

1 Thursday, 6 November 2008

2 (10.00 am)

3 (In the presence of the jury)

4 MR HOUGH: Sir, the first witness is Steve Swain.

5 SIR MICHAEL WRIGHT: Before we start, is there anything to
6 be gained by discussing the timetable at this point so
7 that the jury know what's in store for them, or do you
8 want to leave it and see how we get on?

9 MR HOUGH: I can give an indication of what's planned over
10 the next few working days. We have Mr Swain followed by
11 Chief Superintendent Tillbrook this morning. We then
12 have Alpha 1 and Central 2402, who will be relatively
13 short witnesses.

14 SIR MICHAEL WRIGHT: Those are two officers from the
15 Portnall Road deployment, yes.

16 MR HOUGH: Yes, the firearms and the surveillance
17 respectively. We should have an early day today, we
18 expect. I rely upon others to help with that.

19 SIR MICHAEL WRIGHT: The atmosphere is lightening already.

20 MR HOUGH: Tomorrow we are likely to be sitting in the
21 morning with an explosives expert and also Mr Macbrayne
22 on intelligence, and then we are likely to be sitting
23 again on Monday with Mr Mellody again. So the jury will
24 probably have tomorrow afternoon off, and then, as
25 I say, on Monday Mr Macbrayne and also Mr Reynolds to

1 deal with anything remaining that needs to be proved,
2 and we should be finished by Monday lunchtime with the
3 evidence.

4 SIR MICHAEL WRIGHT: Thank you very much. That's if
5 everything goes according to plan. Then as I hope you
6 already understood, because there is then a lot to be
7 done from my point of view as far as the preparation of
8 summing-up is concerned and considering submissions as
9 to how I should leave this to you on the law, there is
10 going to be quite a long gap for you, so your lives can
11 go back almost to normal for a bit. We will be able to
12 tell you tomorrow or Monday precisely, or as near as we
13 can precisely when we will be asking you to come back
14 again, but it will probably not be until the beginning
15 of December.

16 MR HOUGH: Yes.

17 SIR MICHAEL WRIGHT: Thank you.

18 MR HOUGH: Mr Swain, please.

19 SIR MICHAEL WRIGHT: Thank you very much.

20 MR STEVE SWAIN (sworn)

21 SIR MICHAEL WRIGHT: Thank you, Mr Swain, please sit down.

22 A. Thank you.

23 Questions from MR HOUGH

24 MR HOUGH: Is your name Steve Swain?

25 A. Yes, it is, yes.

- 1 Q. I will be asking questions first on behalf of the
2 Coroner. Then you will be asked questions by other
3 advocates.
- 4 A. Okay, fine.
- 5 Q. Until January of last year, were you an officer in the
6 Metropolitan Police?
- 7 A. Yes, sir, I was.
- 8 Q. Did you retire in January 2007 with the rank of
9 Chief Superintendent?
- 10 A. Yes, I did.
- 11 Q. Were you centrally involved in the development of police
12 strategies and tactics for dealing with suicide
13 terrorists?
- 14 A. Yes, I was.
- 15 Q. On 22 July, I don't think you were involved actually in
16 the operation run from the 16th floor operations room?
- 17 A. No, I wasn't.
- 18 Q. We will deal later with what you were doing on that day.
19 You made, I think, a witness statement initially in
20 September of this year at the request of the solicitors
21 to the inquest?
- 22 A. Yes, I did.
- 23 Q. That was to deal with the policies that I have just
24 referred to?
- 25 A. Yes.

- 1 Q. I think you then made a further witness statement
2 earlier this week to deal with one matter that's come up
3 in the course of the inquest?
- 4 A. Yes, I did.
- 5 Q. I think I can see that you have those to hand.
- 6 A. Yes, I have them here.
- 7 Q. There is no difficulty about you referring to those
8 whenever you want to.
- 9 A. Thank you very much.
- 10 Q. I should give you this warning specifically: if there is
11 any question asked during the course of your evidence
12 which you feel is requiring you to divulge sensitive
13 information, just say so.
- 14 A. Okay.
- 15 Q. Can I deal with your personal background so we have
16 an idea of your experience. I think you joined the
17 Metropolitan Police in 1976?
- 18 A. Yes, I did.
- 19 Q. Between then and 1999 you held a variety of posts, as
20 you climbed the ladder?
- 21 A. I did, yes.
- 22 Q. Then between 1999 and 2002, were you a superintendent in
23 the Diplomatic Protection Group?
- 24 A. Yes, I was.
- 25 Q. Then between 2002 and 2005, were you

1 Chief Superintendent in the Anti-Terrorist Branch S013?

2 A. I was actually a Superintendent in there, and I became
3 a Chief Superintendent when I took over the police
4 international counter-terrorism unit.

5 Q. You took over there in 2005, I think?

6 A. Yes.

7 Q. You remained there until you retired?

8 A. I did, yes.

9 Q. So at the time we are concerned with, July 2005, you
10 were a superintendent in S013?

11 A. Yes, I was.

12 Q. I am on page 2 of your statement, if it helps you,
13 actually moving over to page 3. Now, at the time of the
14 attacks on the Twin Towers, so September 2001, you were
15 a Superintendent in the Diplomatic Protection Group?

16 A. Yes, I was.

17 Q. When that happened, obviously the need arose for special
18 security plans to be instituted for various high profile
19 buildings within the MPS area?

20 A. That's right, yes.

21 Q. And were you responsible for --

22 A. Yes, I was.

23 Q. -- dealing with that.

24 We have heard that after the attacks of
25 September 2001, the Metropolitan Police set up a working

1 party to look at suicide terrorism and how to respond to
2 it?

3 A. That's right, yes.

4 Q. Had there been any detailed strategies or guidance about
5 suicide terrorism within the Metropolitan Police before
6 that?

7 A. No, there hadn't.

8 SIR MICHAEL WRIGHT: Never had any experience of it, had
9 they?

10 A. No, that's right, sir, no.

11 MR HOUGH: We have heard that the working group was under
12 the general direction of Deputy Assistant Commissioner
13 Barbara Wilding.

14 A. That's correct, yes.

15 Q. You were involved in that working group from the start?

16 A. Yes, I was, yes.

17 Q. There were, I think, various strands to the working
18 group, and can you just tell us what the different
19 strands were?

20 A. The strands were looking at the intelligence that was
21 being gathered with regard to likely terrorism attacks
22 that could take place in the UK. There was one looking
23 at technology, what sort of technologies we might need
24 to deal with these sort of threats. There was one
25 looking at the police response. And then there was the

1 one that I led, which was looking at tactics, training
2 and equipment for frontline police officers. Then there
3 was one to do with the media, one to do with the
4 government and one on the post-incident investigation as
5 well.

6 Q. Your role in leading that strand involved you leading
7 a team with representatives from various parts of the
8 Metropolitan Police?

9 A. Yes, there was, yes.

10 Q. S013, C019, S012, other departments connected with
11 public order, the information room organisation,
12 traffic?

13 A. That's right, yes, yes, yes.

14 Q. In the course of your work, you and your colleagues
15 started off with quite a bit of research to do?

16 A. Yes, we did, yes.

17 Q. That involved researching other countries with a longer
18 experience of the phenomenon?

19 A. That's right, yes, yes.

20 Q. You list those countries, paragraph 9, page 4 of your
21 statement. Can you just tell the jury which countries
22 you researched or visited?

23 A. I have probably been to over 20 countries in the course
24 of this research. The main ones that we went to, which
25 are the three hot spots, if you like, for suicide

1 terrorism is Israel, Sri Lanka and Russia. I have been
2 to Israel five times, I have been to Sri Lanka twice,
3 I have been to Russia twice. I have also been to the
4 US. I have been there probably about seven or eight
5 times. I have been to Canada. I have been to a number
6 of European countries. I have been to Australia, New
7 Zealand, looking at the situation in South East Asia as
8 well.

9 SIR MICHAEL WRIGHT: Was that for the bombings in Bali, and
10 places like that.

11 A. Yes, sir, it was.

12 MR HOUGH: Over the course of those visits and in the
13 research you were doing, I think you learned about
14 a number of different aspects of suicide terrorism, and
15 I'll just list them now and we will go through them one
16 by one.

17 First of all, methods of detonation of devices?

18 A. Yes.

19 Q. Secondly, the types of explosives used in different
20 countries?

21 A. Yes.

22 Q. Thirdly, how explosives were concealed about the body?

23 A. Yes.

24 Q. Fourthly, how different Forces challenged bombers and
25 their response to challenges?

1 A. Yes, yes.

2 Q. We are particularly interested to know obviously what
3 was known to the Metropolitan Police in July of 2005
4 rather than what's been discovered since then. You
5 understand?

6 A. Yes, I do.

7 Q. Dealing first with methods of detonation, paragraph 11
8 of your statement, what methods did you become aware of
9 for suicide bombers to detonate their devices?

10 A. Can I stand up so I can demonstrate a bit easier. There
11 are four main types of the way that suicide bombs can be
12 detonated that we have seen around the globe. Probably
13 the most common is switches actually on the device. The
14 devices are generally concealed under the clothing
15 around the waist area. So what happens is these people
16 often have a coat or something like that, where they cut
17 the pockets out so they can put their hands in the
18 pockets and reach the switch.

19 In Israel generally there is just one type -- one
20 switch. Some of the ones we have seen in Sri Lanka
21 actually had two, so the first one was to arm the device
22 and the second one was to set it off.

23 The most common that we saw in Israel were wires
24 coming down the sleeve of the coat to a rocker switch
25 that they could hold in their hand, so they could be

1 walking around with the actual trigger concealed in
2 their hand.

3 Q. You are pointing out just one hand there, is that right?

4 A. Well, I am, but generally they were on the right hand
5 because most people are right-handed, so generally they
6 were into the palm of the right hand. There would be
7 a rocker switch with two wires coming up the sleeve
8 which actually went in the device that they carried.

9 The third type, which was fairly unusual but was
10 a pressure pad, so that if people had had their arms
11 restrained, they could still move their head around and
12 set the device off. The fourth one, which is probably
13 the most concerning for us --

14 SIR MICHAEL WRIGHT: If their hands are being held --

15 A. They could actually --

16 SIR MICHAEL WRIGHT: With the --

17 A. With their head. Sorry.

18 SIR MICHAEL WRIGHT: That's all right.

19 A. Then the fourth type we have seen was actually a remote
20 control device, so that if the suicide bomber had been
21 restrained or the threat posed by them had been
22 neutralised, somebody else could set the device off via
23 a remote control device.

24 SIR MICHAEL WRIGHT: Can I just ask you, you said, I think
25 you were talking about the Israeli experience or the

1 Israeli knowledge that sometimes there would be two
2 switches, one to arm the bomb and then one to set it
3 off.

4 A. Yes, sir.

5 SIR MICHAEL WRIGHT: Presumably the suicide bomber will have
6 a target that he wants to go to in order to set his bomb
7 off.

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

9 SIR MICHAEL WRIGHT: So that he wants to guard against
10 an accidental detonation before he gets there. Is that
11 double system common?

12 A. We saw it mainly in Sri Lanka rather than anywhere else,
13 is the double switch. It was fairly unusual, I would
14 say, in Israeli type of devices.

15 SIR MICHAEL WRIGHT: Thank you.

16 MR HOUGH: So just to run through those, switch, a rocker,
17 pressure pad, and remote control?

18 A. That's right, yes.

19 Q. We have also heard from others about devices detonated
20 by a timer?

21 A. Yes.

22 Q. What did you become aware of in terms of the use of
23 timers?

24 A. Well, in Sri Lanka, what they -- what the Tamil Tigers,
25 they were the main group that were doing this sort of

1 thing, what they discovered is that often when the
2 suicide bomber had been neutralised by the security
3 forces, then a lot of the more senior people would turn
4 up to sort of have a -- visit the scene, and so they
5 would introduce the timing device that would tick down
6 for about 45 minutes, which is about the sort of time
7 that they had estimated that the more senior people in
8 the Force would turn up. So the suspect would be on the
9 ground neutralised but would still pose a severe threat.
10 But that was Sri Lanka only, quite unusual.

11 Q. Did you ever come across these different detonation
12 devices being combined with each other?

13 A. Sometimes there were one or two instances where they had
14 a timer and the actual manual detonation as well.

15 Remote control and manual was fairly unusual.

16 Q. So you have described how they would, these different
17 devices would be used. What in general had you learned
18 by 2005 about the physical movements that a bomber would
19 be expected to make to detonate a device?

20 A. That they would need their hands free so that they could
21 put their hands in their pockets to set the device off,
22 or they would need their hands free so that they could
23 operate the rocker switch as well.

24 Q. What did you learn about physical evidence or signs that
25 these devices were present on somebody?

1 A. Can you just --

2 Q. We have heard, for example, about wires leading from --

3 A. Yes, yes.

4 Q. Were there any signs which might be looked for to
5 indicate that somebody had a detonator, first, before we
6 get on to the actual explosives?

7 A. Well, there were -- early on in our research there was
8 clear evidence that there were behavioural
9 characteristics around these people, that actually
10 didn't seem to be present on the bombers that blew
11 themselves up on the 7th. So in the early stages of the
12 sort of development in our research, there were some
13 behavioural characteristics that might have been
14 apparent in somebody who was on their way to carry out
15 this sort of -- it was nervous behaviour, sweating,
16 sometimes they might be reading from a copy of the Koran
17 or something like that when they went to carry out these
18 attacks.

19 But I would say, as this has developed and as we
20 learned more, probably some of those have assumed less
21 importance, but certainly when we introduced the policy,
22 those behavioural characteristics were very apparent,
23 both from Sri Lanka and from Israel.

