
- 11 A. Yes, sir, you would expect at that stage obviously
12 things are beginning to get a little bit more, are
13 getting busier, yes.
- 14 Q. I'm very sorry, why would we expect that?
- 15 A. Because I have phoned the ops room seeking directions;
16 I have got a subject who's got off of a bus and got back
17 on to the same bus; I am letting them know that I have
18 no surveillance officer with that person at the moment;
19 and I also mentioned the fact that because of trade
20 craft, we have to consider that as a potential
21 anti-surveillance manoeuvre and that I will try and get
22 someone on the bus as soon as possible.
- 23 Q. Shall we just look at that, because this was probably
24 the 9.53 call. We can see a 9.53 call, operations room
25 to you, for 23 seconds. It's call 289. This was after

1 the person that was being followed was back on the same
2 number 2 bus. That fits in with the timing, doesn't it?

3 A. Yes.

4 Q. And the operations room were again through Pat seeking
5 further information from you as to what was going on;
6 that's right, isn't it?

7 A. I imagine so, sir. They have got a radio in there, they
8 can obviously hear what's going on but presumably at
9 that stage might want to know if I have got anyone on
10 the bus with him at that stage, I don't know.

11 Q. You had not got anyone on the bus with him at all, had
12 you?

13 A. No, sir.

14 Q. You were telling the operations room this looked like
15 anti-surveillance manoeuvres?

16 A. I said that it could be construed potentially as
17 an anti-surveillance manoeuvre, and that's why we had no
18 one on the bus with him. It certainly looked as if it
19 could be suspicious, sir, yes.

20 Q. May we look at what you said at the Health and Safety
21 trial on this, please, James, and it's 8 October last
22 year, page 56, and if we look at line 2, I just want to
23 go through this, if I may, please:

24 "I had heard over the surveillance radio that the
25 possible for Nettle Tip had got off the bus, was walking

1 north on the -- along the footway towards Brixton
2 tube ..."

3 Had you heard over the surveillance radio that the
4 possible for Nettle Tip -- was that the word used,
5 "possible Nettle Tip"?

6 A. No, it wouldn't be. The commentary would, I guess,
7 would probably be that the subject is off the bus --

8 Q. Why did you say "possible for Nettle Tip", then, when
9 you were giving evidence on oath?

10 A. Because I was explaining who the subject was who was
11 being followed. That is not the commentary I -- or
12 I can't say what the commentary was, but it would be
13 unlikely that we would use "possible for Nettle Tip".
14 At this point he is either a U/I or a possible with the
15 subject.

16 Q. Or not identified at all if you listened to Harry?

17 A. Not -- no, sorry, I am sorry, sir, what Harry said was
18 that Ivor could not positively identify the subject.
19 That puts him in the realms of being a possible, sir.

20 Q. So it wouldn't have been wrong to say "possible for
21 Nettle Tip"?

22 A. Wouldn't have been wrong, no, sir.

23 Q. So why are we quibbling?

24 SIR MICHAEL WRIGHT: I think you started it, Mr Perry.

25 MR PERRY: Well, I'm trying to examine the evidence, and

1 sir, you will understand the importance --

2 SIR MICHAEL WRIGHT: I am not quarrelling with you, I'm
3 merely saying that if there is a quibble, you started
4 it.

5 MR PERRY: Perhaps I am in a quibbling sort of mood but
6 I hope I am not. I have got a cold and I am feeling
7 sorry for myself, but anyway.

8 Sir, just so I can explain, sir, this morning there
9 was some confusion about the sequence of events, and
10 I want to be as clear as we possibly can be about the
11 sequence of events. You say:

12 "... possible for Nettle Tip had got off the bus,
13 was walking north on the -- along the footway towards
14 Brixton tube, and then the next thing I heard was that
15 he was then walking back towards the bus, bus stands,
16 and then got in a queue and reboarded the same bus
17 whilst texting on his mobile phone."

18 This is the information you were getting?

19 A. That's what I had heard, sir, yes.

20 Q. It was significant, wasn't it?

21 A. It was significant to me in the sense that he had now
22 got on a bus, and I didn't have any officer on the bus
23 with him, yes.

24 Q. No, it's more significant than that. Why are people
25 conveying over the Cougar channel, "He's off the bus, he

1 is telephoning, he is texting, he is back on the bus",
2 why are all those matters significant?

3 A. Because that's what the subject is doing, and that's
4 what surveillance officers do. They comment on what the
5 subject is doing.

6 Q. Where had this person come from?

7 A. He had come from a bus.

8 Q. Where had he come from before he had got on the bus?

9 A. He had come from number 21 Scotia Road or --

10 Q. And what was the purpose of this operation?

11 A. To contain suspects coming out of that address.

12 Q. Suspected of doing what?

13 A. Well, suspected of attempting to set off bombs the day
14 before, sir.

15 Q. What did you tell the ops room? Shall we look at
16 line 9:

17 "I told the ops room what I had heard. I said, 'Are
18 you hearing this? Are you hearing what we've got here?
19 We've got this subject, he's off the bus and now he's
20 back on to the same bus'. I think I made it clear at
21 that point that possibly, possibly could be construed as
22 anti-surveillance. It would be a tactic that could be
23 operated."

24 So that's what you are saying to Pat, isn't it?

25 A. That's right, yes.

1 Q. "And I wasn't exactly trying to raise the ante, as such,
2 but it was a case that -- I suppose that that could be
3 misconstrued as that, but basically I'm saying that this
4 person, this is what they've done, we are continuing
5 with the follow, but to let them know, because of the
6 possible anti-surveillance tactic, we had not put
7 an officer back on the same bus with him, because
8 obviously the officer gets off the bus -- it's
9 a difficult place to pull over for our cars to get
10 people down quickly. My crews did that, they got down,
11 tried to get onto the same bus, but the officer who got
12 off the bus with him wasn't happy to get back on the
13 same bus."

14 That's Ivor, isn't it?

15 A. That's correct.

16 Q. Ivor wasn't happy to get back on the same bus because it
17 might blow the cover?

18 A. He wouldn't get back on the same bus as someone he had
19 got off the bus with, no.

20 Q. At around 9.53 when you are speaking with the operations
21 room, the things that you have told Pat up to now are
22 possibly identical with?

23 A. Yes.

24 Q. You had been informed by some of your team that this
25 person is behaving in a wary manner before he gets on

- 1 the bus and you have also got this anti-surveillance
2 measure at Brixton?
- 3 A. Possible anti-surveillance measure which is why we are
4 treating it as such. I said before you hope for the
5 best, expect the worst. So --
- 6 Q. Yes, but if you are hoping for the best and expecting
7 the worst, you have to try to give the operations room
8 your own fair assessment of this, haven't you? They are
9 not there with you?
- 10 A. No, of course. It's very much we are the eyes on the
11 ground, sir, and we report what we see.
- 12 Q. Yes, and you didn't see that Brixton tube station was
13 closed, did you?
- 14 A. I didn't see it was closed, no.
- 15 Q. So you couldn't give any rational explanation as to why
16 someone could get off the bus and get back on to it?
- 17 A. No, I didn't know why he had done that, sir, no.
- 18 Q. Then if we look at the telephone schedule again, please,
19 following on, at 9.54, we have
20 Detective Constable McAuley making another call to you,
21 9.54.32, call 291, this time for 58 seconds?
- 22 A. Yes, sir.
- 23 Q. So this is the second time that the arrest team have
24 been in contact with you --
- 25 A. And the second time that he has called me and not said

- 1 who he is, sir.
- 2 Q. These must have been rather interesting calls, 45
3 seconds and 58 seconds --
- 4 A. Sir, because a call is 58 seconds long, it doesn't mean
5 we are speaking for 58 seconds. When a call comes in, I
6 will probably tell someone to keep quiet unless urgent
7 if I'm listening to commentary at the time.
- 8 Q. Well, 58 seconds and 45 seconds,
9 Detective Constable McAuley, this is on the hands-free
10 still, is it?
- 11 A. Yes, sir.
- 12 Q. And Detective Constable McAuley at this stage, because
13 the Dingemans team have yet to be called off, they are
14 not called off until 9.55.27, but we are coming on to
15 that, so this is just a few minutes before, McAuley to
16 you, 58 seconds, this is clearly Mr McAuley wanting to
17 know whereabouts the subject is because they are coming
18 in --
- 19 A. Yes.
- 20 Q. -- to perform the arrest. It's clearly what's going on,
21 isn't it, looking at the sequence of these calls?
- 22 A. This, I was asked a number of times during that follow
23 to give an update on where the subject was. Obviously
24 at that point the subject at that time would be on his
25 own with no officer with him on the bus, so I would be

- 1 commentating on the status of the bus so at that point
2 I may have to say: right, can someone just give me
3 an update of where the bus is and relay that down the
4 phone to the person who is asking, so that might account
5 for 58 seconds.
- 6 Q. Then 9.55, we can see operations room to you, spot on
7 9.55, 28 seconds. This is again the operations room to
8 you and they would be calling you again, wouldn't they,
9 seeking information?
- 10 A. I suspect this is probably about the time of the call
11 that they are asking me, I am guessing here, about the
12 percentage.
- 13 Q. When you were giving evidence earlier, you said when Pat
14 asked you for the percentage, you said to Pat: well,
15 who's asking, who's asking such a daft question?
- 16 A. I did, sir, yes.
- 17 Q. What did Pat say: well, it's Commander Dick, the DSO?
- 18 A. No, he didn't actually reply to that.
- 19 Q. It would be a bit odd, wouldn't it, Pat, you asked Pat,
20 who is asking this daft question?
- 21 A. I did, sir, yes.
- 22 Q. Pat didn't tell you?
- 23 A. Pat didn't tell me, no.
- 24 Q. That must be amazing to you now, is it?
- 25 A. It's not amazing, sir, no --

- 1 Q. Why not?
- 2 A. One can understand if he's got such people standing on
3 his shoulder, maybe, I don't know, maybe under pressure,
4 I don't know, sir.
- 5 Q. Perhaps he would have said to you it's Commander Dick,
6 now what's the answer?
- 7 SIR MICHAEL WRIGHT: Bit difficult at that stage, Mr Perry.
- 8 MR PERRY: Well, the percentage question, do you say that it
9 would be wrong if we have heard from a surveillance
10 officer who says that there is a working practice that
11 we would not say it's positively someone unless we are
12 70 or 80 per cent happy?
- 13 A. Sorry, what's the question, sir?
- 14 Q. Would it be ridiculous for a surveillance officer to
15 say: we have a working practice that we would not say
16 it's positively someone unless we are 70 or 80 per cent
17 happy?
- 18 A. I don't quite know what that means, sir. 70 per cent,
19 80 per cent happy about what? Like I say, it depends on
20 the quality of the image, sir; it depends on how long
21 you have had to observe the subject; whether the subject
22 is in a car, on foot, stationary; so many variables in
23 there; and where is that 70 per cent coming from? It's
24 not something within a frame of reference that
25 I understand, sir.

- 1 Q. We have heard that evidence already but perhaps it
2 doesn't matter because we can just pass on to another
3 matter. You have been asked about the discussion with
4 Lawrence, because I just want to make sure everyone
5 understands at what point your discussion with Lawrence
6 takes place in the sequence of events, because it may be
7 from some of the questions you have been asked this
8 morning that there is some misunderstanding.
- 9 Your discussion with Lawrence in the car, your car,
10 took place after Brixton, didn't it?
- 11 A. Yes, sir.
- 12 Q. After Brixton and after you had told the operations room
13 "I think it's Nettle Tip"?
- 14 A. That's paraphrasing, but yes, sir.
- 15 Q. Lawrence was in your car and Lawrence said, "I don't
16 think it's him"?
- 17 A. That's right, sir.
- 18 Q. Now, you had the picture from the briefing that you had
19 been given earlier that morning, didn't you?
- 20 A. Yes, sir, in the pocket of the car.
- 21 Q. You produced it to Lawrence, didn't you?
- 22 A. Yes, I did, sir.
- 23 Q. You said, "If you take away the beard, it's a good
24 likeness for Nettle Tip"?
- 25 A. I said: if you take away the hair and the beard, then

1 it's not a bad likeness or something like that, yes,
2 sir.

3 Q. You still thought if you took away that it was a good
4 likeness? That's what you said to Lawrence?

5 A. Yes, sir.

6 Q. That was your view?

7 A. Yes, sir.

8 Q. That was the view that you were conveying to the
9 operations room?

10 A. Yes, sir.

11 Q. Yes. Shall we just look, please, because we can see
12 what you said at the trial about this on 8 October last
13 year between pages 90 and 92. If we just see what you
14 were saying about this conversation, page 90, line 17
15 first of all:

16 "Question: 'I said I could not give a percentage
17 figure as this was impossible but that I thought it was
18 Nettle Tip'."

19 This is a question being put to you by one of the
20 lawyers in the case, and they are quoting back at you
21 what you had said in your statement, you follow that?

22 A. Yes, sir.

23 Q. Because, as already been pointed out to you, you put in
24 your statement that you said you had thought it was
25 Nettle Tip; and therefore if we turn it into the

1 circumstances on the ground, you would be saying,
2 "I think it is Nettle Tip".

3 "Answer: Because I had said in relation to the
4 question, when I was asked the question, when I was
5 further asked, 'Could we give any sort of indication?'
6 I indicated 'I think it's Nettle Tip', yes."

7 So no difficulty about that, is there; you were
8 saying, "I think it's Nettle Tip, yes"?

9 A. When further asked, yes, I had been asked for
10 a percentage, I said I can't do that and then I have
11 been further asked: isn't there anything you can do; and
12 I can understand they are trying to get out of us
13 an identification. I'm trying to say: look, you are
14 asking for an identification here in difficult
15 circumstances, but under those circumstances you are
16 pushing me, you are asking me for some sort of
17 identification; yeah, from the look that I had, then
18 I would agree that I thought it was a possible for
19 Nettle Tip, I think it's Nettle Tip.

20 Q. I'm very sorry, James, I have to ask you a number of
21 questions now arising from that answer, because the
22 operations room aren't trying to get an identification
23 from you; they are trying to get information from you,
24 aren't they?

25 A. They are asking me specifically a question about

1 percentage, how clear are we in percentage terms that
2 this is the subject Nettle Tip.

3 Q. Yes. And they want your assistance, don't they?

4 A. Yes, sir.

5 MR PERRY: I am very sorry, I didn't notice the time.

6 SIR MICHAEL WRIGHT: Yes, is there any possibility you can
7 conclude this in the next five minutes?

8 MR PERRY: Sir, I think I will be about 10 or 15 minutes,
9 sir, I'm very sorry.

10 SIR MICHAEL WRIGHT: All right.

11 MR HOUGH: Sir, just a point that's arisen in the last
12 minute or so. It was said, I am sure it was a slip of
13 the tongue, that in this passage in the trial the
14 witness's statement was being put to him. It wasn't his
15 statement, it was his log entry.

16 MR PERRY: Sorry, it's also in the statement.

17 MR HOUGH: Yes.

18 SIR MICHAEL WRIGHT: Very well, 2 o'clock.

19 (1.05 pm)

20 (The short adjournment)

21 (2.00 pm)

22 (In the presence of the jury)

23 SIR MICHAEL WRIGHT: Yes, Mr Perry.

24 MR PERRY: Thank you very much, sir.

25 James, if I may do this very crisply, I hope. The

1 operations room, through Pat, were seeking a better
2 indication of how strong you were in your
3 identification?

4 A. They were asking me for a percentage, sir, yes.

5 Q. And you knew the reason why that was so important in
6 this context?

7 A. I understood that they wanted to find out whether or not
8 we thought it was the subject, yes, sir.

9 Q. Yes, that's what they are trying to find out but you
10 knew the reason why that was so important?

11 A. To take you back, sir, you mentioned obviously the
12 scenario of events, yes, we were dealing with a serious
13 matter, sir, yes.