24 Q. I was going to come to those but I'll deal with it now
25 because you have raised it. By the time of 7 July 2005,

1 so before the specific experience on that date --

2 A. Yes.

3 Q. -- how important were these behavioural characteristics
4 based on your research?

5 A. Well, they might -- I think they were quite important
6 because if you were an officer and you had been deployed
7 to perhaps deal with one of those people, they might be
8 the things that you would be trying to look for in that
9 type of event.

10 Q. I'll deal with 7 July in a little while.

11 A. Okay.

12 Q. Next, types of explosives. What did you learn about how
13 the types of explosives differed from country to country
14 or from group to group?

15 A. Right. In -- when we were subject to the campaign by
16 the Provisional Irish Republican Army, the main
17 explosive they used there was ammonium nitrate.
18 Ammonium nitrate is a fertiliser you can get hold of
19 fairly readily. You actually need what they call
20 a primary explosive, so something like Semtex or
21 dynamite or something like that, you would need to
22 actually initiate a charge of ammonium nitrate but that
23 was the predominant type of explosive.

24 The reason that was is that the regulations in the
25 UK with regard to explosives are very rigorous. It's

1 very difficult to get hold of military or commercial
2 explosive, and the same thing with detonators, which is
3 why they went down the road(?).

4 In Israel the situation is very similar to that in
5 the UK in the fact that it's very difficult to get hold
6 of commercial or military explosive and detonators as
7 well. So what the terrorists in that part of the world
8 had started to use were peroxide-based explosives.
9 Peroxide-based explosives, there is two main types.

10 Q. Can you slow down a little. You have to be transcribed.
11 Do go on.

12 A. There is two main types of explosive that we discovered.
13 They are named by an acronym, which is TATP and HMTD.
14 TATP is triacetone triperoxide, and HMTD is
15 hexamethylene triperoxide diamine.

16 These explosives are made from explosives that you
17 can buy in a chemist. You can go on the internet and
18 learn how to make this but they are very volatile
19 materials. During our research we were told that
20 probably one in five bomb makers was killed making this
21 material because it's so volatile.

22 But because of its volatility you don't need much of
23 a detonator to set it off. If you hit it with
24 something, the static electricity build-up on your body
25 could be enough to set it off. It's very friction

1 sensitive as well. So it is very volatile.

2 But the common method of detonation would be to get
3 a torch bulb, take the glass off the torch bulb, immerse
4 that into the peroxide-based explosive and just the act
5 of illuminating that filament would be enough to set the
6 explosive off. So it's very easy to make these devices
7 in your kitchen and they are very powerful explosives as
8 well.

9 Q. Just to summarise that, you discovered that whereas in
10 some countries military explosives tended to be used,
11 Israel had quite rigorous controls on explosives getting
12 into the public domain?

13 A. Yes.

14 Q. Therefore these home-made peroxide explosives tended to
15 be used?

16 A. Yes, they did.

17 Q. The downside of those being that they were very
18 volatile?

19 A. That's right, yes.

20 Q. Did you discover anything about what might be added to
21 devices to increase their destructive effect?

22 A. If you add what they call a calorific material,
23 peppercorns, flour, something like that, that can add to
24 the explosive effect as well because they are materials
25 that have energy in them as well.

1 Q. What about shrapnel or metal?

2 A. Sorry, yes. On the tests that we did, probably for the
3 size of device that somebody could carry concealed on
4 their person, probably the killing range on something
5 like that would be out to about 10 to 15 metres. What
6 they do on a lot of these is that they cover them in
7 ball bearings, nuts and bolts, some sort of metal
8 fragmentation, and then the killing range extends out to
9 about 150 metres, something like that. So the effect is
10 vastly increased by the fragmentation that these people
11 put on the outside of these devices.

12 Q. Now, third topic, concealment of devices. What did you
13 learn from the rest of the world about how suicide
14 bombers routinely conceal devices about their person?

15 A. As I said earlier, they generally hide them somewhere
16 around their waist. We have seen some where woman have
17 purported to be pregnant and the device is hidden under
18 a pregnancy smock, something like that. We have also
19 seen devices concealed in women's bras, but generally
20 it's around the waist, and they are made in such
21 a fashion that they are quite easily concealed.

22 Q. We have seen, the jury have seen, a photograph of
23 a Sri Lankan suicide bomber taken moments before she
24 detonated a device killing Mr Gandhi, Rajiv Gandhi.

25 Is that the kind of material you obtained in the

1 course of your research about concealment?

2 A. Yes, it is, that's right, yes.

3 Q. You can sit down if it's more comfortable.

4 A. Thank you.

5 Q. Did the methods of concealment vary between different
6 countries?

7 A. Not especially. The whole point of a suicide bomber is
8 to try to defeat security measures that are in place, to
9 actually penetrate into an area where you would want to
10 cause maximum damage. And the events of the 7th where
11 rucksacks were used, rucksacks are actually extremely
12 unusual. I have never seen rucksacks actually used.
13 I know of one instance where a rucksack device was
14 found. When the British Army went into Basra in the
15 first Iraq war, they found one then but they are
16 extremely unusual.

17 SIR MICHAEL WRIGHT: They attract attention apart from
18 anything else?

19 A. That's right, sir, they do, and the whole point of this
20 is to conceal it to try and defeat the security
21 measures.

22 MR HOUGH: Fourth topic, paragraph 15 of your statement on
23 page 7, what did you learn from the rest of the world
24 about challenging suicide bombers?

25 A. It's very clear from the evidence of all the places we

1 visited that suffer this type of thing that if you
2 challenge these people that they will blow the device
3 up. There were lots of reports, there is less now
4 because of the situation, but a lot of the reports that
5 you might have read in the press where you see one
6 bomber and one person killed, that's almost certainly
7 a security guard that's recognised that person for what
8 they are, and challenged them, and it's cost them their
9 life because the bomber's detonated. That was a very
10 clear pattern throughout all the research that if you
11 challenge these people, they will detonate the device.

12 Q. So with that piece of understanding, as background, did
13 you learn anything from other countries about rules of
14 engagement, by which I mean how different countries
15 would deal with somebody who was suspected to be
16 a bomber, either as a result of intelligence obtained or
17 as a result of these behavioural characteristics you
18 have described?

19 A. Yes, we did. In all the countries that -- in the three
20 prime countries we went to that have suffered this sort
21 of thing -- aggressive is the wrong word but you need to
22 approach these people so that they are not aware of who
23 you are, and then once -- there is sort of two ways to
24 do it, really. There was a rifle shot, but if you are
25 in a crowded environment that would be quite challenging

1 to do. So generally the common method was to get fairly
2 close to these people and then neutralise them by the
3 use of firearms.

4 Q. With or without an oral challenge?

5 A. You would not want to give an oral challenge because if
6 you did, then that would give the bomber that very short
7 space of time to actually detonate the device, so the
8 whole thing about this is you had to do it covertly.

9 Q. So two strategies you are there talking about, one if
10 you have got somebody who isn't in a crowded place,
11 a rifle shot from a distance?

12 A. Yes.

13 Q. Again, no risk to the officer firing because he's a way
14 away?

15 A. That's right.

16 Q. Or alternatively somebody coming up, not announcing
17 themselves and firing a critical shot?

18 A. That's right, yes.

19 Q. Did other countries have any specific criteria that you
20 became aware of, which they would apply as a matter of
21 guidance to their officers before these kinds of tactics
22 should be deployed?

23 A. No, they weren't, really. The whole point is, if you
24 think this is a suicide bomber and I stress the word
25 "think" because, you know, when we get on to talk about

1 our policy, it wasn't like that, but there is no doubt
2 that in some of the countries we visited, we felt that
3 what they were doing was probably too aggressive, and
4 wouldn't be acceptable in a Western democracy, if you
5 like.

6 Q. Can you expand on what you mean by too aggressive?

7 A. Well, I have seen pictures where people have been under
8 control of security forces, and they have patted them
9 down and found a bomb on them and then they just killed
10 them with a shot in the head. Now, the pictures I have
11 seen of that, these people are on the floor, they are
12 completely restrained, and they actually didn't appear
13 to pose any threat because their hands were pinioned so
14 they couldn't actually do anything. We saw a couple of
15 different instances of those, particularly in Israel.

16 You could argue, well, they did pose a threat, but,
17 you know, as a professional police officer, I would say
18 that if you have got this person pinioned on the floor
19 and they can't actually physically detonate the device,
20 it would be beyond what would be reasonable, I think, to
21 actually just kill them then.

22 Q. How did they get them pinioned in the first place?

23 Presumably by that stage they haven't either fired a
24 rifle shot from a distance or a critical shot up close,
25 how would that work?

1 A. It would be where they would -- they wouldn't know for
2 sure, but they would suspect what they might be up to,
3 so they would question them, and then put them on the
4 ground so they got them under complete control and then
5 pat them down and find the device.

6 I am not saying that's what happened every time, but
7 I have seen pictures on a couple of instances where
8 that's happened, and they found a device and then killed
9 them. But I also know of other cases where they haven't
10 got that close and they have killed them as well.

11 Q. I need to ask you some specific questions about Israel
12 and you have helpfully produced a second short statement
13 to deal with that because it's come up in this inquest.
14 You have told us about how you visited Israel on,
15 I think, five occasions in total?

16 A. Yes.

17 Q. Those were relatively long visits, weren't they, 10 or
18 12 days?

19 A. Yes.

20 Q. While there you met with both the national police and
21 the security agency?

22 A. Yes, I did.

23 Q. Talked to them about their experiences?

24 A. Yes.

25 Q. Various witnesses have been asked in this inquest about

1 the approach of the Israelis and in particular whether
2 there is a rule that an officer must actually see some
3 kind of evidence, visible evidence, of an explosive
4 device on somebody before he fires a critical shot. Is
5 there any such rule?

6 A. No, there isn't. They certainly never discussed that.
7 And I suppose if I'm perfectly honest, when you talk to
8 these people, things are not said openly but there is
9 an innuendo about, you know, what they are telling you,
10 and it was pretty clear to us that on occasions that
11 they didn't have that full evidence when they delivered
12 a critical shot to somebody.

13 Q. Moving now on to what you did as a result of the
14 research, we have heard that two particular policies,
15 operational policies, were devised, Operation Kratos and
16 Operation Clydesdale, both dealing with suicide
17 terrorists?

18 A. Yes.

19 Q. And dealing with two particular kinds of situation.

20 A. Yes.

21 Q. Kratos we have heard was first spontaneous events,
22 a call from a member of the public or from an officer on
23 the ground, unarmed officer, just out of the blue?

24 A. Yes.

25 Q. Saying, "This is somebody who's behaving suspiciously"?

1 A. Yes.

2 Q. Then the other one we have heard about,
3 Operation Clydesdale, has been described as being
4 a pre-planned event when there is some intelligence that
5 there may be a suicide attack.

6 A. That's right, yes.

7 Q. To be clear on this epithet "pre-planned", did that just
8 mean a large scale public event like Trooping of the
9 Colour, or did it refer to any situation where there was
10 advance intelligence that a bomber would attack
11 a particular place, whether or not there was a major
12 event there?

13 A. Clydesdale was really designed for a pre-planned event
14 where you had some intelligence that came in that
15 a suicide bomber might attack that event and it was
16 a series of tactics around that. So that was very
17 specifically around that type of thing. Kratos was for
18 a spontaneous call from somebody, member of the public,
19 another police officer, about somebody who they
20 suspected to be a suicide bomber.

21 Q. Various questions have been asked at times during the
22 inquest about situations that --

23 SIR MICHAEL WRIGHT: So the essential difference I suppose
24 is that in a Clydesdale situation, you have a framework
25 within which you know that a bomb will be exploded, and

1 you can plan your tactics in accordance with whatever
2 the framework of the event is going to be?

3 A. Yes, sir.

4 SIR MICHAEL WRIGHT: In the other one it's spontaneous by
5 nature.

6 A. Yes.

7 SIR MICHAEL WRIGHT: And your reaction has to be spontaneous
8 as well?

9 A. That's right, yes. With a Clydesdale -- the reality is
10 you wouldn't want to get to a situation where you had
11 an event running and you had that sort of intelligence
12 and you were waiting for this people. Ideally, you
13 would try and arrest them before the event ever took
14 place, or you might even cancel the event. But of
15 course there are some events that take place that can't
16 be cancelled, so you need a set of circumstances to deal
17 with that type of scenario.

18 SIR MICHAEL WRIGHT: Sorry, Mr Hough. You had gone on to
19 Kratos.

20 MR HOUGH: No, that's helpful.

21 Various witnesses have been asked about situations
22 that fall into the gap, neither one nor the other. Just
23 to be clear on this, this view of having two scenarios
24 to deal with, spontaneous event and pre-planned major
25 public event, was that kind of analysis shared by other

1 countries, that there were these two types of
2 situations --

3 A. Oh, very much so. There was no other scenario that we
4 witnessed anywhere we went to that was outside of those
5 two scenarios. I mean of course now it's pretty clear
6 that there is a third one.

7 Q. Yes.

8 A. But at the time nobody had ever discussed that sort of
9 thing. Where suicide bombers had failed either because
10 the device didn't go off or because they have been
11 recognised or something like that, action was taken, but
12 this, the situation we faced I think was probably unique
13 because nobody had ever raised that in all our research.

14 SIR MICHAEL WRIGHT: And still is, I think?

15 A. I think it is, sir, yes.

16 SIR MICHAEL WRIGHT: It hasn't happened since?

17 A. No, sir, it hasn't.

18 MR HOUGH: Page 8 of your statement, please. Do you in the
19 course of developing these two policies apply three
20 general conclusions?

21 A. Yes, we did.

22 Q. Can you just run through those for us?

23 A. If you are an unarmed police officer and you are faced
24 with a suicide bomber, there is absolutely nothing you
25 can do, because you have got no means to tackle that

1 person, and if you tackle them all the research was that
2 it would probably cost you your life.

3 The other aspect that came out of it is that if you
4 were planning an operation against somebody like this,
5 it would need to be done covertly because if they
6 suspected that the law enforcement agencies had
7 discovered who they were, that they would detonate the
8 device there; and then the third one is that you really
9 need, because of what you are dealing with, you really
10 need some sort of command system to help the officers
11 who are involved in dealing with this as well, because
12 of the nature of it.

13 Q. Help in what way?

14 A. Well, do you want to get into the DSO role and all that
15 sort of thing now?

16 Q. Not quite yet. I am just talking about in general
17 terms, what did you decide was needed from a control
18 room in this kind of situation?

19 A. Well, if you are dealing with a suicide bomber or a
20 suspected suicide bomber, then you need armed officers
21 to help you, and of course most of the police in the UK
22 are not armed, so you need somebody to get those
23 officers on their way to you. You would need a bomb
24 disposal person, because if they have got a bomb on
25 them, then you need to neutralise that fairly quickly,

1 particularly if it was a remote control, and then you
2 need other officers to come in and put cordons and
3 things -- so it would be quite a big operation. So you
4 really need to have some system to have some sort of
5 central command over that as well.

6 Q. So you need the control room to do co-ordination of the
7 teams?

8 A. That's right.

9 Q. Do you also need the control room to do dissemination of
10 intelligence, collecting and then sending it out to the
11 teams on the ground?

12 A. Yes. We created a situation where there was advisers to
13 help the people who are commanding these things with
14 firearms tactical advice, intelligence advice, and that
15 sort of thing as well.

16 Q. We have been talking so far about the use of firearms
17 and particularly in lethal situations. Did you in the
18 course of developing the policies consider other kinds
19 of weaponry, less lethal options?

20 A. Yes, we did. We looked at -- the less than lethal
21 options that are generally available to the police are
22 the use of baton rounds and the use of the taser.
23 I think in 2005 the taser was, it was around but I'm not
24 sure it was as widely adopted as it is now. If you are
25 faced with a device that has peroxide in it, if you

1 fired a baton round at a peroxide-based device it would
2 detonate it. Certainly if you fired a taser at
3 a peroxide-based device, that would set it off as well.

4 Of course they are fairly close-range options as
5 well, so the officers that would be using them, if they
6 did use them and it was a suicide bomber, it would
7 probably cost them their life as well.

8 SIR MICHAEL WRIGHT: We have heard that the safe distance is
9 likely to be of the order of 40 metres?

10 A. That's right, if you can get behind cover. If there is
11 fragmentation, but the advice that went out to officers
12 was if you are going to do a challenge, try and get
13 40 metres away and behind some sort of cover, but we did
14 acknowledge that in some situations 40 metres is just
15 not practical. But that would be the ideal.

16 SIR MICHAEL WRIGHT: That would be the ideal.

17 A. Yes.

18 SIR MICHAEL WRIGHT: But I suppose you can't possibly use
19 a taser at 40 metres.

20 A. No, sir, you can't.

21 SIR MICHAEL WRIGHT: And a baton round might not even get
22 there.

23 A. No, I think these are weapons --

24 SIR MICHAEL WRIGHT: Fairly short range.

25 A. Yes, they are.

1 MR HOUGH: You have already talked about the use in Israel
2 of a tactic of controlling somebody to the ground. Was
3 that something that you considered as an option for use
4 in the Metropolitan Police area?

5 A. On the first trip that we went to Israel, we were
6 actually taken into their training area, and they showed
7 us a tactic where two Israeli security people would come
8 up behind a suicide bomber; they would be armed in plain
9 clothes; one of them would grab the ankles of the bomber
10 and put his head in the back and push him forward and
11 the other would get his firearm out in a position.
12 Frankly, when they showed us this --

13 SIR MICHAEL WRIGHT: What do you mean by "put his head in
14 the back"?

15 A. So that you would come up behind the bomber, and you
16 would lean over and grab his ankles and you would put
17 your head in the back like that, and cause them to fall
18 over forwards.

19 Frankly, it was -- we were shown it, and they were
20 practising it, but we just felt if it was a peroxide
21 device, when they fell on the floor it'd go bang, so
22 they showed us this but we did feel at that stage,
23 because -- this was the first time we went over there.
24 We didn't really know these people that well, and having
25 been over there five times, you build a relationship

1 with them so you get to know them better and they are a
2 bit more open. But in that early stages they were
3 showing us this tactic, but the reality is would you use
4 it? No, you wouldn't because the thing would go off and
5 you would do their job for them.

6 MR HOUGH: Was that tactic generally used at checkpoints or
7 we have heard them referred to as pinch points, would
8 that be relevant?

9 A. Generally in Israel, when -- they get a lot of suicide
10 bombers that come across the border from the West Bank
11 into Israel, so they have these checkpoints where people
12 come across and they can deal with them at a distance.
13 They have some technology that can help them with that
14 as well. So they are in a very controlled environment,
15 and so it's relatively easy to deal with people at
16 a distance. That tactic that we were showing was for
17 something up at very close range, because you are
18 actually putting your hands on somebody. I have never
19 known them to use it. They never gave us any examples
20 where they have actually used it in reality.

21 Q. So just something you saw in training?

22 A. Yes, it was.

23 Q. Moving on from there to the different policies that were
24 developed. I am on paragraph 23 of your statement,
25 page 10. Is this right, the first drafts of the

1 policies appeared in formal form in the latter part of
2 2002?

3 A. Yes.

4 Q. The Kratos People policies included documents on officer
5 safety awareness?

6 A. Yes.

7 Q. What kind of thing did that include?

8 A. This was aimed at unarmed officers. It was to give them
9 information a bit like I have done this morning about
10 how suicide devices work, what sort of explosives they
11 used, these behavioural indicators that were apparent
12 around that sort of time, and what actions that they
13 should take. And very clearly in there was, if you are
14 an unarmed officer you actually shouldn't do anything,
15 you should call for assistance and you should be guided
16 by the command structure that we had set up as part of
17 that as well. Because if you were doing something
18 independently, that might jeopardise the actions of
19 other officers.

20 Q. Just something specifically for our purposes: did the
21 officer safety awareness documents recognise that there
22 was no set profile for a suicide terrorist?

23 A. That's correct, yes.

24 Q. In addition, did the Kratos policy documents contain
25 guidance on how to set up a command and control

1 structure?

2 A. Yes, it did, yes.

3 Q. Particularly guidance on how officers would be
4 controlled from the information room at New Scotland
5 Yard?

6 A. That's right, yes.

7 Q. In addition, was a separate set of documents produced
8 for Operation Clydesdale?

9 A. Yes, it was, yes.

10 Q. Over time, did you also develop policies and policy
11 documents for a variant of Kratos, Kratos Vehicle?

12 A. Yes, we did, yes.

13 Q. Is that because if a suicide bomber is in a vehicle, you
14 need a new set of tactics for stopping the vehicle?

15 A. That's right, yes.

16 Q. Now, by January 2003, were presentations given both
17 within the Met and in the UK as a whole, setting out
18 what these policies were and what you had learned?

19 A. Yes, they were, yes.

20 Q. By this stage, I think, a Kratos People firearms officer
21 awareness package was available?

22 A. Yes.

23 Q. Perhaps we can have tab 62 of the jury bundle on the
24 screen. These are some pages which have been shown out
25 of this document.

1 I'll just read through this quickly with you:

2 "Tactical options. Where a person is suspected of
3 carrying a bomb but this has not been confirmed.
4 Challenge the suspect from a position of safety. React
5 to the developing situation in accordance with your
6 training instructions and the ACPO manual."

7 That's the ACPO firearms manual?

8 A. Yes, it is, yes.

9 Q. Then if we can go over the page, please, and focus on
10 tactical options again:

11 "Where a suspect carrying a bomb has been identified
12 and immediate action is absolutely necessary. Deliver
13 critical head shot with a ... rifle if available or
14 critical headshot with rounds from an MP5 pistol."

15 A. Yes.

16 Q. "... where no rifle cover can be available."

17 A. That's right.

18 Q. So was that material recognising two different
19 situations?

20 A. Yes, it was, yes.

21 Q. One where there is not the intelligence or confirmation
22 that you have a suspect with a device, and in that
23 situation the officers are to rely upon their general
24 firearms training; yes?

25 A. Yes, they are, yes. I mean, the situation there, if

1 I can sort of expand on that --

2 SIR MICHAEL WRIGHT: It supposes, of course, that either of
3 those options are available.

4 A. Well, the situation with Kratos, sir, is that this was
5 a spontaneous event and so what other resources are
6 available at that immediate time to help you. So the
7 two options that we came up with arising out of the
8 Kratos policy was that if you are 100 per cent sure that
9 this person is a suicide bomber, then deliver a critical
10 shot. If you are not sure, then you challenge and
11 however they react to that challenge is what you do.

12 Now, 99.999 per cent of the time it's going to be
13 a challenge, because I would suggest the times that you
14 were 100 per cent sure would be very remote indeed.

15 SIR MICHAEL WRIGHT: Or that you could get into position,
16 with a pistol, to deliver a critical shot just like
17 that.

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

19 SIR MICHAEL WRIGHT: So it's only -- all you can do in those
20 circumstances is challenge?

21 A. That's right, yes, sir. Now, what happened was, as we
22 got slicker at doing this, and we had calls from the
23 public about these, and officers were deployed, and then
24 we had this oncall designated senior officer, there were
25 more firearms options available so that if there was

1 time, because what we were always thinking about is:
2 this is going to happen very quickly, that was all the
3 learning that we had, and probably by the time the
4 DSO -- which we are going to talk about in a minute --
5 had turned up, this thing would probably have been
6 resolved. Either they would have blown themselves up or
7 they would have been discounted as not being a suicide
8 bomber.

9 But if there was time, then there would have been
10 other options, other -- which would be some firearms
11 options and other unarmed options as well. But the
12 basic, in that first few minutes, the only option really
13 is if you are 100 per cent sure you do the shot. If you
14 are not sure, which is going to be the vast, vast
15 majority, then you do a challenge, and then you react to
16 that on how they react to your challenge.

17 MR HOUGH: So can we go back to the first of those two
18 pages, and now move to the text below "tactical
19 options". Just to be clear, this is dealing with
20 a spontaneous situation.

21 A. Yes.

22 Q. In that situation, two scenarios defined, one where
23 there is some doubt, where you say that there will
24 normally be a challenge?

25 A. Yes.

- 1 Q. Then over the page:
- 2 "... suspect confirmed as being in possession of
- 3 a device and poses an immediate threat to life, current
- 4 advice would be to shoot at the brain stem."
- 5 A. Yes.
- 6 Q. Is this right, both of those pages which we have been
- 7 shown already don't deal with a situation where there is
- 8 a DSO in place giving authorisations from above?
- 9 A. No, that's right.
- 10 Q. Thank you. At the same time, I think, some documents on
- 11 Clydesdale were produced and similar presentations were
- 12 provided. We don't need to go through all of those,
- 13 because they are not directly in point. But is this
- 14 right, that under Clydesdale there was a specified Gold,
- 15 Silver, Bronze Command structure, as with many major or
- 16 pre-planned events?
- 17 A. That's right, yes.
- 18 Q. Initially was the DSO position first brought in for
- 19 Clydesdale situations?
- 20 A. Yes, it was.
- 21 Q. Now, the DSO position had existed as a name before any
- 22 thought of suicide terrorists had arisen?
- 23 A. Yes.
- 24 Q. Had it developed first in public order situations?
- 25 A. Yes, it had, yes.

1 Q. What was the role of a DSO in a public order situation?

2 A. The DSO in a public order situation would give the
3 command to fire baton rounds in a public order, and he
4 had to get authority from the Commissioner to actually
5 be able to do that; and what happened was these people
6 had had some extra training and so when we were looking
7 about the command structure for the suicide terrorism,
8 it was logical to take these people who had this extra
9 training and give them some extra training to deal with
10 this sort of situation as well.

11 Q. Now, the role was, I think, different under Clydesdale
12 from under the public order situations?

13 A. Yes.

14 Q. What was the role under Clydesdale?

15 A. Under Clydesdale, what we were trying to create is that,
16 if you are commanding an operation where there is lots
17 of police resources, it's a big public event or
18 something like that, you have an awful lot of things
19 going on in your head that you need to take account of,
20 and what we didn't want to do was put this person in
21 a situation of introducing a really complex issue around
22 suicide terrorism and get them to try to deal with that
23 at the same time.

24 So in our working party, what we came up with was
25 the concept of this designated senior officer who would

1 take command if the situation involved a suspected
2 suicide terrorist, because all they would need to focus
3 on were the issues around that particular aspect of the
4 event, and they wouldn't need to concern themselves
5 about anything else other than dealing with that
6 specific case.

7 Q. Now, just to be clear on this, the title DSO appears in
8 both the public order situations and the Clydesdale
9 situation, but is this right, the only reason that the
10 title was re-used from the public order situations is
11 that it also was referring to particular grades of
12 senior officer?

13 A. It was convenient, really, I guess.

14 Q. Yes. There wasn't any overlap between the two in terms
15 of what the job actually involved?

16 A. No, no, no.

17 Q. Now, in the documents that were produced around this
18 time, there is no mention of a DSO in a Kratos People
19 situation?

20 A. No.

21 Q. It may be common sense or obvious, but why was that?

22 A. Well, what happened was that we always felt, with
23 a Clydesdale, which is a pre-planned event, you have the
24 luxury of time to start putting a plan together and
25 things like that. With a Kratos, which is a spontaneous

1 event, it's here and now, it's happening right now and
2 you have got to deal with something.