14 Q. So you knew it was important?

15 A. Yes, sir.

16 Q. You are speaking for Pat, and it was for Pat to pass on
17 anything that you said, and it would also be for Pat to
18 pass on anything that you heard of significance over the
19 Cougar radio?

20 A. Yes, sir.

21 Q. If we just look at what you said at the trial,
22 8 October, your evidence, page 90 to page 92, if we look
23 at page 90, line 17:

24 "Question: 'I said I could not give a percentage
25 figure as this was impossible but that I thought it was

1 Nettle Tip'.

2 "It couldn't be clearer than that, could it?

3 "Answer: Because I had said in relation to the
4 question, when I was asked the question, when I was
5 further asked, 'Could we give any sort of indication?',
6 I said, 'I think it's Nettle Tip', yes."

7 That was your evidence on oath?

8 A. Yes.

9 Q. Then:

10 "Question: So you didn't tell them it was
11 ridiculous. You said: it is impossible to express in
12 percentage terms --

13 "Answer: Yes, I did."

14 Going over the page, then at line 2:

15 "-- but as a matter of fact I think it is the man?
16 That's what you were telling them?

17 "Answer: I said that I thought it could be him,
18 yes.

19 "Question: Yes, that was your honest belief?

20 "Answer: It was, yes.

21 "Question: Doing your best at the time?

22 "Answer: Doing my best at the time on a driveby,
23 yes, indeed, to qualify that, my Lord."

24 That's what you were saying?

25 A. Yes, sir.

- 1 Q. Just on that, so we get this clear, you weren't saying
2 to Pat at the time, were you, this is qualified on the
3 basis of a driveby?
- 4 A. I believe that I did qualify that to Pat, yes.
- 5 Q. You did? That would be something for Pat to pass on,
6 would it?
- 7 A. That's a matter for Pat. I'm trying to tell -- Pat's
8 asking me a question and I'm trying to answer as best
9 I can what Pat's asked me, yes. Again, I have already
10 said to Pat that I can't answer his question about the
11 percentage identification, and then he's asked for me if
12 I can give anything further, and I'm just trying to help
13 out as much as I can, because I understand there is
14 clearly an interest to try to work out if this subject
15 is Nettle Tip.
- 16 Q. Exactly. Shall we look at page 92, line 18:
- 17 "Question: Well, was there an occasion in the car
18 when you said to Lawrence and Ken that you thought it
19 was a good likeness and if you took away the beard you
20 thought it was a good likeness if you took away the
21 beard?
- 22 "Answer: Yes, my Lord."
- 23 That was the discussion, wasn't it?
- 24 A. That's what I said to Lawrence, yes. Lawrence had
25 intimated that he didn't think it was a good likeness,

1 he had said that he didn't think it was him and I was
2 basically testing Lawrence to see how good his view was
3 and whether he would like to reconsider that in relation
4 to re-looking at the photograph.

5 Q. Yes, but the significance of this point is this, isn't
6 it: you didn't pass on Lawrence's doubts to the
7 operations room, did you?

8 A. No, I didn't, sir.

9 Q. There is a simple human reason for that, isn't there:
10 you thought you were right and he was wrong?

11 A. No. I think I explained it at the time, that where that
12 left us was in this 50/50 no man's land. I was
13 wavering, if you like, on one side, that it could be
14 him, and Lawrence was trying to say that he didn't think
15 it was him.

16 Q. But if that's the case, then that was something you
17 should have passed on to Pat, isn't it? There is
18 a simple, ordinary, human explanation for this: you
19 thought you were right and Lawrence was wrong?

20 A. I don't agree with that, sir, no.

21 Q. Well, why didn't you pass on to the control room, the
22 operations room, who needed to know, "We say this is
23 a 50/50"?

24 A. Well that's clearly what they were asking for,
25 percentage terms, and I couldn't give that, sir.

- 1 Q. You could have done, you could have said, "It's 50/50
2 because I have discussed it with Lawrence"?
- 3 A. I have said it was a possible.
- 4 Q. Yes, and you didn't pass on Lawrence isn't convinced.
5 Lawrence was junior to you, wasn't he?
- 6 A. Lawrence is a constable and Lawrence had six months'
7 experience on the team, yes, sir.
- 8 Q. You were the sergeant, the senior person, the team
9 leader and you thought you were right and he was wrong?
- 10 A. I felt at that stage, sir, what I needed really was more
11 of my team to get a better look before I could come to
12 any conclusion about giving a proper answer in relation
13 to identification.
- 14 Q. You didn't have that time, did you? You knew exactly
15 what was happening, didn't you?
- 16 A. I knew the subject was on a bus and I was looking to get
17 someone down on that bus --
- 18 Q. You were getting agitated, weren't you?
- 19 A. Not at that stage, no, sir.
- 20 Q. You were agitated at Stockwell, weren't you?
- 21 A. I was quite forceful in trying to get an answer before
22 the subject went down the tube station, sir; time was
23 quite critical and I wasn't getting an answer to my
24 question.
- 25 Q. But you were offering to do the stop at Stockwell,

- 1 weren't you?
- 2 A. I was asked by Ivor if we wanted -- if we should detain
3 the man and I said no, not without the operations room
4 authority.
- 5 Q. But you were on to the operations room seeking
6 directions at that stage, trying to find out if they
7 wanted you to do the stop. You knew what the importance
8 was, didn't you?
- 9 A. The importance was, sir, he was about to go down the
10 tube station, and if we wanted him stopped we would have
11 to have a decision straightaway, sir. As soon as you go
12 through the barriers, sir, you have lost communications
13 and it's a very difficult position to be in to try to
14 control what's going on, sir.
- 15 Q. Just one thing, just one more thing, please, just the
16 telephone call, 9.56.48, Trojan 84 to your telephone,
17 it's the telephone call at 9.56.48, and on our schedule
18 it's call 300. This is the two minute 31. This is the
19 one, so we get it clear in our minds, where actually Ken
20 is in the car with you and he takes this call and speaks
21 to Trojan 84?
- 22 A. Yes, sir.
- 23 Q. Can you remember that, at the time of this call or
24 during the call or just after, you put out a request
25 over the radio, first of all for information as to where

1 the subject was within the number 2 bus; can you recall
2 that?

3 A. In relation to the telephone call, Ken was looking to
4 try to find out where we were, where the bus was, and
5 then he asked me: where is the subject located, or where
6 is he sat on the bus, yes; so I asked that question:
7 where is the subject on the bus.

8 Q. Yes, there is no difficulty about this, I hope, there
9 was a request for information from --

10 A. Yes.

11 Q. -- S019 speaking through Trojan 84, "Where is the
12 subject within the bus?", and Ken on your telephone is
13 saying, "Can we get better information of where he is on
14 the bus", and you make that request over the Cougar
15 system?

16 A. Yes, sir.

17 Q. After that, you stated that C019 may be making it's way
18 through the follow to put your surveillance team on
19 notice that C019 were involved?

20 A. Again, sir, when the telephone was put down I said to
21 Ken: who was that on the phone; and he said it was S019.
22 The assumption from -- that I have made then is that
23 there is a possibility that S019 are coming to join our
24 follow as we were told that they would do earlier on in
25 the day and that potentially that could cause us

- 1 problems if they arrived on blue lights and two tones,
2 sir, yes.
- 3 Q. So the answer to my question was yes, you did broadcast
4 over the Cougar that CO19 may be joining the -- making
5 its way through the follow?
- 6 A. Yes, I did, sir, yes.
- 7 Q. Thank you. Just two final matters, please, awareness of
8 Silver. If Derek, the leader of the red team, perhaps
9 we can approach it in this way: first of all, Derek was
10 the leader of the red team and when you got down on plot
11 you had discussions with Derek, didn't you?
- 12 A. Yes, sir.
- 13 Q. If he had any relevant information, when he was briefing
14 you, that was a matter for him to inform you?
- 15 A. He told me what he did, sir, he didn't mention anything
16 about Silver, but yes, I suppose so, sir.
- 17 Q. You see, he has got, we will see later, Silver's
18 telephone number, but if we just go on to awareness of
19 the DSO, just these questions, please: you were in
20 regular contact with Pat?
- 21 A. Yes, sir.
- 22 Q. You had the number for the operations room, didn't you?
- 23 A. Yes, sir.
- 24 Q. You had the number for the DI9 room, the operations room
25 on the second floor of New Scotland Yard?

1 A. Sorry, sir, I don't know what that is.

2 Q. All right. That's the information room. Remember that?

3 A. Do you mean -- I don't know what you mean by the
4 information room, sir. I had the number for the ops
5 room --

6 SIR MICHAEL WRIGHT: I think it's sometimes called GT.

7 A. No, I did not have that number, sir.

8 MR PERRY: When you thought that the operations were seeking
9 directions from you, who did you think was in charge
10 then, when you were asked these questions?

11 A. Normally it would be an ops room manager, sir.

12 Q. Who would that have been on this occasion?

13 A. I don't know the name of the ops room manager, sir, no.

14 Q. Did you ask Pat?

15 A. No, sir. I did ask Pat who had asked the question but
16 Pat didn't reply to that.

17 MR PERRY: Thank you very much.

18 Questions from THE CORONER

19 SIR MICHAEL WRIGHT: Just one question, please: I have
20 a clear picture about this, you told us this morning
21 that you were asked the percentage question and you
22 expressed your views about it, I won't ask you to do it
23 again, but you did then put a call round all your team
24 to see if you could get a better idea of what they were
25 thinking --

1 A. Yes, sir, because during a follow, sir, it's likely that
2 officers may get a view of the subject and not report it
3 over the radio.

4 SIR MICHAEL WRIGHT: And you got nothing?

5 A. No, sir.

6 SIR MICHAEL WRIGHT: As you told us, you said, "I am going
7 to treat that as a negative response and nobody can
8 help"?

9 A. Yes, sir.

10 SIR MICHAEL WRIGHT: Then you went back to Pat and told him
11 about this?

12 A. Yes, sir.

13 SIR MICHAEL WRIGHT: In effect, what you'd done and what you
14 had got. He then said, according to you, "Can you say
15 anything at all?"

16 A. Yes, sir.

17 SIR MICHAEL WRIGHT: Then we have this remark that you made
18 which has been the subject of such a lot of discussion,
19 "I said either I think it's him or I think it could be
20 him".

21 A. Yes, sir.

22 SIR MICHAEL WRIGHT: There are two things that seem to me to
23 arise out of this but I want to check it with you.

24 You had just told Pat that you had got nothing from
25 your team?

1 A. Yes, sir.

2 SIR MICHAEL WRIGHT: So that he must have realised that when
3 you said, "I think it's him" or "I think it could be
4 him", you were talking about your own individual view?

5 A. My own individual view.

6 SIR MICHAEL WRIGHT: And just you?

7 A. Just my view, sir.

8 SIR MICHAEL WRIGHT: Mr King?

9 MR KING: Nothing, thank you, sir.

10 SIR MICHAEL WRIGHT: Mr Horwell?

11 Questions from MR HORWELL

12 MR HORWELL: Richard Horwell on behalf of the Commissioner.

13 A. Sir.

14 Q. You are quite an experienced surveillance officer, are
15 you not?

16 A. Yes, sir.

17 Q. How many years' experience?

18 A. I have been doing this job in surveillance since 1999,
19 sir.

20 Q. You obviously knew the importance of this operation?

21 A. Clearly, sir, I was on duty throughout July and I was on
22 duty on the 21st, had an idea of what we potentially
23 could be dealing with on the 22nd, sir, yes.

24 Q. You knew the importance of any identification of anyone
25 as being Nettle Tip?

- 1 A. If somebody was positively identified as Nettle Tip,
2 that obviously would be a serious matter, yes, sir.
- 3 Q. As a general rule, surveillance will not intervene
4 without the order or the command from the operations
5 room?
- 6 A. As a general rule, yes, sir.
- 7 Q. Obviously if it's possible to have a dialogue with the
8 operations room, that is what you will do?
- 9 A. Yes, sir.
- 10 Q. The circumstances that you were envisaging yesterday,
11 greys and reds making together an armed stop of any
12 bomber who came out of Scotia Road with a rucksack on
13 his back, what you were envisaging yesterday was
14 an extremely extreme situation, was it not?
- 15 A. I would say so, yes, sir.
- 16 Q. Suddenly confronted by somebody who had been positively
17 identified as a suicide bomber with what appeared to be
18 a bomb on his back, your understanding was that you and
19 the other team would there and then have intervened?
- 20 A. Yes, sir.
- 21 Q. Simply to understand your evidence?
- 22 A. Yes, sir.
- 23 Q. Have I also understood this correctly, that you were
24 envisaging circumstances in which you had no opportunity
25 to contact the operations room?

- 1 A. When asked a question, sir, what I was looking at was if
2 at the first point of danger is the first bus stand just
3 outside Marnfield Crescent, that that time, by the time
4 that potentially a positive identification had been
5 made, and as you well know, the buses were still
6 running, we would have to be out on the ground very
7 quickly before that person could potentially be on
8 a bus, yes, sir.
- 9 Q. Unable to contact the operations room?
- 10 A. I am not saying that we would be unable to do so, sir.
11 I said at the time that I thought there might not be
12 enough time.
- 13 Q. Enough time?
- 14 A. I'm an armed officer and I would have a duty to get out
15 of my car. I probably would have asked for the other
16 sergeant on the team who was not armed to do those
17 things for me, sir.
- 18 Q. It is by no means unusual in the course of
19 a surveillance follow for surveillance officers to be
20 given time to either increase or decrease the quality of
21 their identification?
- 22 A. That's correct, sir.
- 23 Q. What happened on this particular day was in no sense
24 unusual, was it, James?
- 25 A. I don't think it was unusual, sir, no. We were with

1 a possible, we didn't -- we had an image which wasn't
2 a great image and we were doing our best to try to
3 identify that person whilst keeping control of them,
4 sir, yes.

5 Q. We know there were various stages of the events that
6 day. You say you never knew that S013 were going to
7 conduct an unarmed stop of the subject. You say you had
8 no knowledge of that at all?

9 A. No, I didn't, sir, and it would have -- it would have
10 surprised me if they had done, bearing in mind we
11 couldn't rule out that this man hadn't come out of 21
12 Scotia Road, sir.

13 Q. Can I ask you this about evidence you have given as to
14 the fact that you were still following the subject at
15 this time. Obviously for S013 to conduct an unarmed
16 stop, they would have to be guided to the subject by
17 surveillance, would they not?

18 A. One would think so, or listening to our commentary, sir.

19 Q. But the surveillance would have to continue until S013
20 had conducted the stop?

21 A. Certainly, sir, yes, sir. I would envisage it would
22 work in the same way as a firearms traffic light system.
23 Surveillance continues even though you have gone to
24 state red, you keep the surveillance going until
25 whatever is going to happen has happened --

- 1 Q. Until the stop takes place?
- 2 A. -- sir, yes.
- 3 Q. On the topic of state red, only one state red was ever
4 called that morning, and that was the state red called
5 by the firearms officers?
- 6 A. It was, sir, yes. Trojan control at or just outside
7 Stockwell, sir, yes.
- 8 Q. There is no prospect or possibility of state red having
9 been called for the surveillance officers, is there; it
10 never happened?
- 11 A. No, sir.
- 12 SIR MICHAEL WRIGHT: Do you use that system?
- 13 A. Well, if we were to -- given the scenario whereby we had
14 been authorised to do that --
- 15 SIR MICHAEL WRIGHT: Ah, yes, that's a different matter. In
16 the course of an ordinary follow --
- 17 A. We wouldn't call state red.
- 18 SIR MICHAEL WRIGHT: -- you don't use that system?
- 19 A. No.
- 20 MR HORWELL: The photographs of Ragstone that you were
21 shown, you said this morning that they looked like Osman
22 because of photographs that had been published during
23 the course of his trial?
- 24 A. Photographs that I have seen in the past, certainly,
25 sir, yes, of Mr Osman.