3 So in the very early stages, what happened was the
4 two options, it was felt, that really the only people
5 who can make a decision are going to be those officers
6 who are actually at the front dealing with this
7 situation, and then in information room, there is
8 a Chief Inspector.

9 If I just sort of on an aside, in the information
10 room at Scotland Yard, there is a Chief Inspector on
11 duty 24 hours a day, seven days a week to take command
12 of events. So it would -- the onus would fall upon that
13 person to take command of this very fast-moving
14 incident, but the decision was really down to the
15 officers at the front, because although the
16 Chief Inspector might have some additional intelligence
17 that he was furnished with, at the time this was
18 happening, he would not have anything else other than
19 that, and it was the officers at the front --

20 SIR MICHAEL WRIGHT: There wouldn't be anything else other
21 than that.

22 A. No, they wouldn't, no, sir.

23 SIR MICHAEL WRIGHT: Because with Clydesdale you have lots
24 of other things going on all around that the officer in
25 command of the event, as it were, has to worry about, so

1 you take this particular problem off his shoulders and
2 give it to the DSO.

3 A. That's right.

4 SIR MICHAEL WRIGHT: If this is a spontaneous warning from
5 a member of the public, you only actually have one thing
6 to deal with, namely is this a suicide bomber?

7 A. That's right.

8 SIR MICHAEL WRIGHT: So in that sense there is nothing that
9 a central command can do to help in that situation
10 unless they happen to know something?

11 A. Well, if I can just add to that, sir, what happened was,
12 again as we got better at doing this, again because of
13 the calls from the public, part of the debate was we had
14 got this specially trained person to deal with
15 pre-planned events, the Chief Inspectors were quite
16 unhappy at being put in this position, so what
17 organisationally we decided in the Met was: we have got
18 these designated senior officers, why don't we have one
19 of those on call so that if there is the time to get
20 them into the information room, then they would, they
21 could take command of that incident because that would
22 help the situation; they had had some training that
23 perhaps the Chief Inspectors hadn't had, and it just
24 felt better to do it like that.

25 SIR MICHAEL WRIGHT: Takes the weight off the

- 1 Chief Inspector's shoulders?
- 2 A. That's right, sir.
- 3 MR HOUGH: You have pre-empted me a little.
- 4 A. Sorry.
- 5 Q. Don't worry at all. In the early stages of the
6 development of the policies, before you get to the use
7 of DSOs on call, the DSO was only in Clydesdale
8 situations?
- 9 A. That's right, yes.
- 10 Q. Because you have the luxury of time to set up a command
11 structure?
- 12 A. That's right.
- 13 Q. At that time, in the early stages, did the Clydesdale
14 presentation documents set out various armed
15 intervention options which a DSO under Clydesdale could
16 make use of?
- 17 A. Yes. I mean, there were a couple of unarmed
18 interventions as well. So there was a range of tactics,
19 yes, there were, in Clydesdale.
- 20 Q. Without going into the details of them, two of the armed
21 intervention options involved the use of a critical
22 shot?
- 23 A. That's right, yes.
- 24 Q. Now, in both those cases, the policy contemplated that
25 there would be an authorisation from the DSO --

1 A. That's right.

2 Q. -- before the shot was taken?

3 A. That's right, yes.

4 Q. In both those situations, the scenario identified as
5 producing that authorisation would be a suspect
6 identified carrying a device and sufficient evidence or
7 intelligence that he poses an immediate threat?

8 A. That's right, yes.

9 Q. For each of those armed intervention options, there was,
10 I think, a code word?

11 A. That's right, yes.

12 Q. That was to help the designated senior officer give
13 an order that had absolute clarity?

14 A. Yes. Now, can I just add there that the code words
15 actually were not very popular with anyone really
16 because of trying to memorise those and the clarity of
17 what they actually meant.

18 The main reason for having the code word is that if
19 you are in a situation where you were getting a break-up
20 on the radio or something like that, you could get
21 a single word across and everyone would know what that
22 meant. But generally if you gave a code word to
23 somebody, they would probably come back and say what do
24 you actually mean by that, to give that clarity.

25 Q. We have heard from quite a lot of officers in this case

1 that they would have expected to hear the words
2 "critical shot authorised"?

3 A. Yes.

4 Q. That's your understanding of what would be expected?

5 A. Yes.

6 Q. But in any event, there were -- those code words were
7 only developed under Operation Clydesdale?

8 A. That's right, yes.

9 Q. I think after developing these policies, legal advice
10 was taken on the responsibilities of both the officer
11 giving the authorisation and the officers firing the
12 shot?

13 A. That's right, yes.

14 Q. Without going into detail or having a legal debate, was
15 it advised that both could bear some degree of
16 responsibility --

17 A. That's right, yes, it was, yes.

18 Q. -- for their decisions?

19 A. Yes. We actually, over the period, we, every time there
20 was an incident that took place somewhere around the
21 country involving firearms, we always revisited the
22 policy and sought further legal advice to make sure that
23 there weren't any changes. Because we were very mindful
24 of what we were dealing with, and we always wanted to
25 make sure that, you know, we were on the right -- in the

1 right track.

2 Q. We will now move to the development or evolution of the
3 DSO position. First of all, were various senior
4 officers of ACPO rank in fact trained in an initial
5 stage to perform the role of DSO in a Clydesdale
6 situation?

7 A. Yes, they were, yes.

8 Q. We have heard that DAC Dick was one of the first?

9 A. That's right, yes, she was.

10 Q. Was that initial training to the effect that the DSO
11 would be supported by a range of advisers?

12 A. That's right, yes, it was.

13 Q. Including firearms adviser, intelligence adviser, that
14 kind of thing?

15 A. Yes.

16 Q. Was there also the concept of a Kratos tactical adviser?

17 A. That's right. What happened, every time we had
18 an incident where we had had a call from a member of the
19 public around a Kratos type incident, we always held
20 a debrief to see was there any learning that could come
21 out from this event, should we change our tactics, are
22 we still right in what we are saying we should do.
23 There was one particular event where nobody actually
24 dealt with it very well. It went on for something like
25 half an hour, and I am as guilty as anyone else at the

1 time because I used to go into information room, because
2 they used to tell me when these incidents were taking
3 place, and the DSO in this case got the scenario, went
4 and sat in the corner, started writing a log and never
5 raised his head again from that incident, and it was
6 clear that this was much more -- some people were much
7 better at it than others and that they needed some other
8 support.

9 So what we came up with was this concept of a Kratos
10 adviser that would be like a conscience, a friend, and
11 a sounding board for that DSO to bounce ideas off and
12 what they were thinking, and the adviser could also say,
13 "You know, come on, what do you think you are dealing
14 with, you need to make a decision". So that was the
15 sort of role, and they were independent of the firearms
16 adviser, so they could challenge what that person was
17 saying if necessary as well.

18 Q. By early 2005, had the evolution occurred so that you
19 now had some DSOs on call?

20 A. Yes.

21 Q. So obviously these DSOs, because they are on call,
22 wouldn't just be dealing with Clydesdale situations?

23 A. No.

24 Q. Can you just explain what procedure there was for having
25 DSOs on call?

1 A. Every week there is a document that comes out on
2 a Friday from the public order department that says
3 who's on call from the Metropolitan Police over the next
4 week, at the various levels, so that if there was
5 a major public order incident, this person should be
6 called out; if there was some other incident this person
7 should be called out; and if there was a Kratos type
8 incident then one of these DSOs should be called out.
9 So that was a standard sort of procedure.

10 In information room there was a particular area
11 created for the designated senior officer to go into
12 where the advisers would go as well, and then they would
13 take command of that incident until its conclusion. So
14 sort of Monday to Friday, 9 to 5, often the adviser
15 would be in the Yard, so the response would be fairly
16 prompt. Evenings and weekends they may not be there,
17 and so the response was slower. But then they could do
18 things on the telephone while they were on their way in.
19 They could start, you know, gathering intelligence and
20 information and things like that.

21 Q. We have heard about people being listed in, for example,
22 the CO19 operational policy log as being oncall Kratos
23 DSO?

24 A. Yes.

25 Q. That's the position you have just referred to. We have

1 also heard about a Commander in a bubble, is that the
2 area annexed to the information room?

3 A. Yes, it is, yes.

4 Q. In this situation, the officer as you have said would
5 come in as soon as the possibility of a suicide
6 terrorist was raised, and you said he would command the
7 operation from there?

8 A. Yes.

9 Q. Do you mean that he would command only part of the
10 operation relating to the possibility of a suicide
11 terrorist, or the whole of the operation?

12 A. Well, he would actually take over the operation, really,
13 because if there was an ACPO officer in there, he would
14 be by far the most senior rank, and the reality is that
15 in these sort of situations, people defer to the more
16 senior person, and so although they were there about
17 a suicide terrorism, it was natural that they would
18 actually deal with the event, and that sort of changed
19 as well. I don't know if you want to go into that bit
20 as well later on.

21 Q. Go ahead now if you would like.

22 A. What happened on -- now, I was -- Commander Carter was
23 the oncall DSO --

24 Q. If you are coming to July 2005, I'll deal with --

25 A. Okay, then.

1 SIR MICHAEL WRIGHT: Forgive me, what you were dealing with
2 a moment ago really was the sort of natural development
3 of how things began to pan out.

4 A. That's right, yes.

5 SIR MICHAEL WRIGHT: I can't remember, what's the junior
6 rank for a member of ACPO, Commander?

7 A. Commander, yes, sir, and it was generally Commanders
8 that were on call, and there was a pool of 16 of them
9 that had been trained to perform that role.

10 SIR MICHAEL WRIGHT: They would almost invariably outrank
11 the senior officer in charge --

12 A. Absolutely, yes.

13 SIR MICHAEL WRIGHT: -- and probably by two or three ranks?

14 A. Yes, sir.

15 SIR MICHAEL WRIGHT: I see.

16 MR HOUGH: These DSOs, they had all received Kratos
17 training, had they?

18 A. Yes, they had.

19 Q. Did that training involve specific guidance on ordering
20 critical shots?

21 A. Yes, it did.

22 Q. I am just going to read from one document which is
23 produced for DSO training, and it says this:

24 "In the event of an identified suspect with a bomb
25 where an immediate action is absolutely necessary,

1 a critical shot can be delivered either with a rifle or
2 with a smaller gun at short range if no rifle cover is
3 available."

4 So that was guidance which was being given to the
5 DSOs, whether under this newly evolved position or under
6 the old Clydesdale position?

7 A. Yes, it was, yes.

8 Q. Moving now to July 2005, I am on paragraph 31 of your
9 statement, if it helps you. The bombings of July 2005,
10 we have heard, sparked a large increase in the number of
11 calls from members of the public, unsurprisingly. What
12 arrangements were put in place to have DSO cover when
13 that large volume of calls started coming in?

14 A. Well, we had gone from a situation where the DSO was on
15 call and they were on their sort of normal day job to
16 actually being present in information room to be able to
17 respond immediately a call like that came in. So we
18 went to a 12-hour tour for them, really, so there was
19 a daytime one and a night time one, 12 hours, so that
20 there was always a designated senior officer in
21 information room.

22 SIR MICHAEL WRIGHT: Instead of weekends and evenings?

23 A. That's right.

24 SIR MICHAEL WRIGHT: So effectively it became their
25 full-time job?

1 A. Yes.

2 MR HOUGH: So a further evolution in the role, starts off as
3 just Clydesdale for a specific part of an operation,
4 then a DSO being oncall and called in.

5 A. Yes.

6 Q. Then July 2005, a DSO permanently present in the
7 information room?

8 A. Yes.

9 Q. But called upon to deal with specific suggestions of
10 suicide terrorism?

11 A. That's right, yes.

12 Q. Obviously this person wasn't to be deluged, so was there
13 any filtering system?

14 A. On 21 July I was actually, Commander Carter was the
15 designated senior officer --

16 Q. In the bubble?

17 A. In the bubble, so that when the calls started to come in
18 about the devices that were going off on 21 July, I was
19 on call to help Ian Carter, and --

20 Q. Were you his Kratos adviser?

21 A. Yes, I was, yes. So what happened is he got there
22 slightly before me but we got into information room
23 about the time that the second device was reported in.
24 So we had two scenes, suspects being chased, and we
25 weren't -- but sounds of an explosion, but sort of no

1 injuries and things like that. So what happened was,
2 because I am -- you know, I have been involved in
3 operations for most of my service, so I just actually
4 got on with dealing with these two scenes, you know,
5 what policing do we need there, what do we need to do
6 there, and that sort of left Ian to keep thinking about
7 the suicide bomber scenario.

8 Then we had the message about the third scene and
9 then subsequently after that the fourth scene. While we
10 were trying to deal with these, Ian actually said to me,
11 "Do you think we are dealing with a chemical or
12 a biological incident?", because the messages that were
13 coming out were sounds of an explosion, small explosion
14 and a noxious smell. So at that stage, you know, you
15 need to change your police response because you need
16 first responders that have protective equipment on. So
17 we had to sort of re-think on our feet about what we
18 were doing.

19 Now, the other thing that started to come out was
20 this vast amount of calls that were coming in from
21 members of the public, because obviously the public get
22 very sensitised to these sort of issues, and so what we
23 did, what I did really was say: why don't we try and
24 introduce a filter system, because a couple of things
25 could happen here. Firstly we are going to run out of

1 firearms officers to actually deploy to deal with these
2 calls, and the other thing is if we are sending them to
3 so many calls we might end up with a mistake and
4 somebody might get shot by accident because they are
5 rushing from call to call and it's actually not fair to
6 put them in that position.

7 So what we decided to do was we would introduce
8 a first phase where the borough duty officer, who is
9 an inspector, and they are oncall in a borough again
10 24 hours a day, seven days a week, that they would go
11 and make the first assessment. Because the vast
12 majority of these calls were somebody acting
13 suspiciously, and in normal events so what, but of
14 course in this situation they suddenly took on the
15 mantle of a suspended suicide bomber.

16 So we changed the policy sort of on the hoof really
17 to get the duty officer to go to the scene first, make
18 an assessment of what they thought they were dealing
19 with; if they felt that there was some credible evidence
20 to suspect that it was a suicide bomber, they would
21 report that back to the Chief Inspector. Then the
22 Chief Inspector with the information he had gathered by
23 then could say, "Yes, I think I agree with the inspector
24 and we will downgrade this to a normal incident", or,
25 "Actually I think there is some credible evidence

1 towards a suspected suicide bomber so now I want
2 a designated senior officer" and --

3 SIR MICHAEL WRIGHT: He goes up to the Yard, presumably.

4 A. Who's that, sir?

5 SIR MICHAEL WRIGHT: You are talking about the borough
6 inspector.

7 A. The borough inspector would actually go to the scene and
8 deal with it at the scene.

9 SIR MICHAEL WRIGHT: Oh, it is Chief Inspector who says,
10 "This is credible"?

11 A. That's right, yes.

12 SIR MICHAEL WRIGHT: He then effectively goes to the DSO at
13 the Yard.

14 A. That's right, yes.

15 Now, in the period between 21 July at midday until
16 4 August at midnight -- and I'll tell you why they stick
17 in my mind in a minute -- we had 763 calls from members
18 of the public about suspected suicide bombers, and
19 because of this filtering system, only on 11 occasions
20 was a designated senior officer called out, and only on
21 six of those did they actually send an armed response
22 vehicle to the rendezvous point to deal with those.

23 So the filter system actually worked extremely well
24 and filtered out all those other stuff.

25 Just to let you know why I remember those dates is

1 that we did some revision training on 5 August for
2 officers from around the country, and we had gathered
3 that statistic to give to them on the 5th so that they
4 knew the magnitude of what they could be dealing with.

5 MR HOUGH: You have told us what you were doing on the 21st.
6 Meanwhile, as we have heard, an S013 operation was
7 starting.

8 A. That's right, yes.

9 Q. A proactive investigation to find the bombers?

10 A. Yes, yes.

11 Q. And that was under Mr Boutcher?

12 A. That's right, yes.

13 Q. You, I think, played one part in that, and it's this:
14 you were present at a meeting, I think, overnight 21st
15 to 22nd July which we have heard about, with a variety
16 of senior officers in a hotel, I think?

17 A. Yes.

18 Q. Did that meeting consider the possible need for
19 a specific DSO for this proactive investigation?

20 A. Well, it sounds arrogant but it's not meant to be, but
21 it was my idea actually that we should have a DSO as
22 part of that operation. The situation that we had is
23 that we had a designated senior officer in information
24 room who was dealing with spontaneous calls from the
25 public. We had Clydesdale where there was a position of

1 a designated senior officer, and we had realised that we
2 had a gap in our planning, and is it right that you have
3 a DSO for a Clydesdale, you have a DSO for
4 a spontaneous, and now we have got this other operation
5 that involves a potential manhunt for suspected suicide
6 bombers, isn't it logical to have a designated senior
7 officer there? So I made that suggestion to the group,
8 and of course they adopted it because it's a logical
9 thing to do.

10 Q. What role did you envisage this designated senior
11 officer playing, only dealing with part of the
12 operation, or particular issues in the operation, or
13 taking over the proactive operation?

14 A. Well, it was the same principle as with Clydesdale. You
15 got a detective-led investigation trying to track some
16 people down, and you have got the designated senior
17 officer who is there in case you have got a suspected
18 suicide bomber. And the situation was that if there was
19 a likelihood of, where there was a suspected suicide
20 bomber appeared, then I would expect the DSO to take
21 over. But you also had the same situation that
22 I described in information room, where you have got
23 a more senior officer in the room than perhaps some of
24 the other people who are there as well. So sort of the
25 natural way things tend to happen in the police is that

1 the senior officer takes precedent.

2 Now, how we have developed the training under this
3 third scenario that's developed is it's a debate between
4 the senior investigating officer and the designated
5 senior officer. Sorry about all this talk. But who
6 actually, who's in charge and when do they take over.
7 That's not something that you could spell out in
8 a policy because every one of these would be different,
9 but it would be a matter of debate. My expectation
10 would be they would debate which would be the best way
11 to command this, and then they would work it out between
12 themselves.

13 So if, you know, Cressida Dick said, "I think
14 I should be in charge", I think that would be
15 reasonable.

16 SIR MICHAEL WRIGHT: In fact what we heard from both of them
17 is that she effectively took over control of the whole
18 operation to follow and, if possible, detain the bomber,
19 but I think it was quite clear to me anyway that
20 Mr Boutcher, who was describing himself as the SIO, the
21 senior investigating officer, he was still handling the
22 investigation --

23 A. Yes.

24 SIR MICHAEL WRIGHT: -- of the four July 21st events.

25 A. That's right, yes.

1 SIR MICHAEL WRIGHT: That's your understanding as well?

2 A. It is, yes. And of course Commander Dick is
3 an extremely able and well qualified person to do this.
4 So you know, I am not surprised by that either.

5 SIR MICHAEL WRIGHT: You are not surprised that's what
6 happened?

7 A. No.

8 MR HOUGH: After you had been involved in that meeting and
9 that decision had been taken, did you play any further
10 part in the proactive investigation?

11 A. No, I didn't no.

12 Q. Just a couple of other things. First of all, could we
13 have tab 42 of the jury bundle on screen. I am not sure
14 if you have seen this before but it's an excerpt from
15 the tactical options document prepared by Mr Esposito
16 and Andrew on the 21st. The jury have seen it before.
17 First of all, the title. This is one of the situations
18 for which Mr Esposito and Andrew were offering different
19 options:

20 "Interception outside the stronghold/premises or
21 elsewhere of suicide terrorists (spontaneous or
22 pre-planned Kratos)."

23 First of all, the use of the phrase "spontaneous or
24 pre-planned Kratos" appears to be a little bit of a
25 misnomer because of Clydesdale?

1 A. Yes.

2 Q. Was the word "Kratos" used in an informal or slang
3 capacity at all by this stage?

4 A. It had, really. I mean, the situation we were dealing
5 with was neither a Kratos nor a Clydesdale. It didn't
6 fall into either of the parameters of those two
7 operations. But because we had had all this planning
8 and everything around it, it sort of naturally morphed
9 into that sort of jargon, really.

10 Q. You see there that it's written that:

11 "If there is intelligence to suggest that the
12 suspect has been identified, is a suicide bomber and is
13 carrying a device with the means of detonating, the use
14 of conventional tactics must be carefully considered and
15 risk assessed prior to use."

16 It recognises, as you said, that overt deployment is
17 likely to endanger those around.

18 A. Yes.

19 Q. What would you divine from the phrase "the use of
20 conventional tactics must be carefully considered and
21 risk assessed"?

22 A. That would be not in a critical shot.

23 Q. So if those elements are in place, then you have to
24 think carefully about whether you would use ordinary
25 firearms tactics as distinct from the special critical

1 shot tactics?

2 A. Yes, yes, yes.

3 SIR MICHAEL WRIGHT: Simply to come down from the general to
4 the particular, conventional tactics in the context of
5 anyone presenting a threat is, "Stand still, stop, armed
6 police".

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

8 SIR MICHAEL WRIGHT: That's what you would call
9 conventional.

10 A. Yes.

11 MR HOUGH: Then this in italics:

12 "In all these options [that's the options that are
13 going to be listed below] exists a real possibility that
14 should the subject be non-compliant with the commands of
15 the officers initiating the interception then
16 an immediate critical shot may be taken."

17 A. Yes.

18 Q. Is that there recognising that whatever the commands
19 from on high, if the subject is non-compliant, then that
20 kind of shot might have to be taken anyway?

21 A. Yes. Section 3 of the Criminal Law Act gives officers
22 powers to use lethal force if they think they are faced
23 with somebody who poses such an extreme threat. That's
24 something that's trained in every firearms officer,
25 whether they do these tactics or not, and I would expect

1 that that's what they would -- be uppermost in their
2 mind in that situation.

3 Q. We can have that off screen now. Just this in summary:
4 you said that the officers may well have to use their
5 own initiative and discretion --

6 A. Yes.

7 Q. -- anyway. If an officer might fire a critical shot on
8 his own initiative without any command from on high,
9 what is the specific purpose of having a DSO in
10 an authorising role?

11 A. Because the DSO might have more intelligence, we have
12 surrounded them with advisers and people that can give
13 them advice about what they are dealing with,
14 intelligence, other tactical options, and so the DSO
15 might be in a better position than that frontline
16 officer to make a decision about what he is dealing
17 with. But there is always, in any situation, the option
18 open to the officer at the front, if he thinks that he
19 needs to use his firearm because of what's facing him in
20 front of him, he's always got that option available to
21 him, and then he would stand or fall by that, on that
22 decision, at any subsequent inquiry.

23 Q. If an officer gets the authorising order from a DSO,
24 "Critical shot authorised" --

25 A. Yes.

- 1 Q. -- in your opinion, should he be more prepared to
2 deliver a critical shot, more willing to do so, than he
3 would be if he had not received that authorising order?
- 4 A. I would say that -- more prepared, would I use that
5 term? What I would say is that although the officer's
6 sort of been given that go-ahead, I would still expect
7 officers to think about what is facing them. If, say,
8 for example, you know, they said the person had
9 a rucksack and that they could clearly see the person in
10 front of them didn't have a rucksack, then I would
11 expect them perhaps to re-appraise what was in front of
12 them.
- 13 Q. So what difference is created on the ground by the
14 authorising order?
- 15 A. What difference is created? Erm ...
- 16 Q. How do officers behave differently if they have had the
17 order than if they haven't, if at all?
- 18 A. I am not sure that -- I think that what the officers
19 would do is that they would make their own assessment
20 about what they thought they were dealing with before
21 they did that, despite what anyone says to them, and it
22 sort of comes back to this classic, oh, I was only
23 following orders, really.
- 24 SIR MICHAEL WRIGHT: Because it's not an order, it's only
25 an authorisation.

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

2 SIR MICHAEL WRIGHT: But I suppose --

3 A. I think it could be an order, though. You know,

4 "I order you to shoot that person" could be an order,

5 but we have taken legal advice around this situation as

6 well, which was one of the very first pieces of legal

7 advice we took, and the reality is if the officer failed

8 to shoot for whatever grounds they had, and people died

9 as a result of that, would they be less or more

10 culpable, I think the legal advice that we had said they

11 are entitled to decide that they are not going to shoot,

12 and then they stand or fall on that decision.

13 SIR MICHAEL WRIGHT: On that decision.

14 A. Yes, sir.

15 SIR MICHAEL WRIGHT: They may fall, of course, if they are

16 wrong.

17 A. Yes, sir.

18 SIR MICHAEL WRIGHT: It comes to this, though, doesn't it:

19 at least the officer who has heard "critical shot

20 authorised", what he would know is that the senior

21 officer in the command centre, with all the benefit of

22 the intelligence that has been coming in, that that

23 officer, although not there, not actually seeing what's

24 happening, has at least come to the conclusion that

25 there is credible evidence (a) that the man who's being

1 followed is carrying a bomb and (b) that there is
2 an immediate threat.

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

4 SIR MICHAEL WRIGHT: Now, that's comfort to the officer on
5 the ground, but it's no more than that.

6 A. No, no.

7 SIR MICHAEL WRIGHT: So as you have just been telling us,
8 it's still down to him and he should know that it's his
9 responsibility to make up his mind in the final
10 analysis: do I or don't I?

11 A. Yes.

12 SIR MICHAEL WRIGHT: Is that what it comes to?

13 A. Yes, sir.

14 MR HOUGH: We have, of course, asked you all those questions
15 in the abstract, but it's only fair to point out that
16 nobody has said here that he received a critical shot
17 authorisation, let alone an order.

18 Just a few final points about the evidence we heard
19 yesterday from Mr Paddick. We heard evidence from him
20 that he thought from his training and experience, and he
21 was questioned about the level of his experience, he
22 said that he thought the DSO in any Kratos situation
23 would play no part beyond giving the critical shot order
24 so that the DSO would effectively sit back in the
25 control room playing no part in the operation until the

1 possibility of giving a critical shot authorisation
2 arose, and then the DSO would step in at that stage.

3 Was that your understanding of how it worked?

4 A. Absolutely not. It's not credible, and you know, I hate
5 to say this against Brian because I have known Brian
6 a long time, but actually it's not a credible thing to
7 say, really. How could you sort of stand on the
8 sidelines and let this thing unfold and then step up,
9 shoot him and then step back. Because you have to
10 justify that order, so you would need to be questioning,
11 you would need to be finding out yourself what's going
12 on, and of course you are not just there actually to
13 make the shot. You could say: actually I don't think
14 this person poses any threat, just let them go about
15 their everyday business. And that has happened on some
16 of the spontaneous calls that we have had as well come
17 into information room where the designated senior
18 officer decided: I don't think there is anything in
19 this, just let them go.

20 Q. If there was a misconception on his part, could it have
21 been due to him knowing a DSO in a different situation,
22 either public order or in the early stages, Clydesdale
23 before the evolution of the policy?

24 A. I am sorry, can you ...

25 Q. If there was any misconception on his part, could that

1 be due to him knowing about DSOs from another, from
2 an earlier stage of the policy?