- 1 Q. But, James, I am sure you would agree that if we take
2 our minds back to the morning of this operation, we have
3 heard that there were in fact 416 photographs taken in
4 the course of that operation, only a small number we
5 have, the very large majority of them were of Osman.
6 Osman was never identified that morning, do you
7 understand that, during Ragstone?
- 8 A. I didn't know that, sir.
- 9 Q. They never knew that the person they were taking
10 photographs of was Hussain Osman; do you understand that
11 now?
- 12 A. I understand what you are saying to me, sir, yes.
- 13 Q. For somebody to make a fairly quick judgment as to
14 whether this was or was not or might be Osman, and to
15 give you the photograph on that uncertain basis, when
16 you had a photograph that was certainly of Osman, to
17 have given you other photographs which were not
18 certainly of Osman would have been dangerous; do you not
19 agree?
- 20 A. If they were not certainly of Osman, I agree it would
21 have been dangerous, sir, yes.
- 22 SIR MICHAEL WRIGHT: I can't remember, Mr Horwell,
23 whether -- these photographs points have been developing
24 as the hearing has been going on. I can't remember, you
25 will remind me, whether we have actually established

1 Q. So can we just try to see what it was that made you
2 think, to whatever level you thought it, that it was or
3 that it could be or that it possibly was the man whose
4 photograph you had seen at the briefing? The eyes, the
5 nose, the ears, can you remember?

6 A. With regard to the photograph on the look that I had
7 seen, the skin tone was a difficult one to call because
8 of the way that the photograph had been taken.
9 I thought that all of the facial features were similar
10 from the view that I had seen, sir.

11 Q. You have told us that when you were in the car, having
12 a conversation with Lawrence, who didn't think it was
13 him. You put, did you, a hand over the hair and a hand
14 over the beard and focused on the middle part of the
15 face?

16 A. Yes, sir, because obviously the hair can be easily
17 changed and the beard can be easily changed by a subject
18 wanting to change his identity.

19 Q. Was it something about that central section of the face
20 that led you to whatever level of confidence it was you
21 had on the day?

22 A. Yes, sir.

23 Q. That was based upon a short view that you have had of
24 him as you drove past him in Upper Tulse Hill?

25 A. Yes, sir.

1 Q. I have got some photographs here which I am very
2 grateful, sir, to others with computer equipment for
3 having put together on one page and I am not quite sure
4 who has already got copies.

5 SIR MICHAEL WRIGHT: Are these Ragstone photographs?

6 MR GIBBS: No, they are not. These are photographs which
7 show the briefing photograph, top left, and then three
8 of what I and others have thought may be about the best
9 images one can get of Mr de Menezes on the day, taken
10 from CCTV on the bus, CCTV in the Underground station,
11 and I'm going to ask the witness to look at that.

12 I know there are copies, I think, perhaps with the
13 usher already. Perhaps, sir, if you could have a copy
14 and the jury can have a copy and I will make sure that
15 everyone else has a copy.

16 MR MANSFIELD: Sir, I wonder, before they are handed out, I
17 haven't been warned about this. I would quite like to
18 see what's being ...

19 MR GIBBS: Yes. (Handed)

20 Sir, you and the jury will recognise the other
21 three, the non-briefing photograph images as being from
22 parts of the video which I think was shown right at the
23 very beginning of the case.

24 SIR MICHAEL WRIGHT: Two of the in-bus cameras.

25 MR GIBBS: Yes.

1 SIR MICHAEL WRIGHT: And one on the concourse at Stockwell
2 station.

3 MR GIBBS: Yes, and of course I don't say that these are
4 marvellous photographs or that they are necessarily even
5 the best image that can be got of that particular moment
6 in those cameras, but they are the best that we can do.

7 I should say, of course, as you, sir, will
8 immediately realise, that the briefing image on the
9 left-hand side, as it's been photocopied more than once
10 here, is less good, I suspect, than the one the jury
11 have seen when the original or the first copy was passed
12 around.

13 Now, just looking at the briefing image, and looking
14 at the snapshots we have got of Mr de Menezes, firstly,
15 does any of those three snapshots precisely replicate
16 the view that you had in Upper Tulse Hill, the angle,
17 the distance?

18 A. None of them exactly, sir, no.

19 Q. Does any of them help you now in describing to us what
20 it was about the man that you saw and the image that you
21 had which led you to this, "I think it's him"?

22 A. Sir, there is, I would say, a similarity between the
23 eyes, the eyebrows, around the nose and potentially the
24 actual, the line of the hair, the hairline, sir.

25 Q. If we tried to replicate what it was that you were doing

1 in the car with Lawrence, you were using the briefing
2 image that we have got top left, not a very good example
3 of it, and you were putting a hand over the beard and
4 a hand over the hair, were you?

5 A. Yes, sir.

6 Q. And looking at the eyes, the nose, the ears and the
7 mouth?

8 A. That's right, sir, yes.

9 Q. And saying to yourself, what, that's definitely him,
10 that's definitely not him, that's what?

11 A. Saying to myself: that's a possible, a good possible,
12 from what I have seen; what do you think, Lawrence, from
13 what you have seen; you are saying you don't think it's
14 him; I am giving you now the opportunity to compare it
15 against this photograph.

16 My belief is that it was a good possible and that
17 clearly Lawrence was not so confident and thought it
18 probably wasn't him.

19 Q. Just to say it once more, James, you were wrong, weren't
20 you?

21 A. Yes, sir.

22 MR GIBBS: Sir, may we put that --

23 SIR MICHAEL WRIGHT: I am just wondering where to put it.

24 MR GIBBS: I think we have got to about 59.

25 You were asked questions about how many of the team

- 1 had copies, taken out with them copies of the briefing
2 pack which we remind ourselves was three sheets
3 containing four images and some writing; yes?
- 4 A. Yes, that's right, sir.
- 5 Q. You, as you have told us, certainly had a copy of that
6 briefing pack?
- 7 A. Yes, sir.
- 8 Q. You referred to it twice. You referred to it in, after
9 your sighting in Upper Tulse Hill and you referred to it
10 in your conversation with Lawrence?
- 11 A. Yes, I did, sir.
- 12 Q. Have I understood it right, that of all the members of
13 the team who said whatever it was that they each said
14 about the view that they each had of Mr de Menezes, your
15 "I think it's him" must represent the strongest of
16 anyone's beliefs in the match?
- 17 A. Yes, sir.
- 18 Q. So that the strongest belief in a match came from the
19 person who definitely had the briefing image with him?
- 20 A. Yes, sir.
- 21 Q. Going back to the first half of the follow and this
22 negative identification that has been picked up by
23 others: was there anything in the surveillance traffic
24 that you heard during that first half up until Brixton
25 which you interpreted as it's not him?

- 1 A. No, sir.
- 2 Q. But we know that Ivor was on the bus with him during
3 part of that period, wasn't he?
- 4 A. He was, sir. He got on the bus before
5 Brixton Water Lane and got off at Brixton, sir.
- 6 Q. He was in contact with another surveillance officer,
7 Harry, wasn't he?
- 8 A. He was, sir, yes.
- 9 Q. Harry, do I have this right, was relaying over the
10 Cougar, was broadcasting the content of whatever it was
11 he was being told by Ivor?
- 12 A. Relaying down the phone -- from the phone to the radio,
13 yes, I believe so, sir.
- 14 Q. You were able to hear that then over the radio?
- 15 A. Yes, sir.
- 16 Q. We know, and we will hear it better when Ivor gives
17 evidence, that Ivor was unable to confirm that the man
18 on the bus with him was Nettle Tip?
- 19 A. That's correct, sir, yes.
- 20 Q. In the way in which it was broadcast over the radio,
21 leave on one side that you didn't interpret it this way,
22 thinking back, can you remember the form of words used
23 to pass that message on over the airwaves?
- 24 A. No, I can't, but I know that it didn't arouse in me any
25 indication that he was saying it probably wasn't the

1 subject.

2 Q. Leaving on one side what you took from it, thinking
3 about it now, do you think that anything that was said
4 in broadcasting Ivor's "I can't confirm it's
5 Nettle Tip", which was capable of interpretation by
6 others as being actually, "This is not Nettle Tip"?

7 A. I can't say, sir. I can't actively recall what those
8 words were.

9 SIR MICHAEL WRIGHT: These are terribly difficult questions.

10 MR GIBBS: Aren't they, aren't they.

11 SIR MICHAEL WRIGHT: I am not sure you are going to get
12 anything out of this. The person to ask is Ivor, and he
13 is coming.

14 MR GIBBS: Of course, yes.

15 It may be, and I hear others speaking it around me,
16 sir, the person I should best ask is Harry, who
17 broadcast whatever Ivor was saying.

18 SIR MICHAEL WRIGHT: Yes. I am sure the jury appreciate
19 that all these witnesses, Ivor, Lawrence, and Harry, are
20 all going to be called.

21 MR GIBBS: Yes. Sir, there is another document which I am
22 going to ask be distributed, and it attempts to bring
23 together on one piece of paper quite a lot of
24 information, and this has been circulated but not in
25 quite this form. I think it's been perfected since

1 everyone had the first copy of it.

2 I think that you will recognise it, and I'm going to
3 ask that it be distributed. (Handed)

4 Now, James, what you will see here, and I hope that
5 this document, sir, may in fact save quite a lot of time
6 when we get to the surveillance officers that follow,
7 because it tends to lay out a sort of skeleton into
8 which one can drop everything else, is that you have
9 times on the left-hand column; then you have a broad
10 column which has the entries in the red team, the grey
11 team and Pat's logs which were made actually between
12 9.30 and 10.05.

13 So it omits the supplementary entries, which were
14 written in later at the debrief, but it puts in the ones
15 that were actually recorded at the time. As you can
16 see, the red and the brown are rather similar colours,
17 but red is supposed to stand for red and those are the
18 first two entries at 9.33 and 9.36. The grey then are
19 the brown coloured ones which follow.

20 SIR MICHAEL WRIGHT: It's brown, is it?

21 MR GIBBS: It's a sort of brown.

22 Then Pat's entries are the dark black ones. Then on
23 the right-hand side you have telephone calls, not every
24 telephone call like in the enormous schedule we have
25 been looking at, but I think the relevant telephone

1 calls that touch on surveillance, and they are in green.
2 Then in blue, we have got CCTV times. These aren't
3 necessarily perfect, and that's why I have written
4 "Lambeth time", but they are all taken back to Lambeth
5 time. So if it's on a bus and that's different from the
6 Lambeth clock, then it's gone to the Lambeth clock. But
7 if the Lambeth clock is wrong, then all these entries
8 are wrong, these are the Lambeth clock entries.

9 Having said all of that, can we just put your
10 evidence into this chain of events which lasts 35
11 minutes. We have got Mr Menezes onto a bus at 9.38.49.
12 By that time, you have already seen him in
13 Upper Tulse Hill; am I right?

14 A. Yes, sir.

15 Q. We have got a telephone call at 9.41 for 14 seconds from
16 you to the ops room. What are you saying?

17 A. I am telling them at that time what's happening and the
18 fact that we are running with a possible on the bus,
19 sir.

20 Q. We can see on the left-hand side that by that time, at
21 9.39, for instance, Pat's log has got an entry about the
22 bus and that the bus is away, and that there is an entry
23 in the grey team log, that's your log, about that bus.

24 A. Yes, sir.

25 Q. We have looked at these entries, I'm not going to take

- 1 you back to them. 9.42, no seconds because it's Ralph,
2 Ivor is on to the bus. Did you see him get on?
- 3 A. No, I didn't, sir.
- 4 Q. Did you know he was on?
- 5 A. Yes, sir.
- 6 Q. We then get at 9.45 a very short call from the
7 operations room to you; do you remember that?
- 8 A. What time's that, sir, 9.45?
- 9 Q. Yes, four seconds?
- 10 A. No, I am guessing that probably would have gone --
11 diverted through to my pager or something, sir.
- 12 Q. Okay, but we know from Pat's log at 9.45 that the bus is
13 continuing through the Tulse Hill one-way system; yes?
- 14 A. Yes, sir.
- 15 Q. We have then got at 9.47.38 by Lambeth, Mr de Menezes
16 off the bus; yes?
- 17 A. Yes, sir.
- 18 Q. The grey log for 9.47 has "off the bus, held at stop,
19 texting"?
- 20 A. Yes, sir.
- 21 Q. Were you conscious of that?
- 22 A. Yes, sir.
- 23 Q. Did you hear that on the Cougar?
- 24 A. Yes, sir.
- 25 Q. Where were you at the time?

- 1 A. Somewhere within that one-way system behind the bus,
2 sir.
- 3 Q. At 9.48, Pat's log is:
4 "U/I male off bus and on foot towards the further
5 bus stop".
6 Did you hear that?
- 7 A. I don't recall towards further bus stand. I remember
8 him being given as north on the footway towards -- or
9 north on the footway out and right from where the bus
10 was, sir.
- 11 Q. Then in the grey log at the same time, and we will ask
12 Ivor about this because it's his entry:
13 "Running back towards number 2 bus on mobile
14 telephone".
15 Do you remember anything like that?
- 16 A. Yes. Yes, I do, sir.
- 17 Q. Then 9.49 again in the grey log:
18 "On the mobile phone, right hand, right ear, on to
19 the number 2 bus".
20 Again the registration is given; yes?
- 21 A. Yes, that's right, obviously I'm aware at that stage
22 that the subject has re-boarded the same bus and at that
23 point I am a bit concerned obviously because we haven't
24 got anyone on the bus with him.
- 25 Q. We can see that if the Lambeth time is right, it is at

- 1 about 9.50 that Mr de Menezes got back on to the bus?
- 2 A. Yes, sir.
- 3 Q. Then we have three telephone calls, and it may be that
- 4 we can put them more or less together, the third one is
- 5 over the page. 9.50 for eight seconds, ops room to you,
- 6 then back from you to the ops room, and then the ops
- 7 room to you?
- 8 A. Yes, sir.
- 9 Q. What's that?
- 10 A. That is me saying to the ops room what's happening here,
- 11 making sure that they are listening because in effect
- 12 there has been no contact other than what I believe to
- 13 be a failed call, between myself and the ops room from
- 14 when Mr de Menezes got on the bus at Tulse Hill, to
- 15 really this time when we get to Brixton. I am looking
- 16 for directions as to what the ops room want us to do,
- 17 and making them aware of the fact that we have got this
- 18 male, that he has come off of the bus and has got back
- 19 on to the same bus and that there is no surveillance
- 20 officer with him and that, because of tradecraft issues,
- 21 we can't do that, we have to treat it potentially as
- 22 an anti-surveillance manoeuvre, sir.
- 23 Q. Okay, we see at 9.52 how that's picked up and recorded
- 24 in Pat's log; yes?
- 25 A. Yes, sir.

- 1 Q. There are three calls between Mr McAuley and your
2 telephone that I would like to deal with next. 9.52.30.
- 3 A. Yes, sir.
- 4 Q. 9.54.34, and 9.56.17. Mr McAuley is one of the officers
5 with Mr Dingemans in a car. They are the S013 arrest
6 team. Those three calls to your telephone?
- 7 A. Yes, sir.
- 8 Q. Do you remember what those were about as you understood
9 them at the time?
- 10 A. At the time, they were just calls into my phone asking
11 for information about where the subject was, sir.
- 12 Q. There are two calls from the operations room to your
13 telephone at 9.53 and 9.55; yes?
- 14 A. Yes, sir.
- 15 Q. And they are interspersed between those McAuley calls?
- 16 A. Yes, they are, sir, yes.
- 17 Q. Do you remember what those were about?
- 18 A. I believe that one of those may well have been the
19 question about identification, sir.
- 20 SIR MICHAEL WRIGHT: Do you mean the percentage?
- 21 A. The percentage question, yes, sir.
- 22 MR GIBBS: As to which one it was, can you say?
- 23 A. I can't, sir, no.
- 24 SIR MICHAEL WRIGHT: Logically it would be the first,
25 wouldn't it?