3 A. He might get the two roles confused, but --

4 SIR MICHAEL WRIGHT: He told us that his DSO experience was
5 entirely public order.

6 A. Right, well, it's a completely different role.

7 SIR MICHAEL WRIGHT: That is what I think you are saying.
8 He was talking about Notting Hill.

9 A. It's a completely different role.

10 MR HOUGH: In fairness he also said that he had received
11 some training, I think half a day's training in relation
12 to Kratos but at an early stage.

13 A. That's right, yes, and I delivered most of that training
14 myself actually to the DSOs.

15 Q. Also, we have heard from him about a specific incident.
16 He says he had a conversation with you on 23 July 2005
17 in which he asked you if there were any code words to
18 designate particular orders under the Kratos policy.
19 You said that there weren't.

20 A. We weren't actually dealing with a Kratos type incident
21 on this day, so again there may be some
22 misunderstanding. On Kratos there aren't code words,
23 but on Clydesdale there are, but where we had got to by
24 that stage is that on this event, because we had had
25 some time to build it up, there were a range of options

1 available to the DSO, Commander Dick, and they had code
2 words with them as well.

3 Q. He also says that he asked you: why have a DSO if there
4 isn't a clear code word; and you said something like you
5 saw his point. Do you recall anything like that?

6 A. I just don't recall that at all, no.

7 SIR MICHAEL WRIGHT: It isn't what you would have thought?

8 A. No, absolutely not, because as I said earlier I felt we
9 should have a DSO in this situation because we had them
10 for other types of event, and it was logical to have one
11 for this as well because it's not fair for more junior
12 officers to put them in that situation when we had some
13 people who had been trained especially to deal with
14 these types of things.

15 MR HOUGH: We haven't been hearing about how the policies
16 have been developed since July 2005, and for very good
17 reason, but it's fair to say that the policies have been
18 developed since then?

19 A. Yes, they have, yes.

20 Q. Just to give everybody a degree of assurance, as you
21 have said already, the policies have been developed to
22 cover the kind of situation that was dealt with --

23 A. Yes, they have.

24 Q. -- on the 22nd, but it's fair also to say that that was
25 unprecedented in the UK at the time?

1 A. Yes.

2 Q. And almost unprecedented across the world?

3 A. That's right, yes. I mean, what's happened is that we
4 have got three now: we have got one for the spontaneous;
5 we have got one for the Clydesdale, the pre-planned
6 operation; and now we have got one for the sort of
7 intelligence-led operation; and most law enforcement
8 agencies around the world have actually copied what we
9 have done because nobody's got anything better.

10 MR HOUGH: Thank you. Those are my questions and it might
11 be an appropriate time for a break.

12 SIR MICHAEL WRIGHT: It would.

13 Can I just go back to what you were telling us much
14 earlier about the devices that you had been encountering
15 in your research journeys around the world, which
16 you say the vast majority are body carried and concealed
17 under clothing.

18 What sort of typical size are these bombs?

19 A. They are about 3 to 5 kilograms of explosive.

20 SIR MICHAEL WRIGHT: What sort of explosive?

21 A. If you go to Sri Lanka, it's generally military
22 explosive because there is a lot of landmines that have
23 been buried around the grounds around the northern tip
24 of Sri Lanka because they just go and dig these up, they
25 take the explosive out and they reformat it to put it

1 into a device that they can carry round their waist.
2 It's a very similar situation in Russia, and in the
3 Middle East as well, there is lots of military munitions
4 lying around that these people -- in Israel and now in
5 the UK, because you can't get hold of these things, it's
6 peroxide.

7 SIR MICHAEL WRIGHT: Stick to peroxide, if you will.

8 A. Right.

9 SIR MICHAEL WRIGHT: What's your experience of a typical
10 size of a peroxide bomb?

11 A. Again it's about 3 to 5 kilos, because the whole point
12 of this is to carry it in concealment so if they are too
13 heavy you would not be able to walk very far and you
14 would be fairly obvious carrying something like this.
15 So typically they are sort of around that sort of size
16 (indicated) something about that thick and then they
17 will have a sheet of ball bearings or nuts and bolts and
18 that on the outside.

19 SIR MICHAEL WRIGHT: That will be wrapped around the body?

20 A. Yes, yes.

21 SIR MICHAEL WRIGHT: What I was thinking of, and you may be
22 able to help about this: some bombs have been very much
23 smaller than that. I was thinking particularly, just so
24 you know what I am thinking about, Richard Reid, with a
25 bomb in his shoe.

1 A. That's right, yes.

2 SIR MICHAEL WRIGHT: What sort of a bomb was that?

3 A. That was -- there was a TATP detonator that he had made
4 up in there with the explosive, but of course on
5 a pressurised aircraft, you need very much less to
6 actually puncture the fuselage of the aircraft.

7 SIR MICHAEL WRIGHT: So that's really a special bomb for a
8 special situation.

9 A. Yes, sir, it is.

10 SIR MICHAEL WRIGHT: Typically, you are looking at 3 to
11 5 kilograms of peroxide based -- bulked out with flour
12 or whatever the --

13 A. Peppercorn, something like that, yes, and shrapnel.

14 SIR MICHAEL WRIGHT: You have demonstrated maybe an inch
15 thick.

16 A. That's right, yes.

17 SIR MICHAEL WRIGHT: And passing round the body.

18 A. That's right, yes.

19 SIR MICHAEL WRIGHT: I understand, thank you. That would be
20 convenient. Quarter to, ladies and gentlemen.

21 (11.40 am)

22 (A short break)

23 (11.50 am)

24 (In the presence of the jury)

25 SIR MICHAEL WRIGHT: Yes.

1 Questions from MR MANSFIELD

2 MR MANSFIELD: Good morning, Mr Swain. My name is

3 Michael Mansfield. I represent the family of

4 Jean Charles de Menezes.

5 A. Good morning, sir.

6 Q. I appreciate you have retired now, so it may be --

7 looking back over things may prove sometimes difficult

8 in terms of detail. So I hope we will not ask you too

9 much difficult detail, so if that gets to the situation,
10 perhaps you would indicate.

11 I want to start by asking you a more general

12 question, and it was posed to you this morning, and

13 I don't know whether you recognise the terms that were

14 being used when the question was put to you by Mr Hough

15 on my right, rules of engagement. Are you familiar with

16 that term?

17 A. For firearms officers?

18 Q. Yes.

19 A. Yes, I am, yes.

20 Q. In other words it is guidance to people using firearms,

21 both in a military and a non-military, ie a police

22 situation, as to the circumstances in which ultimately

23 they may use their weapons?

24 A. Yes, that's correct.

25 Q. Because it's important in a real-life situation, and all

1 these terms have been used but they all come down to the
2 same thing, whether it's fast-moving, dynamic, real
3 time, whatever, that officers carrying lethal weapons do
4 have at least clear parameters within which they work?

5 A. That's right, yes.

6 Q. I'm only going to deal -- I'm not only going to deal
7 with suicide, because it trespasses into other
8 situations, but concentrating on the suicide bomber
9 situation, can I first of all indicate there are two
10 categories, basic categories. One category where you
11 know or think you know, because you have intelligence,
12 that the person that you are confronting is a bomber?

13 A. Mm.

14 Q. Right?

15 A. Yes.

16 Q. That's one?

17 A. Yes.

18 Q. I think you have hinted this morning that that's going
19 to be the rarer category, having the hard intelligence
20 or, I suppose, the ability to see an actual bomber, they
21 are rare?

22 A. Yes.

23 Q. That's one category. The other is where you don't have
24 that information, in other words intelligence, and you
25 don't see anything?

1 A. That's correct.

2 Q. In other words, they could be carrying a bomb but they
3 might not be. So there are those two situations?

4 A. Yes.

5 Q. There may be grades in between but I am broadly
6 categorising.

7 Can I take the first one first, in other words the
8 rarer situation where you have intelligence or you can
9 actually see the bomb. You have indicated, is this
10 right, that even in that situation, from all the advice
11 that's been sought and so on, the position for the
12 firearms officer in the United Kingdom is that they
13 still have to exercise their own judgment as to whether
14 the person they are confronting is a suicide bomber
15 there and then, in other words carrying a suicide bomb
16 and about to detonate one?

17 A. That's correct, yes.

18 Q. I'll return to how they do that, because it applies to
19 the other category as well. So that's one approach. In
20 other words, they have to exercise judgment.

21 Now, in that situation, have the police in the
22 United Kingdom -- well, I'll deal with the
23 Metropolitan Police, but if it's broader than that
24 please say -- were there rules of engagement for
25 a police officer in those circumstances? All right,

1 category 1, has intelligence, or can see a bomb, but
2 having to exercise judgment. What were the rules of
3 engagement for that situation?

4 A. Are you talking about outside of a Kratos type
5 situation?

6 Q. I am trying to avoid those terms because I want to
7 suggest to you the problem that has arisen here,
8 I suggest, is trying to fit things into categories?

9 A. Yes.

10 Q. I am trying to deal with a real life situation, where
11 a police officer is facing somebody who is as humanly
12 possible he's sure that he is, because he has either
13 been given the authorisation and there is intelligence,
14 or if he hasn't been given that, in the very rare
15 situation where he actually sees the bomb, and he sees
16 the person about to detonate it, in other words they are
17 the rare situation.

18 Are there rules of engagement for that situation
19 where he's still having to make a judgment?

20 A. I would say that in any situation where a police officer
21 has to use a firearm, that he needs to abide by his
22 training, which includes rules of engagement, and
23 I can't remember what they are specifically, but I would
24 expect them to be making that judgment call before they
25 took any further action.

1 Q. Yes, I accept that and I understand that. You have just
2 said, and that's why I said when I prefaced the
3 questions, it's some time ago since you were actually
4 involved, well, not that long.

5 I do want to ask you, because I'm going to come to
6 some correspondence, so I put you on notice of the
7 correspondence and anybody else, between
8 the Commissioner of the Metropolitan Police, as he then
9 was, still is, I suppose, Sir Ian Blair, and the Prime
10 Minister.

11 A. Right.

12 Q. Were you aware of that correspondence?

13 A. If I -- I think that there was something like that, if
14 I remember, around the 21st or 22nd, yes.

15 Q. I want to come to that, because it concerns rules of
16 engagement. So can you help, I am only dealing with
17 category one for the moment, about what the rules of
18 engagement were in that first category.

19 SIR MICHAEL WRIGHT: That's hard intelligence?

20 MR MANSFIELD: Yes, hard intelligence. I'm going to leave
21 out the extremely rare case where, without a search,
22 somebody sees --

23 SIR MICHAEL WRIGHT: That's so rare you can leave it out.

24 MR MANSFIELD: Yes, it's so rare, I am going to leave that
25 out.

- 1 A. What I would say, the rules of engagement then would be
2 Section 3 of the Criminal Law Act.
- 3 Q. Yes --
- 4 A. Because --
- 5 Q. I appreciate what you would say, and I do not want to
6 stop you saying anything, but what were the rules of
7 engagement for the individual officer?
- 8 A. Well, I can't remember the specific -- because although
9 I have been a firearms officer in the past, it's a long
10 time since I have done that and my focus has been around
11 the suicide terrorism aspect of this, and I'm very clear
12 about the rules of engagement around that.
- 13 SIR MICHAEL WRIGHT: That I think is what Mr Mansfield
14 wants.
- 15 MR MANSFIELD: Yes, it is.
- 16 You see, I mean, I don't know, so the jury may
17 follow, the Section 3, as it's sometimes called --
- 18 A. Yes.
- 19 Q. -- I suppose defence or justification is, I am putting
20 it very briefly, no more force than is reasonable,
21 absolutely necessary?
- 22 A. Yes.
- 23 Q. These words have become interchangeable. But that tells
24 you how much force you should use to protect yourself,
25 but what are the rules of engaging with the person, do

1 you follow, what's the threshold? What was the
2 threshold in 2005 in the first category, never mind the
3 second?

4 A. Well, I think it comes back to the same thing, is: does
5 the officer think that this person is posing
6 an immediate threat to life that they need to take
7 action to deal with that?

8 Q. So --

9 A. That might not be as concise as a rule of engagement but
10 that would be my understanding.

11 Q. The military, I don't know whether you are aware, you
12 probably know what I'm coming to, the military for some
13 time have had rules of engagement enshrined in what they
14 call a yellow card. Are you familiar?

15 A. I cannot remember the detail but I'm familiar with that,
16 yes.

17 Q. So that sort of yellow card hasn't been provided to
18 police officers in that way?

19 A. No. I mean, what they do have is firearms officers,
20 when they become an authorised firearms officer, they
21 get a blue card and stamped on that blue card is what
22 weapons they are authorised to carry, when they were --
23 last undertook their classification, and what other
24 types of training they have done, their eyesight test
25 and things like that. On the back of it is an extract

1 from Section 3 of the Criminal Law Act.

2 SIR MICHAEL WRIGHT: That's very handy.

3 MR MANSFIELD: Yes, so we are back to the same sort of --

4 I do not want to misdescribe it as a mantra, but it's
5 really saying you must remember you mustn't use more
6 force --

7 A. That's right, yes.

8 Q. -- than is absolutely necessary. Then there is still
9 the problem of assessing the risk and all the rest of
10 it, that it's immediate and so forth.

11 Now, they have the blue card, all right, I'll call
12 it the blue card for the moment. Now, does it come to
13 this, and when we come to the correspondence, I'm doing
14 this now so when we get to correspondence you will see
15 why I have been asking the questions.

16 Does it come to this: in the first category there is
17 no real option other than to deliver a critical shot?
18 They have to exercise judgment, but if they can't see
19 anything and they have hard intelligence, what do they
20 do?

21 A. Well, I think it comes back to what I said earlier on,
22 is that they need to make a assessment albeit how long
23 it takes them, about: what do I think I am facing in
24 front of me; I can't see a bomb but I have been given
25 some hard intelligence; are there other indicators that

1 allow me to make that judgment that I need to do
2 something to stop this person.

3 SIR MICHAEL WRIGHT: You are back to your basic formula:
4 does this pose an immediate threat to life; do I need to
5 do something to deal with it.

6 A. Yes.

7 SIR MICHAEL WRIGHT: What Mr Mansfield is putting to you is
8 that in the suicide bomb context, that is almost
9 certainly going to mean a critical shot, very likely
10 going to mean a critical shot.

11 A. Yes, sir.

12 MR MANSFIELD: Again I emphasise I am dealing with category
13 one and with the more likely part of category one which
14 is where you can't actually see anything.

15 So do you understand why I am asking these
16 questions; this is as much to do with what happened on
17 the day as what may happen in future?

18 A. Yes.

19 Q. Everybody in the room here is concerned about how this
20 is done.

21 If the officer -- you gave an example -- gets to --
22 he has hard intelligence because the DSO's conveyed it
23 with a code word or without a code word, so he gets to
24 the scene, and of course the code word may not, or
25 however it's expressed, tell him whether or not the

1 person has a rucksack; do you agree?

2 A. Yes.

3 Q. So what you were saying before was if he had been told
4 he has a rucksack and he gets there and he has not got
5 a rucksack, he has to do an assessment, but the reality
6 is that the firearms officer won't necessarily have been
7 told what it is that contains the explosive; it could be
8 a rucksack or it could be a vest, all right, underneath
9 a jacket or something, but he can't see it. So the
10 absence of a rucksack won't help him; the fact he can't
11 see anything won't help him because we are being told,
12 well, could be easily concealed, and so forth.

13 So although he's still got a margin of judgment,
14 it's really virtually non-existent, isn't it?

15 A. Well, as I said earlier on, there are some behavioural
16 indicators that came out during our research that might
17 be apparent in his person as well, and I think that
18 would be part of painting what the officer sees in front
19 of him to help him make that judgment.

20 Q. Yes, but we have been told very clearly by those who
21 represent various parts of the police here today, and
22 it's obvious, there is no profile, in other words the
23 person may not be sweating, they may not be praying,
24 they may not have shaved, all those things, all right?

25 A. Yes, that's right.

- 1 Q. I don't need to go through the whole list. In other
2 words they may be behaving perfectly normally, as we are
3 led to believe those on 7 July were?
- 4 A. Yes, I wouldn't disagree with that, no.
- 5 Q. So the problem, and I'm really trying to confront this
6 on a realistic basis, for the firearms officer with the
7 hard intelligence from the DSO is how on earth is he
8 going to, as it were, in his own mind think: is this
9 a suicide bomber if none of that is obvious; do you
10 follow?
- 11 A. I do follow and I'm not sure if I can give you an answer
12 to that frankly because I think so much will depend on
13 the circumstances and what they are facing at the time.
- 14 Q. I just want to ask you this: had the thinking in the
15 Metropolitan Police at the very highest level -- in
16 other words the board of management and Ian Blair
17 himself, to distinguish him from Tony Blair, Ian Blair
18 himself -- was that actually you just have to shoot
19 them? Had it got to that stage in this category?
- 20 A. I don't think it had, no.
- 21 Q. All right. Then if you can put that answer on hold,
22 I'll come back to it.
- 23 Now, if I may, can I turn to the other category, the
24 much more common category; that is, and I have avoided
25 Kratos terms --

1 SIR MICHAEL WRIGHT: Mr Mansfield, can I do something which
2 I shall not misunderstand for one moment if you say you
3 don't want to answer it, but if that's right, you have
4 a situation where you have this formula, there is no
5 formula is what Mr Swain is telling us, that you can
6 sort of feed the facts into as though it was a computer
7 and get an answer out. It's down eventually to the
8 officer's personal judgment as to what's happening. You
9 have just been making the point to Mr Swain that the
10 circumstances nowadays with these people is such that
11 there may be, for practical purposes, no material upon
12 which you can base that judgment.

13 MR MANSFIELD: Yes.

14 SIR MICHAEL WRIGHT: As I say, I shall not be complaining in
15 the least if you say, "I can't answer this question",
16 but what is the answer?

17 MR MANSFIELD: In the first category, perhaps you will
18 excuse me for elaborating, there are precursors, there
19 is -- the officer may have to shoot, sorry, may have to
20 deliver a critical shot without more, but the precursor
21 and the precondition that the public may require and the
22 officer may require at the end of the day, is that the
23 intelligence upon which it has been based, the order
24 from above, is reliable, so it then --

25 SIR MICHAEL WRIGHT: And hard?

1 MR MANSFIELD: Yes, and therefore, so the officer can say to
2 himself, to use the words in this case: I can trust the
3 information because it's coming from a source which --
4 the DSO -- who will have verified this information, so
5 it's as good as seeing the bomb but not quite as good,
6 and I am entitled to act on behalf of the public to
7 protect the public to actually kill this person because
8 that's the information.

9 I am trying to approach that realistically.

10 SIR MICHAEL WRIGHT: That's very helpful and I'm sure
11 Mr Swain will find it helpful as well. Does that mean
12 that what you are doing here is raising the criteria or
13 criterion for the intelligence, the standard of the
14 intelligence that the officer is going to get?

15 MR MANSFIELD: Yes.

16 SIR MICHAEL WRIGHT: Do you accept that by doing that, by
17 raising that criterion, you must inevitably be
18 increasing the risk that the -- it is thought that the
19 intelligence does not reach that high level and they are
20 wrong, and there is a bomb?

21 MR MANSFIELD: Well, that is the risk.

22 SIR MICHAEL WRIGHT: What you are doing is --

23 MR MANSFIELD: You are balancing it.

24 SIR MICHAEL WRIGHT: It is a balancing act. You raise the
25 criterion on one side, you increase the risk on the

1 other.

2 MR MANSFIELD: Yes.

3 SIR MICHAEL WRIGHT: You accept that?

4 MR MANSFIELD: Yes, I do accept that.

5 Dealing with intelligence, of course, and I was
6 going to deal with this with Mr Swain, because I think
7 we are all aware of bad examples of intelligence that
8 has been seriously wrong on an international as well as
9 the national scale, so therefore --

10 SIR MICHAEL WRIGHT: Yes.

11 MR MANSFIELD: To expect a police officer to deliver
12 a critical shot without there being verified
13 intelligence of, can I put it generally, the electronic
14 kind which comes from the kind of surveillance that the
15 police are enabled to carry out now, then that provides
16 a different spectre. I don't mean intelligence that has
17 come via word of mouth via some -- well, I am not
18 suggesting an officer would ever act on rumour, but it
19 has to be far higher standard than that. Provided the
20 threshold of intelligence is raised to such a degree
21 that the DSO can be sure of what they are being told,
22 then -- and can pass it on to the officer --

23 SIR MICHAEL WRIGHT: That's very helpful. I wanted to be
24 clear that you are effectively acknowledging that if one
25 increases the standards of the intelligence, you are

1 also increasing the chance that a bomber is going to
2 slip through the net.

3 MR MANSFIELD: Yes, you are. That is another risk.

4 Obviously -- sorry, Mr Swain, we can do it this way.

5 SIR MICHAEL WRIGHT: I'll give you the witness back now. I
6 hope that wasn't unhelpful.

7 MR MANSFIELD: No, it's not. The other objective here is
8 that innocent people have to be protected as well, not
9 only from the bomber but from a police officer who has
10 got it wrong, in other words --

11 A. I mean, of course, right from the start, these are
12 extremely challenging operations for everyone involved
13 in them, and you know, I can remember on one occasion
14 when we had some legal advice around this, and the first
15 words from the barrister were, "You are damned if you do
16 and you are damned if you don't".

17 SIR MICHAEL WRIGHT: I think actually that was me.

18 A. Sorry, sir, yes. So the whole point is to try to create
19 a situation where you can minimise that as much as you
20 can, but at the end of the day you can't do it -- there
21 is always a margin for error.

22 MR MANSFIELD: Yes, well, I am obviously dealing with the
23 reality of minimising risk, one can never eliminate but
24 minimising risk.

25 I have taken that first category because it's not

1 this case. No-one suggests there was any intelligence
2 from any source to suggest that this man was -- I'll
3 leave aside identification -- carrying a bomb that day
4 and was about to detonate.

5 Can I move to the second category, the category
6 where you don't have hard intelligence. Now, can I take
7 a step back in this category. From 2002 in your case
8 but 2001 as a whole, the Metropolitan Police had been
9 alive to the possibility that unfortunately here in the
10 United Kingdom we might have to face suicide bombing?

11 A. Yes.

12 Q. And that that suicide bombing might come in a variety of
13 different ways?

14 A. That's correct, yes.

15 Q. It might be airborne?

16 A. Yes.

17 Q. The American experience; it might be vehicle-borne,
18 which is elsewhere in the world, and it might be
19 foot-borne?

20 A. Yes.

21 Q. I am going to leave aside aircraft and vehicles,
22 although there are vehicles in this case, and I'm going
23 to concentrate on foot-borne. When the
24 Metropolitan Police -- well, I'll deal with you, it's
25 unfair to ask you about what happened before you got

1 into it. At the point at which you got into this in
2 2002 --

3 A. It is actually 2001 because it was October 2001 when we
4 did our first trip to Israel to start doing the
5 research.

6 Q. You were on that?

7 A. And I was on that, yes.

8 Q. That's fine, so we are carrying on from 2001. Between
9 2001 and 2005, in the context of dealing with
10 a foot-borne suicide bomber, the prospect of having to
11 deal with one, it must have been anticipated by those
12 closely associated that the foot-borne situation could
13 arise in a number of ways; do you agree?

14 A. Yes, I do, yes.

15 Q. So the most obvious way -- and this is where we get
16 close to Kratos -- is a member of the public rings up
17 and says, and you have dealt with that, and you have to
18 as it were, because it's coming out of the blue, it may
19 be right, it may be wrong, you have to vet it, you have
20 to see whether there is anything in it and then take
21 action and so on, so that's one situation.

22 So you don't know anything about it before the phone
23 call and it could be from a police officer, obviously,
24 off duty or on duty, so that's one situation.

25 Then there is another situation which you have

1 described already, which is where you have intelligence
2 that a suicide bomber is going to attack a pre-planned
3 event?

4 A. Yes.

5 Q. Now, I don't know whether you noticed in the question
6 that Mr Hough posed to you, he actually broadened it,
7 and I think you may have only caught the last bit of it,
8 so I want to follow this up.

9 So a pre-planned event and the one used constantly
10 is Trooping the Colour but it might be a reception by a
11 foreign dignitary, whatever it is?

12 A. Yes.

13 Q. Of course there is another way in which this might
14 arise, in other words you get intelligence that
15 a suicide bomber is going to blow up a bus. Had you
16 anticipated that?

17 A. Well, what we had done is that one of the scenarios that
18 we had thought about was, if Special Branch were doing
19 some surveillance and some information appeared as part
20 of that, that this person could potentially be a suicide
21 bomber, then we would treat that as a Kratos and there
22 was a code word that was given to Special Branch that
23 they would put into information room, and that would
24 trigger a Kratos type response.

25 Q. Well --

- 1 A. Other than that, there was ... if you had information
2 about somebody on a bus --
- 3 Q. No.
- 4 A. You are talking about intelligence. Now --
- 5 SIR MICHAEL WRIGHT: In advance.
- 6 A. What I would say is that we probably hadn't anticipated
7 anything outside of those two scenarios.
- 8 MR MANSFIELD: That's what I want to come to. I'll come
9 straight to the point. Firstly, I have to ask you: how
10 is it that nobody thought, since you are dealing with
11 foot-borne suicide bombers, they don't arrive out of the
12 skies, they have to come from somewhere, haven't they?
- 13 A. If you -- let me develop that scenario a little bit for
14 you, perhaps.
- 15 So somebody is coming on a bus with a bomb on them,
16 I can't envisage a situation where it wouldn't be
17 a Kratos if we got a call about it. If you had some
18 intelligence about that coming in --
- 19 Q. It's more embryonic than that. I want to suggest in
20 fact it happens in Israel, where you have been?
- 21 A. Yes.
- 22 Q. Where they have a lot of occasions where they are faced
23 with a suicide bomber?
- 24 A. That's right, yes.
- 25 Q. And it's a bus, often a bus?

- 1 A. Yes.
- 2 Q. Never mind roadblocks and all the rest of it. Now, they
3 get intelligence in a variety of ways, often electronic,
4 about what is going on in various premises in the
5 Gaza Strip?
- 6 A. Yes.
- 7 Q. They get intelligence that a particular set of premises
8 may be being used to train suicide bombers?
- 9 A. Yes.
- 10 Q. To manufacture suicide bombs?
- 11 A. Yes.
- 12 Q. But what they don't know is when any of these -- I am
13 taking that scenario first of all -- or when any of
14 these people might actually leave the premises and go to
15 a bus?
- 16 A. Yes.
- 17 Q. Right?
- 18 A. Yes.
- 19 Q. They get that kind of situation, don't they?
- 20 A. Yes, they do.
- 21 Q. How do they deal with it?
- 22 A. Well, the figures they told us on one of our trips out
23 there is that they probably intercept 80 to 85 per cent
24 of all suicide planning attacks on intelligence before
25 they ever take place. Okay?