- 1 MR GIBBS: Is that right, James?
- 2 A. In my mind, I assume that I would have phoned them back,
3 but there is nothing from me to them, so that must be
4 that way round, yes, sir.
- 5 MR GIBBS: That's the only reason why I asked that question
6 back to the witness because they are both incoming,
7 aren't they?
- 8 A. Yes, sir.
- 9 Q. You will have noticed that the way the billing is
10 organised, some of these calls we have the seconds for
11 and others we just have minutes, so 9.53 for 23 seconds
12 rather than beginning at a particular numbered second.
13 Yes? That explains the different nomenclature.
- 14 A. Yes, sir.
- 15 Q. Then in Pat's log at 9.56 and 9.57 we have
16 a continuation of where the bus is; yes?
- 17 A. Yes, sir.
- 18 Q. If Lambeth is right, at 9.57 roughly and a half,
19 Lawrence gets on to the bus?
- 20 A. Yes, sir.
- 21 Q. Between those times, between about 9.50 and 9.57, had
22 you had anyone on the bus?
- 23 A. No, sir.
- 24 Q. We then have -- I'm going to pass over Derek's telephone
25 calls, he's covered those -- an entry in the grey log at

- 1 9.59 attributed to Lawrence, and it says where the bus
2 is and whereabouts Mr de Menezes is; yes? Do you
3 remember hearing that?
- 4 A. Yes, I do, because that was around about the time when
5 we were asking the question or I was asking the question
6 of where the subject was, yes, sir.
- 7 Q. We can see also that at 9.59 on the right-hand side,
8 there is a telephone call from Harry to Lawrence. As
9 you remember it, what is that?
- 10 A. I don't know why Harry has phoned Lawrence; whether he
11 has phoned Lawrence to ask that question for me, what is
12 the subject doing, but certainly there is communication
13 between the two of them, and Harry is able to relay what
14 Lawrence is saying about the subject getting off and
15 towards the stairs, and being held on the stairs.
- 16 Q. Thank you, and we can see that picked up in Pat's log at
17 10 o'clock. The reason why I have put the next
18 telephone call between 84 and Esposito in bold, rather
19 like the 84 to James one above, is that it's a very long
20 call; do you see?
- 21 A. Yes, sir.
- 22 Q. Look at the first bold one, the 84 to you at 9.56.48.
23 What's that call, as you remember it?
- 24 A. That's the call whereby the phone rings; I'm not in
25 a position to deal with the call effectively myself;

- 1 I ask Ken to deal with it privately, but that to give it
2 to me -- if it needs me to deal with it, I will deal
3 with it, but if it's just someone wanting to know where
4 we are, then he can deal with it.
- 5 Q. So although we have T84 to James, actually that's Ken on
6 the end of the line?
- 7 A. It is, yes.
- 8 Q. About 9.56?
- 9 A. Yes, sir.
- 10 Q. Thank you. We then have -- I am looking at the
11 telephone calls -- on the right-hand side at 10.02 for
12 a second what is probably a text, and we know what the
13 text said, from Lawrence to Harry. Was that passed on?
- 14 A. Certainly that he was held on the stairs came out, yes,
15 sir.
- 16 Q. In the grey log at 10.02, we have the entry "off the bus
17 and recip". What is that?
- 18 A. Reciprocal, that means basically going back in the --
19 back from the direction the bus was going in, so walking
20 away from where the bus was.
- 21 Q. So passing the NatWest and into the tube at Stockwell,
22 and we will ask Ken about that.
- 23 A. Sir.
- 24 Q. Then again, if Lambeth is right, it's 10.02.37 when
25 Mr de Menezes goes into the tube station; yes?

- 1 A. Yes, sir.
- 2 Q. Then Pat's log, we have 10.03, "U/I M off the bus", and
3 in that same minute at 10.03 on the right-hand side, for
4 86 seconds, your telephone call to the ops room.
- 5 A. Yes, sir.
- 6 Q. Just spell it out, what's happening in that telephone
7 call?
- 8 A. Ivor has asked me if he should detain the subject before
9 he goes down the tube. I have asked that same question
10 of the ops room, to Pat, and said: do you want him
11 detained, do you want us to detain him, if you want us
12 to detain him, I need an answer immediately, because
13 otherwise we will lose communications if the subject
14 goes down the tube.
- 15 Q. We have heard that at the end of that inquiry within the
16 operations room there was, for some short period of
17 time, in fact a decision made that in fact S012 should
18 make the stop. Did that ever get through to you?
- 19 A. It didn't, sir, no. I think what had happened at that
20 point is that I had lost communications with my officers
21 and had put the phone down because I had felt at that
22 stage that my phone was better served for me trying to
23 contact my officers in the tube, if I could get
24 a message to them, if I could phone them, or to use it
25 to basically to position my team for a potential tube

- 1 follow, sir.
- 2 Q. Did you begin to do that?
- 3 A. Yes, I did, sir.
- 4 Q. Position your team for a potential tube follow?
- 5 A. Yes, sir, but Harry up towards the Oval, and I was just
6 starting to think what I was going to do with my bike,
7 Adam, and with the photographer, Tim, and around about
8 that time I think we probably had the state red.
- 9 Q. Tim we know, you have described as the photographer, was
10 he a specialist photographer attached to the team?
- 11 A. He was, sir, yes.
- 12 Q. You had asked him to see whether he could get ahead of
13 the subject at one point to get a photograph?
- 14 A. As soon as the subject had got on to the bus, that was
15 the first thing in my mind was to try to get some
16 imagery and I asked him specifically to do that and for
17 the team to get out of his way so he could come through.
- 18 Q. I think he was not actually able to do so; is that
19 right?
- 20 A. He wasn't, sir, no.
- 21 Q. Thank you. I'm going to put that on one side. It has
22 hole punches in it?
- 23 SIR MICHAEL WRIGHT: Tab?
- 24 MR GIBBS: 60 is the next tab.
- 25 I have just a few other very quick points. What, if

1 anything, was the significance to you as a surveillance
2 team leader of the fact that the man that you were
3 following using a mobile telephone?

4 A. The use of the telephone at Brixton, sir?

5 Q. Yes.

6 A. You could read all sorts of different interpretations
7 into that. I didn't read anything into it particularly.
8 You could say it was significant, I suppose. However
9 there are so many mobile telephones about these days and
10 people are always using them that I didn't really read
11 personally that much into it, sir.

12 Q. In surveillance terms, does a subject using a mobile
13 telephone sometimes provide an opportunity to gather
14 further intelligence?

15 A. Yes, it does, sir. One is from the phone in itself, the
16 description of the phone and the way it's used, right
17 hand to right ear or left hand to left ear can give away
18 mannerisms. Type of phone itself can be used if it's a
19 particularly identifiable one. It might be useful as
20 an aid to identification of the person using that. But
21 other than that, there are, if you like, technical means
22 which can be used which can be an asset to surveillance,
23 I don't really want to go any further than that, sir.

24 Q. I don't need you to go any further than that either.

25 The Dingemans S013 arrest team, we will hear whether

1 they had sirens or lights going. Did you, during the
2 surveillance follow at any time see a police car with
3 sirens or lights going?

4 A. No, sir.

5 Q. If you had, would that have been of concern to you?

6 A. Of great concern to me, sir, yes, if a vehicle was
7 behind the bus that we were following, with blue lights
8 and two tones, that would have been a great deal of
9 concern to us, sir. We are trying to run a covert
10 operation, and without any knowledge that some other
11 tactical plan is about to be hatched, then that is going
12 to cause problems for my officers. What are they then
13 to do if they have no knowledge of someone coming in to
14 them in an overt manner.

15 Q. Could I ask you what you understand by the phrase "hard
16 stop" which you have used at one point. What did you
17 mean by that?

18 A. My understanding, sir, is that hard stop is where you --
19 you are a firearms officer and you pull your weapon out
20 and you would point it at the subject, sir.

21 SIR MICHAEL WRIGHT: Is that to some extent in your
22 understanding a colloquial expression?

23 A. Yes, sir.

24 SIR MICHAEL WRIGHT: Not an official one?

25 A. I don't think it is an official one, sir, no.

- 1 MR GIBBS: The Cougar radio, which is a covert system, am
2 I right?
- 3 A. It has a level of encryption on it, yes, sir.
- 4 Q. Is it also one which it's not necessarily obvious to
5 others that you are using when you are using it?
- 6 A. It can be used in different ways. A set which is worn
7 by somebody on the body can be used -- obviously to
8 speak you would need to open your mouth obviously, so
9 that could be seen, but you can use this tone system and
10 in a car you can operate the radio just by pressing
11 a button, whereas with the Airwave system we had at the
12 time which was also available to us, acted like a mobile
13 phone, so you would actually have to bring that up to
14 your mouth to speak into it and be able to listen to it
15 as well, sir.
- 16 Q. That's what I was interested in. Does the Cougar work
17 underground?
- 18 A. The Cougar will rapidly run out as soon as you start to
19 go down towards any escalators like the tube system. It
20 depends on the depth of the Underground line how quickly
21 you will lose that. My understanding is that the
22 Northern Line is a particularly deep line and you would
23 lose signals very quickly.
- 24 Q. James, we know from questions that you have been asked
25 that you gave evidence at the Central Criminal Court, am

1 I right?

2 A. Yes, sir.

3 MR GIBBS: I think at the end of the trial you were publicly
4 commended by the judge?

5 A. Yes, sir.

6 SIR MICHAEL WRIGHT: Thank you, Mr Gibbs. Mr Hough.

7 Further questions from MR HOUGH

8 MR HOUGH: A couple of short points to deal with.

9 First of all, you were asked, James, this morning by
10 Mr Mansfield about the officer from the red team whom
11 you passed on Upper Tulse Hill?

12 A. Yes, sir.

13 Q. And whom we have identified as Tango 2. He doesn't have
14 a pseudonym. Mr Mansfield mentioned that you heard some
15 commentary from him over the radio, over that period, as
16 you were driving up to or past him?

17 A. Yes, sir.

18 Q. This was when he was walking behind Mr de Menezes on the
19 opposite side of the road?

20 A. Yes, sir.

21 Q. Perhaps we can see what you have said about that
22 commentary at the criminal trial. It's 8 October 2007,
23 page 49. (Pause)

24 If it can't be brought up I'll read it to you, or
25 while it's being brought up. You were asked what you

1 were doing when you saw Mr de Menezes. This is line 3,
2 your answer starts:

3 "Answer: I was listening to the commentary from the
4 red team. For some reason I take it probably to be with
5 the delay in Frank's commentary, one of their officers
6 was on foot walking in the same direction behind the
7 subject..."

8 This is T2?

9 A. Yes, sir.

10 Q. "... and he was some way away and he came up on his
11 commentary and he said he [that's Mr de Menezes] he's
12 too far ahead of me. I can see him but I can't catch up
13 with him. He's too far away'."

14 Then that's the end of the quotation. Then you add
15 this:

16 "This officer was down on foot and the subject was
17 walking reasonably quickly."

18 Do you recall hearing that commentary over the
19 radio?

20 A. The commentary was to such an extent that I then said to
21 Ken, clearly, between the two of us, you know, the red
22 team are having, this is a bit awkward for them, the
23 subject away generally towards Tulse Hill and the bus
24 stops, we will see if we can help out, so yes, I heard
25 that commentary, the commentary was clear that Tango 2

1 was on foot and not making any ground, not getting close
2 enough to be able to make any form of an identification,
3 and I felt perhaps not close enough to keep effective
4 control of the subject.

5 Q. So in any event, from the commentary you heard, it was
6 apparent to you that Tango 2 wasn't in a position to
7 give useful information about identification?

8 A. That was my feeling at that time, sir, yes.

9 Q. Second short point, again I may want to refer to the
10 trial transcript if it's possible, otherwise I'll read
11 it out to you, Mr Gibbs today asked you -- this is
12 page 127 of today's transcript --about that vital
13 communication of yours to the operations room in which
14 you said either "I think it's him" or "I think it could
15 be him"?

16 A. Yes, sir.

17 Q. Of the two I think you preferred as being more likely
18 "I think it's him". You were asked about whether that
19 could be misconstrued. Now, you told Mr Perry, page 113
20 today, that you had qualified that answer further?

21 A. Yes, sir.

22 Q. The answer, "I think it's him"?

23 A. Yes, sir.

24 Q. Can we see, please, what you said about that
25 qualification at the trial. It's page 62 if we can have

1 it up, line 14:

2 "I then came on to the radio to say that, 'Taking
3 that silence, I presume that no-one's had a chance to
4 have a good look' ..."

5 Just to position this, this is the time that you
6 have asked your team about the percentage?

7 A. Yes, sir.

8 Q. You have heard nothing and you have given this response
9 to them:

10 "... and that if anyone has got anything to add,
11 they can phone me. And I then said to the operations
12 room, 'I've got no reply'. I said that I'd seen the
13 subject in Upper Tulse Hill, I'd had a look as I drove
14 past in my car, and that at that time I thought it was
15 him. I thought at the time it was a possible for the
16 subject."

17 A. Yes, sir.

18 Q. Does that accurately set out what you told them in full?
19 Please say if it doesn't.

20 A. Okay, it is casting my mind back, sir, to a time --
21 I know it's important, but since it's three years ago
22 and I am being asked ... if you like, I have rebutted
23 the question because it's a difficult one to answer
24 satisfactorily, and I have then been asked for further
25 information. All I am going now back on is my own

1 personal view at that time, the one time I have seen
2 him, and to make it clear that this is my observation.

3 Q. So just to press you on this finally, before you leave
4 the witness box --

5 A. I think my page moved slightly, could you read it out,
6 is it from line 14 down?

7 Q. Page 62, line 14 down, it's on the screen at the moment.

8 A. I have got it there now. (Pause)

9 That's about right, sir, yes.

10 SIR MICHAEL WRIGHT: So that you were telling the ops room
11 that it was a driveby?

12 A. Yes, sir.

13 SIR MICHAEL WRIGHT: That at the time you thought it was --
14 when you add that last sentence, "I thought at that time
15 it was a possible for him, for the subject", do you
16 think you said that as well?

17 A. I think I did, sir, but it's very difficult --

18 SIR MICHAEL WRIGHT: It's a long time ago.

19 A. That's right, sir.

20 SIR MICHAEL WRIGHT: This evidence you gave just under
21 a year ago.

22 A. Yes, sir.

23 SIR MICHAEL WRIGHT: You are that much closer in time, in
24 any respect.

25 A. Yes, sir.

1 SIR MICHAEL WRIGHT: Does it sound like the sort of thing
2 you would have said?

3 A. It would sound like the sort of thing I would have said,
4 yes.

5 SIR MICHAEL WRIGHT: Very well.

6 MR HOUGH: Just to press you on this finally, because it is
7 important. You have said you think you said, "I think
8 it's him", or "I think it could be him", but the first
9 of those is more likely?

10 A. Yes, sir.

11 Q. Do you think you added at the time a qualification that
12 you had seen him as you had driven past?

13 A. I think I have made it clear that I had seen him as
14 I drove past in Upper Tulse Hill, sir, yes.

15 SIR MICHAEL WRIGHT: As it appears on this transcript.

16 A. Yes, sir.

17 SIR MICHAEL WRIGHT: "I said to the operations room, I said
18 I had seen him, I had had a look as I drove past in my
19 car".

20 A. Yes, that's my recollection, sir.

21 MR HOUGH: Did you then add this final sentence:
22 "I thought at that time it was a possible ..."

23 A. I think I did, sir, yes.

24 Q. Going back to the start of this point, do you think that
25 could be misconstrued as suggesting confidence or

1 certainty on your part, the total communication?

2 A. I would go back to the start, sir. I am asked for
3 a percentage identification. I think that if someone
4 would have thought that I was very confident about it,
5 then I would have replied that it would have been
6 a 95 per cent or 100 per cent positive identification.
7 I have said that. I have then been asked for further
8 information: well, what can you say about what you have
9 seen? Well, again I knew about the Mongolian eyes
10 comment and that didn't really seem to help me to tell
11 the ops room whether or not it was him. I didn't know
12 at that stage when I was having this conversation that
13 Lawrence had had a look. I knew that Harry had had
14 a look up in Upper Tulse Hill, he got on towards the
15 bus, when he made the comment about him being -- I think
16 he said North African looking, maybe, and him looking
17 wary and looking about himself, and then there was my
18 view when I had made a decision that we would run with
19 him as a good possible.

20 I don't really know how that can be misconstrued.
21 If I am saying no, I can't answer that question, then
22 I am pushed further for some sort of information, I am
23 falling back to my own personal recollection and saying,
24 well, that's the best that I can give you at this time
25 in good faith from the view that I have seen.

1 everybody's memory, I think in fact the version that we
2 were working on is at tab 55 for the jury, and this
3 was -- I'm sorry, I am taking it slowly because we have
4 to switch out of the last witness, who has been dealing
5 with something completely different. Just to remind the
6 jury, this was a note that you made at a much earlier
7 stage in these proceedings, obviously, because we go
8 back to 31 July 2005, in other words the end of the
9 month in which Mr de Menezes was shot. After the
10 shooting, towards the end of the month.

11 The bracket of time over which these notes were made
12 was in fact between 31 July and 3 August of that year?

13 A. Yes, sir, but I believe at the time, previous
14 cross-examination, I have asked to use my statement, it
15 being the best record of events.

16 Q. I have no objection to whatever documents you wish. Do
17 you have it there?

18 A. I do, sir, yes.

19 Q. I'm not going back over all the questions I had asked,
20 but I started at the top and just worked my way down,
21 asking you for your observations about various aspects
22 of this. In fact, I had got to the point about the
23 sentences, because there is more than one, that had been
24 deleted. As we see on this one, that's tab 55, the
25 sentences that have gone -- and I'll -- could we have

1 alongside it on the same screen so we can see, 7868,
2 which is the version that you provided to those making
3 enquiries. (Pause)

4 This is the one which has handwritten additions.
5 Thank you. If you put the two alongside.

6 SIR MICHAEL WRIGHT: If you remember, ladies and gentlemen,
7 at tab 55 you have the first of those two and then the
8 missing two lines are on a separate piece of paper.

9 MR MANSFIELD: If it can't be done --

10 A. I have the two in front of me.

11 Q. I think the jury probably have. 7868 is the number,
12 I am sorry, there seems to be a slight -- that's it.
13 Can we stick with that?

14 SIR MICHAEL WRIGHT: That's the one with the two lines
15 missing?

16 MR MANSFIELD: Yes.

17 So this is the copy. What can be seen here is a gap
18 where:

19 "Management discussion.

20 "CD can run onto tube as not carrying anything.

21 Persuaded otherwise by unidentified U/I male amongst
22 management."

23 That's what's come out, and would have been
24 underneath, "subject towards Stockwell tube, recognised
25 in ops room"; all right?

- 1 A. Correct, sir.
- 2 Q. I am going to take the next bit slowly because I asked
3 you a number of questions about this, and to summarise,
4 your position seems to be you are not suggesting that
5 what you deleted was complete rubbish, because I put it
6 to you: are you suggesting that, and you said no. What
7 you were wanting to qualify was that the reason you took
8 it out was you couldn't be sure to whom you could
9 attribute that discussion. Now, is that a fair summary
10 or do you wish to --
- 11 A. If I can just add a little to that, the reason it was
12 deleted and identified as incorrect back in October of
13 2005 is the false impression you get, you could read it
14 that commander wasn't in control and that's what I have
15 said is actually incorrect.
- 16 Q. You just said October?
- 17 A. When I made my statement. Sorry, November 2005, when
18 I made my statement.
- 19 Q. When you made your statement?
- 20 A. Yes, sir, that's what I'm talking about. In a way, not
21 being able to attribute it, that's correct, I have
22 caught some part of a conversation, I think, about
23 allowing him to run on the tube because he's not
24 carrying anything, couldn't put a context on that,
25 I believe that was the commander, I believe, as I say,

1 I have only seen a snapshot. But I think that's a fair
2 summary.

3 Q. That's, insofar as you have said that, that's fair
4 enough. So you could have left that in and explained to
5 people, without deleting it, that was your problem; you
6 had attributed it but actually on reflection you weren't
7 able to. That doesn't require a deletion, does it?

8 A. In hindsight, it was a mistake to do it like that.

9 Q. Well, I just want to pursue it a little, because
10 obviously what I am wanting to get from you is really
11 why you wanted to do this in the first place, as you
12 have now agreed it was a mistake. So that's the context
13 of the following questions.

14 When you were -- bringing us forward from
15 November 2005 to this inquest, you have accepted that --
16 it's now two weeks ago, so I am sorry to ask you to cast
17 your mind back -- it says on the bottom here in
18 handwriting that this was modified vis-a-vis the
19 codenames on the 5th. You have agreed that was
20 a mistake, it was meant to be 6 October this year, which
21 was a Monday?

22 A. Sorry, 7th, Tuesday.

23 Q. I'm so sorry. Tuesday, yes. Monday was the 6th,
24 Tuesday was the 7th. It should have read the 7th that
25 it was modified. Now, what I want to ask you is this:

1 who asked you for the notes?

2 A. It would have come through Chris Rixon but it would have

3 been the July Review Group.

4 Q. What is the July Review Group?

5 A. It's basically running the inquiry on behalf of the Met.

6 Q. Running what inquiry?

7 A. I would say the Metropolitan Police Service's response

8 to Stockwell would be my understanding.

9 Q. How long has that been going for?

10 A. I believe since the events.

11 Q. Since the event?

12 A. Or close to, I believe.

13 Q. Did they produce reports?

14 A. I think they called it a newsletter, yes.

15 Q. A newsletter, how often?

16 A. I'm not sure, sir.

17 Q. Is Mr -- is it Sergeant Rixon, is that his name?

18 A. Detective sergeant, yes.

19 Q. Is he part of that group?

20 A. No, he's not.

21 Q. Is he your line manager?

22 A. No, he's not.

23 Q. How does he relate to you?

24 A. Obviously we have got quite a lot of administrative

25 arrangements that concern anonymous witnesses, so we

- 1 have a cell that have been doing the link into this,
2 sir.
- 3 Q. Does he ask you on the Monday, which is the 6th, for
4 your notes?
- 5 A. No, I was off work so it must have been Tuesday.
- 6 Q. Must have been the Tuesday that you are asked, right, so
7 we move on to the Tuesday. When were you asked on the
8 Tuesday?
- 9 A. Sometime in the afternoon, possibly late afternoon, sir.
10 I do not have a clear recollection of exactly when.
- 11 Q. Well, it wasn't that long ago, so I do want to ask you
12 when on the Tuesday you were asked, and obviously the
13 corollary to that is, having been asked, when you
14 accessed these notes?
- 15 A. The best I can give is I left work at 6 or close to 6 --
- 16 Q. In the evening?
- 17 A. In the evening. I have handed in the document, I have
18 made handwriting on the top, produced on computer, as
19 I have explained before, handed it, had to add something
20 to both. So by the time I have got my password to
21 actually access these, it's some time in the afternoon,
22 but it's run on until 5, 6 in the evening.
- 23 Q. Well, I don't know whether you are aware of the computer
24 information with which we have been provided?
- 25 A. I am not, sir, no.

1 Q. You are not aware. Well, the computer information with
2 which we have been provided is that in fact, so you have
3 the total picture, that the unamended document, in other
4 words without the deletion, was still in existence at
5 the close of play on the 6th; that is the date, as the
6 dates we have just been going through, the Monday; do
7 you follow?

8 A. Yes, sir.

9 SIR MICHAEL WRIGHT: What's the close of play, Mr Mansfield?

10 MR MANSFIELD: I have asked about this and I am not entirely
11 sure that I have been given -- I haven't been given
12 a time, so I don't know. That's the phrase that's been
13 used. I get another phrase, but it doesn't add a great
14 deal, as the last witness would say, end of business,
15 and I'm afraid I can't help, and I seek others'
16 assistance as to when that was.

17 SIR MICHAEL WRIGHT: As far as Scotland Yard is concerned,
18 I thought they never closed.

19 MR MANSFIELD: Perhaps we will get a time. But certainly
20 overnight, 6th into the 7th, Monday into the Tuesday, it
21 was unamended.

22 Now, the further computer information we have, all
23 right, so I am now going into the 7th, was that in fact
24 it was accessed and last, as it were, amended at 11.52
25 in the morning, save that it was Greenwich Mean Time, so

- 1 there could be a one-hour difference here. In other
2 words it's in the morning of that day, the Tuesday the
3 7th. Is that your recollection?
- 4 A. No, my recollection is some time in the afternoon but
5 obviously that's from the computer, that must be
6 correct.
- 7 Q. That's why I have asked you very carefully about this.
8 SIR MICHAEL WRIGHT: BST would be 12.52.
- 9 MR MANSFIELD: Yes. So therefore, working on -- this is
10 just information that we have been provided with because
11 the matter's been investigated, so it looks as though it
12 was last written, which is the phrase used, at 12.52,
13 just before lunch, on Tuesday of that particular week,
14 Tuesday the 7th; all right?
- 15 A. Okay, sir.
- 16 Q. You had been, as you have already agreed, following
17 these proceedings to some extent, and you knew that
18 Cressida Dick was giving evidence on the Monday?
- 19 A. I knew she was giving evidence on the Monday, I didn't
20 see any of Monday's, sir.
- 21 Q. But you did see, as you have said already, some of my
22 cross-examination on the Tuesday?
- 23 A. I did, sir.
- 24 Q. We have had it checked, and we can almost pin down
25 a time, that the time on Tuesday morning that I was

- 1 asking questions of Cressida Dick about the policy of
2 letting somebody run was in fact around 11.35; did you
3 know that?
- 4 A. I didn't, sir.
- 5 Q. Did you see it?
- 6 A. I caught some of the decision log on that time, sir.
7 I think there was a document shown on the screen as to
8 reasons why.
- 9 Q. That's right, her decision log. Now, if it wasn't you
10 getting concerned, was somebody getting concerned about
11 what was being said in the inquest about Cressida Dick's
12 decisions?
- 13 A. I wasn't getting concerned, sir, and no-one has
14 expressed concern to me from a management, if that's
15 what you are implying, sir.
- 16 Q. Well, you had this put to you the other day because of
17 a telephone call you had with a Mr Emery?
- 18 A. That's correct, and he's got hold of the wrong end of
19 the stick, as it were.
- 20 Q. He has, all right, then just pursuing this a little, so
21 it looks, just before lunch on the 7th, the Tuesday, you
22 have entered and deleted and amended, right? You do it
23 all at the same time, do you? You made the amendments
24 to the codes --
- 25 A. Yeah, I believe that's fair.

- 1 Q. -- and the deletion at the same time?
- 2 A. I believe so, sir.
- 3 Q. So although you say you were worried about what was in
4 the notes way back when you made your statement in 2005,
5 you had not done anything about the notes until this
6 Tuesday?
- 7 A. I believe they just sat on my system, as I say, a system
8 I never used, sir.
- 9 Q. Now we have a time, and I'm just working on the basis
10 that this has been accurate research, just before lunch
11 on the Tuesday, you wouldn't be rushing off in the
12 middle of the day for a meeting, would you?
- 13 A. I don't recall any specific meeting, sir. I think I was
14 doing admin that day.
- 15 Q. Right. When did you hand what is now on the screen --
16 this is a copy -- when did you hand the original of what
17 is now on the screen, 7868, over to someone else?
- 18 A. Towards the end of the day, 5, 6 o'clock, sir.
- 19 Q. That someone else was the detective sergeant, was it?
- 20 A. That's correct, sir.
- 21 Q. It was on that day, the Tuesday, having deleted and
22 amended, that you put on the various bits of handwriting
23 at the top and the bottom?
- 24 A. Correct, sir.
- 25 Q. When you handed it to Detective Sergeant Rixon, did you

- 1 say to him that "Besides the codes I have deleted three
2 sentences"?
- 3 A. I don't recall saying that, sir.
- 4 Q. Well, I want to be clear, are you saying you did but you
5 don't recall it, or you didn't?
- 6 A. I have got no memory of saying that, sir.
- 7 Q. Is the answer you didn't tell him?
- 8 A. Well, to the best of my recollection, that's correct,
9 I didn't tell him.
- 10 Q. Yes, so you didn't tell him to the best of your
11 recollection; why not?
- 12 A. It didn't occur to me at the time, sir.
- 13 Q. Oh, please, think about this, the alteration of a note
14 in this way, you do appreciate is a serious matter,
15 isn't it?
- 16 A. Sir, as I say, I have always described this as an aide
17 memoire, which is a computer record. I have never
18 actually had to deal with anything like this. I have
19 always dealt in the realm of original notes which are
20 handwritten. That obviously is a serious matter. I am
21 fully aware of that. This is a situation I have never
22 dealt with before.
- 23 Q. This is an original note on a computer screen instead of
24 a notebook, isn't it?
- 25 A. It is not what I would describe as an original note.

- 1 Q. Oh, I see, you just say it is an aide memoire?
- 2 SIR MICHAEL WRIGHT: If it's an aide memoire, why does it
3 bear the word "log" at the top?
- 4 A. It's simply a title that I can use to find it. A log --
5 obviously, a surveillance log book, surveillance running
6 log is just a title I can use to find it later, sir.
- 7 SIR MICHAEL WRIGHT: You appreciate that a log might be
8 interpreted as meaning a contemporaneous record?
- 9 A. In hindsight, yes, I do, sir, but it was never intended
10 that way.
- 11 MR MANSFIELD: An aide memoire for ease of finding, you just
12 put "aide memoire" at the top, don't you, if you just
13 want to find it on the computer.
- 14 A. I could, sir, but I included 22 July.
- 15 Q. A lot of what we have been through already, we have
16 established in fact are matters, some of them
17 incontrovertible, undoubtedly happened, do you follow?
- 18 A. I think so, yes, sir.
- 19 Q. The things above all that, about the buses and all the
20 rest of it, we have had from other witnesses. You don't
21 tell detective sergeant -- the detective sergeant that
22 you have deleted it, and you don't write it at the
23 bottom either, do you?
- 24 A. No, sir, because I am finishing it off in a hurry.
- 25 Q. Are you, or if you started at 11.52, there wasn't

- 1 a hurry, was there?
- 2 A. I don't know when I have printed it sir. All I can say
3 is towards the end of the day when I am looking to go,
4 that's when I have spoken to him.
- 5 Q. So you don't tell the detective sergeant, you say you
6 are in a hurry, which is why you haven't written it on
7 there, so we will just leave that for the moment, that's
8 the state of play, you say, on the 7th.
- 9 A. Correct, sir.
- 10 Q. I want to move to the 8th now, and for these purposes we
11 now have other documents available. On the 8th, and
12 I'll take it in stages, you were asked about these notes
13 by a number of people and I'll do it chronologically,
14 weren't you?
- 15 A. I think it all came through the same route, but yes,
16 please go on, sir.
- 17 Q. All right. One of the documents that comes through,
18 this is now on the 8th, is an email. Can we have
19 exhibit 1500. So you have the context here --
- 20 A. I remember this email, sir.
- 21 Q. We can see at the top it's come from somebody called
22 Jeremy Wilson. He is a police officer, isn't he?
- 23 A. I have no idea, sir.
- 24 Q. So the jury may know, he is a police officer at New
25 Scotland Yard, and he was, as it were, involved in

1 examining the provenance of these notes. He sends
2 an email in fact to the person we have been talking
3 about, you will see that at the top, Chris Rixon,
4 dealing with anonymous witnesses as you have described.

5 You will also see the date, 8 October, you will also
6 see the time, around 1.30 on the 8th. It's asking for
7 a number of matters:

8 "What was the full date the original notes were
9 made, why were they made and how?

10 "What was the full date the modified notes were
11 made, why were they made and how?

12 "Were they made with anyone else or whilst referring
13 to any other document? What exactly has been changed in
14 the modified document?

15 "Where is the original document? (Also to be
16 supplied).

17 "Have they ever been referred to previously, e.g.,
18 Health and Safety trial?"

19 You remember that email, because you were shown it?

20 A. I think I have got Chris to print off a copy rather than
21 try and do it off the screen.

22 Q. So Chris Rixon, the detective sergeant, gives you a copy
23 plainly some time after 1.34?

24 A. Yes, sir.

25 Q. I want to fill in a gap after 1.34 on the 8th. First of

1 all, do you say then, when you are not in a hurry, to
2 Detective Sergeant Rixon: oh, I meant to tell you last
3 night, I was in a bit of a rush but I have actually
4 deleted part of the document?

5 A. I believe at some time I tried to write a statement for
6 this --

7 Q. I'll come to the statement.

8 A. I have at some point in the afternoon, I believe, sir.

9 Q. I am going to take it very slowly because I suggest what
10 happens is you are driven in the end much later in the
11 afternoon to admit you have deleted, and so you know
12 where I am going, I'm going to suggest your first
13 attempt on this day, as the day before, was to try to
14 cover up that you had deleted it?

15 A. That's incorrect, sir.

16 SIR MICHAEL WRIGHT: It's 3.30.

17 MR MANSFIELD: Yes, sir, I'll pause.

18 SIR MICHAEL WRIGHT: Quarter to.

19 (3.35 pm)

20 (A short break)

21 (3.48 pm)

22 (In the presence of the jury)

23 SIR MICHAEL WRIGHT: Yes, Mr Mansfield.

24 MR MANSFIELD: We have seen the email, the time is 1.30
25 roughly. Just taking it through on the Wednesday the

- 1 8th, a couple of weeks ago. Do you tell
2 Detective Sergeant Rixon, just after you received the
3 email that in fact you deleted anything on it?
- 4 A. I don't know exactly how long, I know it says 1.34 but
5 I don't know what time it actually got to me. But not
6 too long after, when I have requested to get a phone
7 number for Director of Legal Services, that's when I am
8 speaking to him.
- 9 Q. I am going to jog your memory a little. Did you tell
10 Detective Sergeant Rixon, in relation to one of the
11 requests on the email which was the original document to
12 be supplied, did you tell him not that you had deleted
13 anything, but that the original could no longer be
14 produced because the modifications had been saved over
15 the top? Did you tell him that?
- 16 A. I can't remember telling him that. However, although
17 you save over the top, I am fully aware that using
18 system support, they can go back and get previous saves.
- 19 Q. I wonder, you see, if you did know that then. You did
20 know that then, did you?
- 21 A. Well, I have been aware of it as a detective --
- 22 Q. Why didn't you say to Rixon: it's all right, we can go
23 back and get the original? I mean, you don't have to
24 say anything to Rixon other than: yes, we can get the
25 original, although I have modified it.

1 You didn't say that, did you?

2 A. Well, I don't remember saying that to him. When I have
3 explained the situation to Director of Legal Services,
4 that would be my preferred route, yes.

5 Q. We will get to the Director of Legal Services. That's
6 a little later in the afternoon. Things move on.

7 Because after the conversation with Rixon suggesting
8 you can't produce the original because modifications
9 have been saved over the top, you then sit down
10 somewhere, presumably on police premises, and make
11 a statement; do you remember doing that?

12 A. I have started a statement, whether that -- I think that
13 was probably opened before I spoke to Chris, because in
14 make -- in trying to write the statement, that's when
15 it's become obvious that I need to speak to the
16 Directorate of Legal Services.

17 Q. I am going to make it utterly clear to you, you have
18 emphasised many times you only started a statement -- we
19 are going to see it in a second -- you not only started
20 but you finished a statement that day and then you
21 wanted to speak to the Director of Legal Services?

22 A. That's not correct, sir, I never finished the statement.

23 Q. Let us see it. Exhibit 1489, the jury don't have it,
24 and as they don't, I just want to go through this with
25 you but we had better read it so the jury have a full

1 picture of what you put on paper. Your call sign,
2 Central 1855:

3 "This statement (consisting of 1 page ..."

4 Do you see that?

5 A. Yes, sorry, the "1" is filled in automatically.

6 Q. It's filled in because it's only one page. It's not as
7 though it's going to last ten. Do you fill that in or
8 the machine fills it in?

9 A. I don't recall filling that in, so I am assuming the
10 machine fills that in.

11 Q. I would like you to think about it.

12 A. I don't know, sorry, sir.

13 Q. You don't know?

14 A. I don't know.

15 Q. It's not signed or dated, but this is what it says:

16 "I have been asked to supply a statement regarding
17 the production of original notes, which I have entitled
18 'Log of 22 July'."

19 So you may follow the suggestion I make as we go
20 through so I do not have to go through it twice, what
21 you are doing in this statement is in fact answering all
22 the questions in order as they appeared on the email,
23 aren't you?

24 A. I am trying to answer them, that's correct, sir.

25 Q. Yes, all of them?

1 A. No, I haven't in any way got all of them. The two
2 issues when I want to deal with -- with Directorate of
3 Legal Services, is firstly the deletion and dealing with
4 that, and secondly, largely the issue of corroboration.
5 This isn't a problem in the case of original notes
6 because you have got on day, date, time and place:
7 I made these at this location, the following officers
8 were present. As I am saying, this is a situation I
9 have never had to deal with before. They are the two
10 main issues.

11 Q. We will come to that. So answering how the notes were
12 made:

13 "These notes were made on Skye computer at New
14 Scotland Yard when the events were clear in my mind.
15 They were produced on or around the early morning on 31
16 July to 3 August 2005. This information is from the
17 document data. I do not recall whether or not
18 modifications were made in this period. I made these
19 notes alone from my own recollection without reference
20 to other documents, but at this stage I cannot recall
21 whether I had consulted with other officers. I made
22 them at this stage because it was apparent that the
23 events of 22 July would be subject to inquiry and
24 debrief and I wanted a record before my memory faded.

25 "On Tuesday 7 October 2008 I logged into the Skye

1 system and produced a copy of the notes as I had been
2 requested to by the July Review Group. In this document
3 I altered my notation that referred to officers by their
4 initials to the relevant pseudonyms being used in the
5 inquiry."

6 Please note this next sentence:

7 "The original document no longer exists, having been
8 overwritten by the modified version."

9 Then you go on:

10 "These notes were not referred to during the Health
11 and Safety trial but did form the basis of my statement.
12 I do recall if these notes were supplied to
13 Operation Erini on request but had they requested they
14 would have been."

15 SIR MICHAEL WRIGHT: There is a "not" disappeared somewhere,
16 I would have thought.

17 MR MANSFIELD: Should there be a "not" there?

18 A. I would say from the sense that it should say "not".

19 Q. If one goes through the checklist on the email, which we
20 have been through once, your statement therefore deals
21 with the full date of the original notes that were made;
22 why they were made and how; the full date of the
23 modified notes; why they were made and how; were they
24 made with anyone else; what exactly has been changed;
25 where is the original document, also to be supplied;

1 have they ever been referred to previously; do you see,
2 it's going through the checklist, isn't it?

3 A. As I say, I have tried to answer the questions. I have
4 produced what I would describe as a standard statement
5 and the standard statement is not correct. Then because
6 I have spoken to the Directorate of Legal Services,
7 I want to speak to them, I see no problem leaving this
8 on the computer until afterwards.

9 Q. Yes, because you thought at the time you wrote the
10 statement, as I suggest you had told DS Rixon, who told
11 Inspector Wilson, you thought the original document no
12 longer existed, didn't you?

13 A. No, sir, I am fully aware and I have been involved in
14 investigations where you have recovered documents that
15 have been deleted. Every detective knows this.

16 Q. Why did you write the sentence, "the original document
17 no longer exists"?

18 A. It no longer exists on my system, but I'm fully aware
19 that you can go back and get it. It just requires
20 a level of technical expertise which obviously the
21 police have, sir.

22 Q. So you knew when you wrote the statement, you knew when
23 you spoke to DS Rixon, that it did exist?

24 A. I know it exists in the terms of noughts and ones and it
25 can be recovered.

- 1 Q. Why didn't you say to DS Rixon, even by the time of this
2 statement, "I have actually deleted something" --
- 3 A. I believe I have on or around the same time.
- 4 Q. Do you say by this stage, that is the statement?
- 5 A. No, I have not completed that statement.
- 6 Q. Now I want to deal with whether this is in fact what you
7 were intending, rather like the note on the bottom of
8 the original notes that you had taken off, no mention of
9 deletion when you wrote out the notes at the bottom and
10 no mention of the deletion in here, no mention to
11 DS Rixon up to this point; did you know that DS Rixon at
12 around 3.30 spoke to Inspector Wilson yet again about
13 this document?
- 14 A. I don't know that, sir.
- 15 Q. I want to put you in the picture as to what he said on
16 your behalf.
- 17 A. Right.
- 18 Q. Was that you had completed a statement by 3.30, but you
19 didn't want to submit it until you had spoken to the
20 Director of Legal Services. Now, did you tell
21 Detective Sergeant Rixon that you had completed
22 a statement?
- 23 A. I think I probably said I have done a statement but
24 I need to speak to the Directorate of Legal Services
25 obviously in regard to the main two issues that I am

- 1 raising.
- 2 Q. Did you tell Detective Sergeant Rixon, even at that
3 stage: I have done a statement but actually what's
4 bothering me is I did delete something? Did you tell
5 him then?
- 6 A. Some time around then, sir.
- 7 Q. Did you?
- 8 A. I believe so, yes, sir.
- 9 Q. So your account is that you told
10 Detective Sergeant Rixon around the 3.30 time when he is
11 telephoning Mr Wilson?
- 12 A. It might be before, it might be slightly after, but
13 I believe some time in that afternoon.
- 14 Q. It's quite important, you see, that if Detective
15 Sergeant Rixon knew you had deleted something, he might
16 want to pass that on to Inspector Wilson, so did you
17 tell him before this phone call or not?
- 18 A. I don't know, because I don't know exact times, sir.
- 19 Q. No. You were holding out that afternoon hoping that in
20 fact the original wouldn't be recovered and it would be
21 left on the basis that no-one would know you had deleted
22 something?
- 23 A. No, sir, I have got no reason to try to cover that up.
- 24 Q. Well, unless, first of all, pressure was being put on
25 you to keep this out; was any pressure put on you?

- 1 A. I have already said twice that that's not the case.
- 2 Q. So it's not that; unless you were concerned that it
3 might undermine Cressida Dick's position with regard to
4 policy?
- 5 A. I wasn't concerned with that, sir. In regard to the
6 evidence I have given and I refer to the statement that
7 I made, I have given quite a lot of evidence to the
8 Health and Safety trial and to here which is
9 uncomfortable for certain people. However, we are here
10 at an inquest with a man, an innocent man is dead, and
11 an operation where one of my colleagues was very close
12 to being shot.
- 13 Q. Yes?
- 14 A. It is far too important to hide something on the grounds
15 it's uncomfortable, sir.
- 16 Q. So after making this statement, did you go back and
17 complete it?
- 18 A. Sorry, can I correct you, after writing this, I never
19 actually completed it.
- 20 Q. Why not?
- 21 A. Because after I had spoken to Directorate of Legal
22 Services, we had a discussion largely revolving around
23 the deletion, and then I basically never got time.
- 24 Q. Once again, you never got the time to complete the
25 statement; is that what you are saying?

1 A. That wasn't any of my doing, sir.

2 Q. So your explanation for the note on the bottom of the
3 original notes is you didn't have time to add "I deleted
4 as well as modified", and you didn't have, as it were,
5 time to add to this statement either about the deletion;
6 is that your explanation?

7 A. I fully intended to complete a statement after speaking
8 to Directorate of Legal Services to deal with the
9 issues. When I have actually gone into my aide memoire
10 and compared it to my statement, probably the correct
11 way of doing it in hindsight would be to write
12 a clarification statement. I would have had to write
13 three or four details. I did not have a copy of my
14 statement with me at that time. The reason this was
15 never completed is because after speaking to
16 David Emery, things changed rather rapidly.

17 Q. All you had to put in this statement we have in front of
18 us, as you wrote it out, in this document -- you see
19 that sentence:

20 "I altered my notation that referred to officers by
21 their initials."

22 Then a further sentence:

23 "I also deleted three sentences as I did not feel
24 they reflected the true nature of what I remembered."

25 Or something along those lines, do you follow?

- 1 A. I do follow, sir.
- 2 Q. That would have been incredibly easy to put in, wouldn't
3 it?
- 4 A. No, sir, because I have not been in this situation
5 before, so I wanted it -- bring to the attention and DLS
6 would advise me and I would write it in an appropriate
7 form.
- 8 Q. So you were worried about the fact that you had deleted
9 even from an aide memoire, weren't you?
- 10 A. I wasn't actually worried about it, sir --
- 11 Q. So why did you need to speak to the Director of Legal
12 Services?
- 13 A. Because I wanted to get it right.
- 14 Q. What right?
- 15 A. The statement right.
- 16 Q. It's only asking you to tell the truth, isn't it, the
17 statement, it's got it at the top:
- 18 "Each signed by me is true to the best of my
19 knowledge and belief."
- 20 That's really all that's being requested by that
21 paragraph at the top?
- 22 A. That's correct, sir.
- 23 Q. It wasn't a problem for you to write the truth, was it?
- 24 A. The truth would take rather longer than this, but no, it
25 has never been a problem for me to tell the truth in

1 relation to this.

2 Q. The truth wouldn't have taken far longer than this. It
3 would have taken one extra or maybe two sentences?

4 A. No, I would say quite a few, three or four.

5 Q. So you didn't want to put in three or four extra
6 sentences about the truth?

7 A. I didn't complete the statement until I had spoken to
8 the Directorate of Legal Services.

9 Q. Can we go back, please, to the 7868, because there are
10 a couple more things I want to ask you about what is on
11 the notes, following the deletion. I'll use this copy
12 of it.

13 If you cast your eye down, after you deal with the
14 fact that there had been a shooting, do you see that,
15 "subject shot"?

16 A. Yes, that's correct, sir.

17 Q. I want to ask you about the next sentence:

18 "Nothing until debrief later."

19 What does that mean?

20 A. Can't remember, sir, I am afraid.

21 Q. Could it possibly mean that people were asked not to
22 write things down until the debrief, when all of you
23 were together? Could it mean that?

24 A. Sorry, can you explain what you are trying to say, sir?

25 Q. In other words was somebody in the control room or

1 somebody in your department saying to you, "Look, there
2 has been a shooting, no more recording until we have all
3 met together and there is a debrief"?

4 A. I don't recall anything like that, sir.

5 Q. Well, what does it mean?

6 A. I don't know. I read by that that we had some kind of
7 debrief at a later date but I don't recall a debrief
8 ever happening.

9 Q. Right. So you can't now help us as to what that means;
10 is that what it comes to?

11 A. Yeah, three years later I am looking at that and
12 I haven't a clue, sir.

13 Q. All right. Then at 1.30 I want to ask you about this
14 part, if we can highlight the very bottom of the note
15 here.

16 "1.30 saw picture of bus bomber (Royal Song) on
17 news. Not known to AW or myself. Saw picture of
18 Nettle Tip on sheet in possession of ..."

19 Now, this is Mr Boutcher, is it not, the senior
20 investigating officer?

21 A. It is, sir.

22 Q. "... some time between 1 o'clock and 2 o'clock on the
23 22nd."

24 Is that right?

25 A. That's correct, sir.

- 1 Q. Is the photograph that you are talking about on a sheet
2 one that had come from effectively the
3 Driving Licence Authority?
- 4 A. Yes, that's correct, sir.
- 5 Q. It was. Now, can you help as to when that had been
6 obtained?
- 7 A. No, and that's -- and along with the picture of
8 Royal Song, when I had written my statement and I will
9 read out my statement:
- 10 "After the incident finished I remained working in
11 the ops room trying to obtain better quality photographs
12 for the surveillance teams. These included a DVLA
13 photograph of Nettle Tip which I first became aware of
14 in the afternoon and the photographs of the suspected
15 bus bomber which I first became aware of when they were
16 shown on the 1.30 news."
- 17 Q. Who would have obtained a photograph from the licensing
18 authority? Would it be Special Branch doing that?
- 19 A. No, the intelligence lead was the Anti-Terrorist Branch.
- 20 Q. Is that --
- 21 A. It's a reactive investigation.
- 22 Q. Yes, so is that Mr Macbrayne or someone else?
- 23 A. I -- I think Mr Macbrayne, isn't he the forensics
24 manager?
- 25 Q. Yes.

1 A. I don't know. There is a lot of superintendents down
2 there. The people I would have spoken to are exactly
3 the same people I spoke to earlier and referred to is
4 the BIU, the representative from the
5 Anti-Terrorist Branch and SCD7. I have raised these in
6 my statement in that they are mentioned in my statement
7 with a purpose of getting an audit trail: when did we
8 get these photographs because I want them for the team,
9 for the best use for the team. When they are obtained,
10 I don't know, so I am simply posing the question, so
11 when people look at the operation itself, they can go
12 through it. I can't answer all the questions. All I am
13 doing is posing one, sir.

14 Q. I'm not suggesting it's other than a sensible question.
15 You don't know the answer of when they were obtained and
16 you can't help us today?

17 A. There is no way I could, sir, I am afraid.

18 Q. If we want to discover this particular trail, it's the
19 intelligence unit within S013, is it?

20 A. I think it would most likely be the BIU, but ...

21 Q. Final question on this is that, when you looked at the
22 photograph of Osman, now, we have had some dealings with
23 the codes today, you thought he was an IC3 on the
24 licence photograph?

25 A. That's correct, yeah, I would say light-skinned IC3,

1 sir.

2 MR MANSFIELD: Thank you very much.

3 MR HORWELL: Sir, I raise this now to save time,

4 I appreciate it's not my slot, but Mr Mansfield has
5 suggested that one of the motives may have been his
6 cross-examining Cressida Dick about the policy to let
7 people run.

8 SIR MICHAEL WRIGHT: Yes.

9 MR HORWELL: Mr Mansfield has put that that was at about
10 11.35, and the reason why he has chosen that time is
11 that on the transcript of 7 October, there was a break
12 between 11.35 and 11.45. We have been trying to find
13 that reference and have not been able to. As
14 Mr Mansfield has put it, I am sure he has the page
15 number. If he could give it to us, it will save us time
16 when we come to it.

17 MR MANSFIELD: In fact that was the break but that wasn't
18 the reason. When we first asked for this to be checked,
19 the first time that was isolated, because I said I do
20 not want the passage, I want the time if at all possible
21 and I was told the time was at about 11.35. I now
22 understand the time has been narrowed down to an even
23 more precise time, I understand it was 11.59 but I'll
24 give my learned friend the passage and the time.

25 SIR MICHAEL WRIGHT: If you will do that, very well.

1 Now, I'm not sure what order we are in. Mr Stern?

2 MR STERN: No.

3 SIR MICHAEL WRIGHT: Ms Leek?

4 MS LEEK: No.

5 SIR MICHAEL WRIGHT: Mr Gibbs?

6 Questions from MR GIBBS

7 MR GIBBS: Owen, two very short things, please. We have
8 just been looking at a two-page multicoloured document
9 which I think you may find still in the witness box
10 there, which is headed "Red, Grey, Pat Entries in logs".
11 We have put it in our tab 60.

12 A. I haven't got it, sir.

13 SIR MICHAEL WRIGHT: Have you got a jury bundle there?

14 A. No, my own documents.

15 SIR MICHAEL WRIGHT: There is one coming up to you.

16 MR MANSFIELD: Here we are. (Handed).

17 MR GIBBS: Thank you very much. It's a very short point, it
18 relates to a telephone call which are the green entries
19 and there is one at 9.39, do you see, on the first page.

20 A. I do, sir, yeah.

21 Q. For 23 seconds and it appears to be on the records
22 a call from you to Derek, who was the team leader of the
23 red team?

24 A. Sir.

25 Q. I just wonder whether you can remember what that was

1 about?

2 A. I have been asked about this, sir, and I can't recollect
3 the content of the call, but what I can say is initially
4 after he has come out, I have noticed it from Pat.
5 I have attracted the commander's attention as one of the
6 management group and then gone to the back. It's very
7 likely that that concerned me trying to get extra
8 evidence from Derek as to the quality of the
9 identification. I can't specifically remember it,
10 I don't know if Derek does, but it's almost certainly
11 something to do with Mr Menezes coming out.

12 Q. Thank you very much.

13 A. If that's helpful.

14 Q. The second short thing is that if we look further down
15 this document, you will see, for instance, at 9.47 there
16 is a reddish-brown entry which says:

17 "Off of number 2 London bus, held at stop, texting
18 on mobile telephone".

19 The next brown entry down also refers to a mobile
20 telephone. Do you remember information about the person
21 under surveillance using a mobile telephone coming into
22 the operations room?

23 A. I do, sir.

24 Q. Did you do something about that?

25 A. All -- I can't remember any reference to mobile phone

1 call. I do remember a reference to a text. So I have
2 gone to the forward intelligence cell trying to exploit
3 that opportunity.

4 Q. Without giving away any secrets, the information comes
5 in that the person under surveillance is using a mobile
6 telephone. Why have you gone to the forward
7 intelligence cell?

8 A. They are effectively a blind. I don't know what they
9 are doing on the other side specifically. Obviously
10 I have got a good idea. The fact that he's using
11 a text, I have identified there is an opportunity to
12 confirm or deny whether the subject is actually
13 Nettle Tip. So I have gone, off my own back, basically,
14 I have gone next door, spoken to one of the reps inside,
15 explained the situation, asked him if he can do some
16 research with the various intelligence assets they may
17 have.

18 Q. Thank you, that's a nice, vague way of putting it. But
19 in fact did you get any information back one way or
20 another --

21 A. No. Once he has already gone down the tube and what is
22 actually happening is happening, the man I spoke to
23 earlier has come out and he's, I am assuming I'm the
24 only person who has done this because he has come to
25 speak to me rather than anyone else. He said, "We have

1 no intelligence regarding this, however, the operation
2 is such an early stage, the fact that we don't have
3 a positive response isn't enough to say it isn't
4 Nettle Tip".

5 MR GIBBS: I see. Thank you, sir.

6 Questions from MR PERRY

7 MR PERRY: Owen, just these topics, please: first of all,
8 may I ask you some questions about the operations room.

9 A. Yes, sir.

10 Q. I ask questions on behalf of Cressida Dick for these
11 purposes.

12 A. I am aware, sir.

13 Q. All right. You have described it as very noisy?

14 A. Yes.

15 Q. But you fairly said that you were comparing it with your
16 previous experiences in that room; that's right?

17 A. I think I would say I have a very wide range of
18 experiences in that room. Just to explain, crime in
19 action jobs are one thing; terrorism tends to involve --

20 SIR MICHAEL WRIGHT: We have heard all about this several
21 times, we understand the difference.

22 MR PERRY: Whatever the position, you were able to do your
23 job and concentrate on the task in hand?

24 A. Yes, sir.

25 Q. Thank you. That's all I need to establish in relation

1 to that.

2 The second topic, communications, I just want to see
3 whether we can fill in our own knowledge because you
4 said that you had eliminated the potential for confusion
5 by ensuring that the communication fills were in place?

6 A. Yes, sir.

7 Q. The communication fills, are they the encryption codes
8 that you put into telephones to make sure that
9 telephones can speak to each other?

10 A. Radios.

11 Q. Or radios, sorry?

12 A. Yes.

13 Q. To make sure the radios can speak to each other?

14 A. Yes, sir.

15 Q. I just now want to ask you, please, about the time you
16 attracted Commander Dick's attention to inform her of
17 the situation?

18 A. Sir.

19 Q. May I for these purposes, please, just ask everyone to
20 look at and for you to look at page 95 of the
21 statements, which is the statement that you made on
22 7 November 2005. If this could come up on the screen,
23 just so we can follow it. It's really the main full
24 paragraph in the bottom third of the page that begins:

25 "At around 0933 hours ..."

1 A. Yes.

2 Q. I want to ask you about this. May I read it first of
3 all:

4 "At around 0933 hours I became aware of movement
5 reported by the red team to the surveillance monitor
6 from the communal entrance to the Scotia Road address.
7 I went to Pat and checked the surveillance entry, which
8 was around three lines."

9 May I pause there and ask you two questions to see
10 whether we can get this precise. First of all, the
11 movement that was being reported was being reported by
12 Pat the surveillance monitor?

13 A. Pat was typing it, sir.

14 Q. Yes.

15 A. Yes.

16 Q. So he is typing?

17 A. Yes.

18 Q. But the point I want to explore with you and see whether
19 you can assist me with is this: when you went to
20 Commander Dick, you are saying here that you went to the
21 surveillance entry and it had, you thought, around three
22 lines in it by the time you went to it?

23 A. I believe so, sir, yes.

24 Q. Shall we just look at that, at page 447 of the
25 documents. Perhaps we could just have it, thank you

- 1 very much indeed. We see the three lines at 9.34, and
2 is there any way of putting the statement back on as
3 well, please, so they are side by side?
- 4 A. I have it in front of me, sir.
- 5 Q. Yes, it's just for everyone else. We see, when you say
6 this included the three lines, this included:
7 "Unidentified identification code 2/6 male, chubby
8 face, stubble, jeans, from the address."
9 So it looks as though you were referring to this
10 entry at 0934?
- 11 A. That's correct, sir, yes.
- 12 Q. So we can be more precise about the time that you
13 attracted Commander Dick's attention because it would be
14 after that entry had been inserted by Pat?
- 15 A. 9.33, 4, or immediately after, yes, sir.
- 16 Q. Well, no. Because if Pat didn't make that -- this is
17 the point, you see, we have to be a little bit careful.
18 You see, the 5-foot 10, the first time we hear about
19 a 5-foot 10 is about 9.39?
- 20 A. Right, sir.
- 21 Q. So Pat can't have put the 5-foot 10 in at 9.34, and it
22 may be that this is a composite entry that is only
23 completed by the time that the man has left the premises
24 and is on the number 2; you follow that?
- 25 A. I understand. Just to clarify, there was an entry

1 referring to him coming out the communal door. Whether
2 that's been a composite entry with the 5-foot 10", you
3 see I have not referred to that in my statement because
4 I didn't remember a height being given so I have just
5 left that out. The entry started at 9.34. Whether
6 there is a composite entry with a further description
7 for the ops room purposes, that would be normal.

8 Q. Yes. But whatever the position about attracting the
9 attention of Commander Dick, that was after you had seen
10 the entry typed by Pat into the log?

11 A. Yes, sir.

12 Q. Thank you. Thank you very much for that. May I ask you
13 now please to go to your note, log or aide memoire,
14 however it's to be described, and if we can just see,
15 the sequence of events is: unidentified movement on to
16 bus almost immediately. That's how you recollected the
17 sequence or you were noting the sequence at the time?

18 A. Yes.

19 Q. Then Cressida Dick to the greys' telephone, "Don't think
20 it's him", so that was the information that appeared to
21 be coming through, they don't think it's him?

22 A. In hindsight I can't say that Cressida Dick was speaking
23 to the greys on the phone. All I could say was she was
24 on the phone and the information that someone doesn't
25 believe it's him has come to the management group, yes.

1 Q. If we just drop down, which is -- clearly there is
2 a reference to off bus, on bus, we know that's Brixton,
3 and then just a few lines down from that:

4 "Through Pat, can't give percentage but think it's
5 him."

6 May I look at how you dealt with this in your
7 statement at page 96, if we could have that on the
8 screen, please. Again, so everyone knows, this is your
9 statement of 7 November 2005. It's the bit again in the
10 lower third of the page:

11 "Pat then spoke to James [that's the leader of the
12 greys] on the phone in the presence of Mr Boutcher,
13 Commander Dick and Mr Esposito, Trojan 80.
14 Detective Superintendent Boutcher was requesting
15 a percentage identification of the unidentified being
16 Nettle Tip. This was refused, and Pat stated, 'They
17 can't give a percentage, but they think it's him'."

18 A. That's correct, sir. The difference between the note
19 and my statement is I have used Pat to refresh my
20 memory, and when he said Mr Boutcher is requesting
21 a percentage, that's jogged my memory and said yeah, and
22 I know we have disagreed later on what was actually
23 said, but my recollection is they can't give
24 a percentage but they think it's him.

25 Q. It was they, that's the point I am trying to make, it's

1 they, not "he thinks it's him". It's they, the grey
2 team he is referring to?

3 A. My recollection is definitely "they".

4 Q. May I just see what you said at the Health and Safety
5 trial, it's 13 October of last year, page 59, just
6 a couple of lines for us to look at in this context.
7 This is what you were saying when you gave evidence on
8 oath, and you were dealing with this -- could we have
9 that on the screen if possible but if not I'll carry on
10 because it's quite short. You said this:

11 "Mr Boutcher requested a percentage identification
12 on the unidentified being Nettle Tip. This was refused
13 and Pat, I recall Pat saying, 'They can't give
14 a percentage but they think it's him'."

15 That's what you were saying?

16 A. Yes, sir.

17 Q. Thank you. So far as the discussion about letting the
18 subject run at all, can you remember, because I'm going
19 to suggest that we have heard some evidence in this
20 court, you see, and we also know what Mr Purser was
21 saying to the IPCC back in November 2005 of Silver
22 calling into the operations room to say, "Do you want to
23 let him run?" and there being -- well, there might have
24 been a discussion but Cressida Dick saying, "No, they
25 are to do a stop, he is to be stopped". Something along

1 those lines?

2 A. Right, sir.

3 Q. Can you recall that at all?

4 A. I can't help you any more than I already have, I am
5 afraid, sir.

6 Q. Thank you very much. Just this short point. If we can
7 go back to the aide memoire, I just want to see whether
8 we can nail a particular point as being either relevant
9 or irrelevant. Do you see in the middle of this, about
10 the "VE why no comms", and you have told us that's
11 Vince Esposito, why no communications. You said that
12 there was a discussion about why the firearms teams
13 weren't communicating with the surveillance teams. If
14 we could just have the Callum record from divider 56 up
15 on the screen, please, and the 9.41 entry. I am sorry
16 I do not have the page. That's it.

17 We have a 9.41 entry here:

18 "As of 9.41 comms with surveillance team TJ802."

19 But TJ802, that was actually someone who was at
20 Portnall Road?

21 A. Right, sir.

22 Q. I am just wondering whether this might be a reference to
23 something that was going on at Portnall Road and the
24 communications there?

25 A. No, I don't believe so. Everybody in the ops room was

1 focused. This was the only active follow.

2 Q. Okay, so this is the active follow, so we shouldn't link
3 that to that?

4 A. No, sir.

5 Q. Just this point, Commander Dick did not use the words
6 "hard stop"?

7 A. My recollection is she used "hard stop" but --

8 Q. You say she did. That's your recollection. Is that
9 a phrase you yourself would use?

10 A. Yes, it is. It is a phrase I would use.

11 Q. I just want to ask you, please, Mr Gibbs a moment ago
12 was asking you about a telephone call, and I just want
13 to make sure there is no confusion about this, because
14 when you were asked questions, however many days ago it
15 was now, by counsel for the Coroner, you were asked
16 about a statement you had made on 19 September 2005,
17 page 93. If we could have that up on the screen.

18 When you were asked, you were being led from this
19 statement, and you were referred to a telephone call at
20 0937:

21 "... I called Derek..."

22 For a call which lasted 23 seconds?

23 A. That's correct.

24 Q. You see, we have been through your billing records and
25 the 23-second call is at 9.39. So it looks as though,

- 1 is that a typographical error in the statement?
- 2 A. I believe so, I would have been provided with the same
- 3 billing as yourself, sir, and there is only those three
- 4 calls in that period, so they must be identical.
- 5 Q. We haven't been able to find one at 9.37, so it may be.
- 6 A. It must be, sir.
- 7 Q. You have said that this call to Derek may have been
- 8 extra evidence in relation to the follow?
- 9 A. Clarification of what's happened, sir.
- 10 Q. And the 9.39 time, that would have been around the time
- 11 that the subject is getting on to the number 2?
- 12 A. Sir.
- 13 MR PERRY: Thank you very much indeed. Those are all the
- 14 questions I have.
- 15 SIR MICHAEL WRIGHT: Thank you, Mr Perry. Mr King.
- 16 Questions from MR KING
- 17 MR KING: Just a very few questions, please, Owen. Could we
- 18 go back on the screen to E1489. This is your recent
- 19 statement which you say is incomplete.
- 20 A. Right, sir, yeah.
- 21 Q. It's not signed by you, presumably because you say you
- 22 never completed it?
- 23 A. That's correct, sir.
- 24 Q. Are we correct in understanding that you assert that
- 25 what is there is accurate?

1 A. Parts of it are accurate but other parts are not, and
2 I need to -- I needed to carry on with those about --
3 with other officers, and events clear in my mind.

4 Q. This is something that you sat down to draft just a few
5 days ago as I understand it, a week or so ago, wasn't
6 it?

7 A. Yes, sir. Well, two weeks, one week. Two weeks.

8 Q. Which parts of it are inaccurate?

9 A. I was asked to supply a statement of original notes
10 because that is the phrasing on the email. They were
11 doing on Skye -- obviously as you heard throughout my
12 evidence, I have needed to refresh my mind myself using
13 other officers and the surveillance running log,
14 I believe.

15 So events clear in my mind, that obviously needed
16 a lot of clarification. Produced on and around 31 July
17 to 3 August, that's the first I can -- that's the best
18 I can do.

19 Q. If I can just cut across you, I understand you would say
20 that it's not complete and that you would wish, if it
21 were appropriate, to have an opportunity to think about
22 things further before you completed the statement. But
23 are you telling us, please help me to understand, that
24 anything that you have written there is actually not
25 accurate?

- 1 A. Some of it is not accurate.
- 2 Q. Which bits are not accurate?
- 3 A. Events clear in my mind. That requires clarification.
- 4 (Pause)
- 5 Q. Sorry, let me make sure I understand what you are saying
- 6 --
- 7 A. End of line 2.
- 8 Q. Yes, I can see where it is. Are you suggesting now that
- 9 when you made your log, to use the word by which you
- 10 described it originally, events were not clear in your
- 11 mind?
- 12 A. When I have made my log, that is the best I could do at
- 13 the time. When I have come to reflect, I have had to go
- 14 back to the surveillance running log, and certain points
- 15 I have had to try to use other officers to jog my memory
- 16 so that would take some explanation --
- 17 Q. Anything else that's not accurate? (Pause)
- 18 A. I made these notes ... that's correct ... in regard to
- 19 the note, that is actually correct, I can't recall
- 20 whether I had consulted with other officers, I have no
- 21 idea whether I did for this aide memoire but obviously
- 22 I have to produce my statement.
- 23 Q. So that's not an inaccuracy, is it?
- 24 A. No, it's just not a full picture.
- 25 Q. Anything else inaccurate in this?

1 A. That's correct up to the end of the first paragraph.

2 I logged into the Skye system, requested to ... (Pause)

3 Obviously the second paragraph isn't a full picture.

4 Mr Mansfield has suggested that, I think, the original
5 document doesn't exist. That just needs clarification.

6 I know it does exist but it just doesn't exist on my
7 system, if you see what I mean. So that's obviously
8 part of expanding the second paragraph.

9 The notes to the best of knowledge weren't referred
10 to at the Health and Safety trial. I don't believe
11 I have even been able to log on to those. They did form
12 part of the basis of my statement. Then obviously I do
13 recall. It's -- I would imagine it's "I do not recall
14 if they are supplied to Operation Erini", so I would say
15 the last part, the last paragraph is fair.

16 Q. All right. Let me just ask you a couple of matters,
17 please, arising out of this. Firstly and it may seem
18 obvious to everyone else in the room but I need to ask
19 you about it: do you accept now that this log as you
20 originally described it is also properly described as
21 an original note or notes?

22 A. No, sir, it's not. It doesn't fit any of my
23 recollection or my understanding of original notes, and
24 I couldn't imagine walking into a court saying, "Can
25 I refer to this made ten days later on a computer with

- 1 no elbows". I can't accept that, unfortunately, sir.
- 2 Q. Yet that's the phrase that you used to refer to it
- 3 throughout this statement, isn't it?
- 4 A. As I say, I have been answering a specific point put to
- 5 me by the July Review Group.
- 6 Q. You have been at pains throughout your evidence both
- 7 last Monday and today to distance yourself from the
- 8 description of this as a note or notes, and every time
- 9 it's turned up, you have described it as an aide
- 10 memoire?
- 11 A. That's right, sir.
- 12 Q. You make a distinction, do you, between those two
- 13 classes of document?
- 14 A. I do, sir. I mean, original notes, you sit down and you
- 15 write by hand. I think that would be anyone's
- 16 understanding.
- 17 Q. They are there to refresh your memory, aren't they?
- 18 A. They are, sir.
- 19 Q. Yes?
- 20 A. But also if you produced what I understand as
- 21 an original note, you would do it fairly soon. You may
- 22 consult with other officers. You would say where it
- 23 was, where it was made, what circumstances, and you
- 24 refer to those other officers in it. This obviously
- 25 wasn't. This is something that I had to check later

1 with other officers and with another document. So that
2 doesn't fit my understanding of original notes, sir.

3 Q. They are there to refresh your memory, you have
4 accepted, in notes. That's the reason you make them,
5 isn't it?

6 A. Yes, sir.

7 Q. And an aide memoire might be precisely the same thing,
8 mightn't it?

9 A. "original note" to me has a specific legal meaning.
10 I accept that's what you're saying, sir.

11 Q. I understand. I want to ask you one more matter
12 concerning what you were asked for back in late 2005
13 when you came to make your statement?

14 A. Right, sir.

15 Q. Yes? You have told this court and you have said there
16 in that statement that you were not asked to produce any
17 notes?

18 A. To the best of my recollection.

19 Q. I have understood that correctly, have I?

20 A. Yes, sir.

21 Q. Can we have up on screen page 5246. It's one of the
22 documents that I asked to be scanned in this morning.
23 For those of us who have it, we can find it in bundle 12
24 of the supplemental documents which I am sure everyone
25 is very familiar with.

1 Here we are:

2 "Operations room 1600."

3 Can I tell you this is a document which was produced
4 collaboratively by the Independent Police Complaints
5 Commission and the Department for Professional Standards
6 at the Metropolitan Police, in order to secure what were
7 known as duty statements from the occupants of room 1600
8 on the 22nd, at the time when this incident occurred.
9 So operations room 1600, this was distributed:

10 "As part of its investigation into the death of
11 Jean Charles de Menezes, the IPCC requires duty
12 statements from all of the officers on the attached
13 list. These statements need to cover the events of 22nd
14 July relating to the operations room which dealt with
15 the incident at Stockwell station. Officers are
16 requested to provide as full an account as possible of
17 their duties on that day. In addition could officers
18 please ensure that the following points are covered in
19 each statement ..."

20 There are a number of matters set out there. We can
21 see them on the screen. I will not read all of them.

22 A. Yes, sir.

23 Q. Towards the bottom of second tranche, you see the
24 penultimate bullet point:

25 "Did you make any notes? Where are they? What

1 commands did you hear given by Commander Cressida Dick?"

2 So there is a specific focus on what Commander Dick
3 was doing, and there is a specific request for notes;
4 yes?

5 A. Yes, sir.

6 Q. "Statements should make specific reference as to whether
7 or not they were present during the material time ..."

8 Finally in the last paragraph:

9 "If original notes were made, they should be
10 exhibited and submitted with the statement. If they
11 cannot be supplied (e.g., part of a book that relates to
12 other or ongoing operations), copies should be made and
13 exhibited and the originals retained. A reference that
14 they will be retained should be included in the
15 statements."

16 In other words, there is a clear request there for
17 officers to supply any notes or to explain why they're
18 not doing so.

19 SIR MICHAEL WRIGHT: Could you give us a date for that
20 document, Mr King?

21 MR KING: Yes. If I can just turn back, we can find that on
22 page 5237, and the date is 30 October 2005. It's rather
23 scrubbed out at the top of the email there, but it's
24 an email from someone called Andy Rintoul of the
25 Metropolitan Police.

1 SIR MICHAEL WRIGHT: 30 October, so three months after the
2 event.

3 MR KING: Yes, and we know that Owen's statement was
4 produced in November, his duty statement, that is to
5 say. The "Kathryn" referred to there is an IPCC
6 investigator, Kathryn Dalbermain(?).

7 If we could go back to 5246 and go on to 5247, we
8 see beginning there the list of those from whom these
9 statements described in the document we have just looked
10 at were required, yes? Could I ask that we go straight
11 on please, to page 5250. It's a long list and you can
12 see yourself on that page, can't you?

13 A. Yes, sir.

14 Q. I don't think I am giving anything away because we have
15 seen at the beginning of your recent typewritten
16 incomplete statement that you describe yourself as,
17 I think there Central 1855?

18 A. That's correct, sir, yeah.

19 Q. Here it's "Charlie 1855" but that's you, surveillance
20 co-ordinator?

21 A. Yes.

22 Q. You were one of the list of people from whom a statement
23 matching the description we've just been through on
24 page 5250 was requested?

25 A. Yes, sir.

1 Q. Do you still say that you weren't asked for your notes?

2 A. Well, obviously I have missed this, this is three years
3 ago, so ... But I will say, as here, I did not have any
4 original notes, that I understood. In hindsight, that
5 is unused material, should have been supplied.

6 Q. It should have been, shouldn't it?

7 A. Yes, sir.

8 SIR MICHAEL WRIGHT: Thank you.

9 MR HORWELL: No questions.

10 SIR MICHAEL WRIGHT: Thank you. Mr Hilliard.

11 Further questions from MR HILLIARD

12 MR HILLIARD: Just two things, that sheet refers to you,
13 I think, as detective sergeant?

14 A. That's correct, sir, yes.

15 Q. Is that the rank you still hold?

16 A. Yes, sir.

17 Q. How long have you been a police officer for?

18 A. 13 years.

19 Q. Then just this, please: you were asked about the passage
20 in your note, "CD", do you see that, "what percentage,
21 through Pat, can't give percentage but think it's him"?

22 A. Mm.

23 Q. Then you were shown a passage in your witness statement,
24 do you remember, that referred to that same topic?

25 A. Yes.

- 1 Q. You said this:
- 2 "The difference between the note in my statement is
- 3 I have used Pat to refresh my memory and when he said
- 4 Mr Boutcher is requesting a percentage, that's jogged my
- 5 memory ..." and on you go?
- 6 A. Yes.
- 7 Q. What do you mean by that, "I have used Pat to refresh my
- 8 memory"?
- 9 A. If you look at the aide memoire, it says "CD", there is
- 10 a couple of issues that I have consulted with Pat on and
- 11 he said "No, that was Mr Boutcher", and I have thought
- 12 about it, and gone "Yeah, that's fair recollection".
- 13 Then we have actually disagreed -- I do remember
- 14 disagreeing on what he said, and obviously I have gone
- 15 with my recollection and he has gone with his.
- 16 Q. So, what, this is shortly before you make the statement;
- 17 is that right? Before you made the witness statement --
- 18 A. Yes, yes.
- 19 Q. -- that you have spoken to Pat?
- 20 A. Yes, sir, yeah.
- 21 Q. Right. So the statement date is 7 November 2005, so
- 22 it's shortly before that that you have spoken to him?
- 23 A. May even have been the same day, sir.
- 24 Q. And talked about, what, one or two issues that arose
- 25 from the notes?

1 A. Yeah, obviously I have got the bus company and BTP and
2 I have got that from him.

3 MR HILLIARD: Thank you very much.

4 SIR MICHAEL WRIGHT: Thank you, you may stand down.

5 (The witness withdrew)

6 SIR MICHAEL WRIGHT: What do you want to do?

7 MR HILLIARD: I would like to keep you and the lawyers
8 behind for timetabling, but that's it so far as the jury
9 are concerned.

10 SIR MICHAEL WRIGHT: Thank you, ladies and gentlemen,
11 10 o'clock tomorrow morning.

12 (4.45 pm)

13 (In the absence of the jury)

14 Discussion re: timetabling

15 SIR MICHAEL WRIGHT: Yes, Mr Hough.

16 MR HOUGH: Just to prevent people doing premature or
17 unnecessary work, the officer Ken is unable to give
18 evidence as timetabled, for an extremely good personal
19 reason which we don't need to go into.

20 So tomorrow we will have in order Harry, Malcolm and
21 Graham and then Ivor. Then we will proceed in the order
22 as per the revised timetable. Ken will probably end up
23 giving evidence towards the end of next week.

24 SIR MICHAEL WRIGHT: Now that we are getting into what
25 I described as the foot soldiers, which is probably very

1 rude, I hope we can maintain a strike rate of hopefully
2 as near as possible to four witnesses a day.

3 MR HOUGH: Yes, we hope so too.

4 SIR MICHAEL WRIGHT: I can foresee the time coming that
5 I may be saying we will do one witness between each
6 natural break, which will mean four a day.

7 MR HOUGH: Yes, there may be a couple of witnesses ...

8 SIR MICHAEL WRIGHT: I can well understand that there may be
9 a couple of witnesses obviously who will not fall within
10 that indication, but most of them I hope will.

11 MR HOUGH: Yes, sir.

12 SIR MICHAEL WRIGHT: Very well. This is a question, but its
13 not the sort of question I want to hear, or you. Its
14 nicely put: "Is there any mileage in requesting leave
15 from jury service either on 7th or 21st November or on
16 14th or 29th November?"

17 There you are, you see, this is the sort of
18 pressures we are all being put under. I will discuss
19 this with Mr Hilliard and Mr Hough and see what we can
20 do.

21 (4.50 pm)

22 (The court adjourned until 10.00 am on
23 Wednesday, 22 October 2008)

24

25

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