- 1 Q. Right, so that's -- can I just interrupt so we can
2 follow it through?
- 3 A. Yes.
- 4 Q. So they do have a situation in Israel where they are
5 dealing with not the pre-planned Trooping the Colour
6 type situation but they do have intelligence about
7 a possible suicide bomber, maybe actually on his way to
8 a bus?
- 9 A. Yes, yes.
- 10 Q. And then they intercept them?
- 11 A. Yes.
- 12 Q. How do they do it?
- 13 A. To be quite honest, I don't know that detail because it
14 was things that they never divulged to us about that.
15 Sometimes --
- 16 Q. Did you ask them, or ...
- 17 A. We did. Sometimes they actually do a missile strike on
18 the place where the person is.
- 19 Q. We can't do that.
- 20 A. But we can't do that.
- 21 SIR MICHAEL WRIGHT: No, but the fact that that is what is
22 done in other countries is a chilling factor.
- 23 A. I think what happens is that -- I say think, I know from
24 what they told us, that the situation in Israel is
25 fairly similar to where the British Government was with

- 1 the IRA, in that these groups have quite well
2 infiltrated and they have a lot of intelligence coming
3 out, and so they can intercept these people often before
4 they ever start out in various situations. Israel is
5 like that with --
- 6 SIR MICHAEL WRIGHT: They either rocket the building or go
7 in.
- 8 A. That's right, yes, sir.
- 9 SIR MICHAEL WRIGHT: And effectively --
- 10 A. But we are not like that in the UK. The intelligence
11 coming out is a very different situation to what they
12 are.
- 13 MR MANSFIELD: What I am getting to is not the missile
14 response, but the situation of intelligence about
15 somebody who might be a bomber is one that was well
16 known, well before 2005, that you might get intelligence
17 about somebody who might be a bomber?
- 18 A. Yes, and then you would -- and what you would try and do
19 is arrest them before they ever set out on that event.
- 20 Q. Exactly, so what I am putting to you is that well before
21 July 2005, there is another situation. It's not
22 strictly Kratos in the sense that it's spontaneous, do
23 you follow? There's nobody --
- 24 A. I do, I understand that, yes.
- 25 Q. And it's not strictly pre-planned Trooping the Colour.

1 It's another situation. Now, that had been anticipated,
2 hadn't it?

3 A. Well, it depends what you mean by anticipated, really,
4 and I do not want to get into a sort of splitting hairs,
5 but where we were with all the research that we had
6 done, there were two clear scenarios that you could
7 reasonably expect to put a plan together around, and
8 they were the two that we had done.

9 This other thing that you are talking about, what
10 I would say is that in the Israeli situation, you know,
11 they intercepted the vast majority of those before they
12 ever got to --

13 MR MANSFIELD: I appreciate that.

14 A. -- where they were setting out on that. So in our
15 thinking we never developed it. You know, that's
16 a failure, I think we acknowledge that as
17 an organisation, that we had a gap in our planning.

18 Q. But it's a gap, you see, we have heard repeatedly said
19 here -- please understand none of this is a criticism of
20 you at all -- that this was totally unpredictable,
21 unique and all the rest of it. Unique in actuality but
22 not unpredictable because of the way in which
23 intelligence is normally gathered by the police. This
24 was an utterly predictable situation that you might have
25 to deal with a suspect foot-borne suicide bomber; do you

1 agree?

2 A. I don't -- to be quite honest I am not sure I do.

3 Q. No, I can understand your concern. I think you have

4 agreed there is a gap?

5 A. Yes.

6 Q. There is a gap, and all I am doing is saying to you that

7 the gap that we are dealing with, the non-Kratos

8 foot-borne spontaneous, the non-Clydesdale pre-planned,

9 this other category, and I'm not dealing with how the

10 Israelis respond, but planning in the United Kingdom to

11 deal with intelligence which you have gathered.

12 Now, can I illustrate it so you can follow through?

13 A. Yes, please.

14 Q. Special Branch is just one of some units that are used

15 to get out there and gather intelligence?

16 A. Yes.

17 Q. Yes?

18 A. Yes.

19 Q. We have also heard and the jury have heard here of

20 an operation called Ragstone. Are you familiar --

21 A. No, I am not, no.

22 Q. It doesn't matter. This was an operation that took

23 place in the Lake District where Special Branch over

24 a period of at least three days took photographs of

25 a training -- what was suggested to be a training camp

1 with a number of individuals and photographs and the
2 jury has had them.

3 Operations like that, that was 2004, so during these
4 years, at least one intelligence branch of the police
5 were gathering information on alleged terrorist
6 activity. That's fairly commonplace, isn't it?

7 A. Yes.

8 Q. In fact that sort of surveillance and intelligence
9 gathering goes back a long way through to the PIRA days
10 and all that; in other words, you are looking for safe
11 houses, bomb factories, training grounds, all that kind
12 of thing?

13 A. Yes.

14 Q. That's very familiar?

15 A. Yes.

16 Q. That being a very familiar, as it were, ground over
17 which you cover, you would be anticipating that if you
18 are going to continue that sort of intelligence
19 gathering, there is a possibility that it will throw up
20 information about potential -- or could do -- suicide
21 bombers because as I say, they don't arrive out of the
22 air. Is that fair?

23 A. Well, my response to that would be that we had
24 considered Special Branch doing those sort of operations
25 and we came up with this code word that they could dial

1 into information room and a Kratos type operation would
2 be swung into action. Now --

3 Q. When you say -- sorry, just to pick you up -- a Kratos
4 style --

5 A. That's sloppy speaking, it was a code word that would
6 initiate a Kratos operation.

7 Q. Right. So that would be a Kratos operation with a DSO?

8 A. Yes.

9 Q. Right.

10 A. If the time was there before something happened.

11 Q. I am dealing with a situation actually as here. I'm
12 suggesting this is similar. Here you have intelligence
13 about the previous day. I am actually positing
14 a situation where you have intelligence because of what
15 you have seen and heard in the various ways you can
16 gather it. So do you see, I am equating the two?

17 A. I do, but I don't think it is a similar situation,
18 because the issue with the Special Branch doing
19 lifestyle surveillance where they suddenly think: this
20 person in front of me, I think might have a device;
21 I think that falls into the category of being a Kratos
22 type event. I think the incident that we are talking
23 about on the 21st onwards doesn't fit into that
24 category. All I can say is that, you know, we have had
25 a lot of debate about the tactics we had. We had had

1 a lot of discussion. A lot of countries had emulated
2 what we had done and nobody had ever pointed out to us:
3 you have a gap in your planning in this middle scenario
4 here.

5 Q. It may be in the Israeli situation because of the
6 response they use, it wasn't a gap that they were really
7 talking about, because they just, as it were, in
8 American words, zap the premises?

9 A. That's right, and they get much more intelligence than
10 we do about these things, so they are in a much -- well,
11 they are in a more informed situation about dealing with
12 these things.

13 Q. Except here there were quite a lot of surveillance
14 operations going on over these years, weren't there,
15 intelligence-led operations?

16 A. Like Ragstone, yes.

17 Q. Ragstone is one of them, but there were other ones.
18 Crevice is an another one?

19 A. Yes.

20 Q. So can I just, I have tried to highlight an area where
21 you could get intelligence in advance, and the
22 intelligence could be about the following day, in other
23 words you might get intelligence out of an operation
24 suggesting that something is going to happen the next
25 day but you don't know quite where?

1 A. Yes.

2 Q. That could happen, all right. I want to come into this
3 second category where you don't have hard intelligence
4 but you do have some intelligence, either I suggest out
5 of an intelligence-led operation or, in this case,
6 because you have found a rucksack with the details in?

7 A. Yes.

8 Q. So it's that situation. Again I am trying to avoid the
9 terms Kratos and Clydesdale because, as we have heard,
10 they can be used generically. I am really wanting to
11 deal with foot-borne suicide terrorists who are
12 suspected, in other words you don't have the information
13 that they actually are that day.

14 Now, in terms of this category, however you have got
15 the intelligence, what were the rules of engagement in
16 this category?

17 A. Rules of engagement for whom?

18 Q. For the police officer carrying the weapon. I'll come
19 to the weapon in a moment. But who has, in other words,
20 facing the suspected suicide terrorist. I'll go
21 straight to the point, rather than -- the real issue
22 here is the detention of, for the purposes of arrest,
23 a suspected suicide bomber; were there rules of
24 engagement for that?

25 A. And this is not a Kratos type situation?

- 1 Q. I have avoided the term.
- 2 A. I understand that, no.
- 3 Q. This is just dealing with the reality of a foot-borne
4 suicide bomber, suspected, however you have got the
5 intelligence; do you follow?
- 6 A. What are the rules of engagement in that situation?
7 I would say that the rules of engagement, and if we
8 leave aside the options that are in Kratos, again it
9 comes back to what I said earlier, it's about a police
10 officer who's trained to use a firearm has rules of
11 engagement that come with that function, and if they are
12 faced with a situation, be it the suicide bomber,
13 somebody armed with a firearm or anything like that,
14 I think it's the same rules of engagement as they would
15 in their normal everyday work. Does this person pose
16 a threat to life? Do I need to do anything about it?
- 17 Q. Yes. One understands those propositions: does he pose
18 a threat, do I need to do anything about it. But does
19 it go beyond that, as you understand it, the rules of
20 engagement in the second category?
- 21 A. Well, if I may say, I think you are starting to stray
22 into stuff about rules of engagement for firearms
23 officers, and I think perhaps you need to pose that to
24 the person who is coming after me, which is
25 Bill Tillbrook. I am not trying to duck your question,

1 but what I am just saying is you are talking about
2 general firearms rules of engagement issues, and I don't
3 profess to be an expert in that.

4 Q. Very well. I think you may anticipate where I am going
5 with this, because the supplementaries to this is, which
6 I think is your area a bit, is -- the question that the
7 officer's going to have to ask in the two that you have
8 put: does this person pose a threat, the one he has been
9 sent to arrest?

10 A. Yes. Sent to arrest by whom?

11 Q. Well, I'll take this case. In this case, he's sent to
12 arrest by a DSO.

13 A. Right, so now we are into the Kratos environment, are
14 we?

15 Q. No, no, no.

16 A. So why would there be a DSO if it's not a Kratos?

17 Q. Exactly, why would there be a DSO unless it was
18 a Kratos? That's the problem for the firearms officers
19 on the ground. Why is there a DSO unless this is
20 Kratos? Do you follow? That's the problem.

21 A. I think I know where you are going, and one of the
22 issues when we were drawing this up, I don't know if you
23 can remember, but there is quite a famous case a few
24 years ago with Stephen Waldorf and David Martin, where
25 he was shot by a police officer who had actually had

1 personal knowledge of this individual before that, and
2 there was quite a lot of criticism of the police,
3 I think if I remember, for sending that officer to do
4 the identification, because he had had a preformed
5 impression about this person in his mind when he
6 actually went to the scene.

7 Now, I remember that case pretty well. Not the
8 detail but I remember the principles about it. One of
9 the things we did try and do in the development of the
10 policy is how could you actually deploy an officer under
11 the guise of a designated senior officer who is not
12 automatically going to think "I must be dealing with
13 a suicide bomber, so there is only one option".

14 Now, you can't do that because that's human nature.
15 These officers know that if they are deployed by a DSO
16 there is a possibility that they might be confronting
17 a suicide bomber, and one of the options is a critical
18 shot. So you just can't train that out of them, because
19 that is the way, you know, people think and operate.

20 All I can say that we were mindful of that when we
21 were doing this policy, you know. Firearms officers in
22 their training have been told about, they know about
23 these incidents, and so my expectation would be they
24 would be thinking about these same things when they are
25 deploying to deal with it.

1 Q. Yes, I accept everything you have said, and the problem
2 here was that, well, dare I put it to you, there is
3 a sort of straitjacket over this. It's either Kratos or
4 Clydesdale and a DSO is associated with those two, so
5 for a firearms officer, if a DSO is there, he will be
6 associating the DSO with Kratos or Clydesdale and
7 critical shot, that's the risk?

8 A. Yes.

9 Q. Right. Just to go back one step, because the intro to
10 this was the rules of engagement -- and I won't tax you
11 further on that, I'll ask Bill Tillbrook about it -- but
12 if he's been sent -- shall I leave the word "arrest" out
13 for the moment -- to intercept a suspected suicide
14 bomber and he has the question: does this person pose
15 a threat, your first question?

16 A. Yes.

17 Q. Then he's going to have to make an assessment?

18 A. Yes.

19 Q. I am back to category one, and I think you know where
20 I am going here. If he has no hard intelligence, and
21 I'm going to do this case, so you exactly see where we
22 are, no hard intelligence, no rucksack, no protruding
23 wires, no sweating. There is controversy over whether
24 he was nervous, twitchy at an earlier stage, wary,
25 looking around, that kind of thing, but really quite

- 1 a dearth of material for the officer going down the
2 escalator, as it happened here, what's going to happen
3 in that situation, which is, as everybody is saying,
4 isn't Kratos and it isn't Clydesdale but it is
5 a suspected suicide bomber?
- 6 A. Yes.
- 7 Q. What are -- I hesitate to use the rules of engagement,
8 but how is he going to assess whether this person, prior
9 to detention, poses a threat?
- 10 A. Well, I think that in that situation, what the officer's
11 got to do is actually look at what's in front of him,
12 and he's got to make a judgment call on what he is
13 confronted with.
- 14 Q. Supposing it's nothing?
- 15 A. Well, then, my expectation would be that he might not do
16 anything.
- 17 Q. Right. So --
- 18 A. Do you mind if I just add something about this, really.
- 19 Q. No, certainly.
- 20 A. I have been a firearms officer myself many years ago
21 when I was in the police, and firearms officers are
22 quite specially selected to do this role, and when they
23 pull that trigger, you know, police officers don't pull
24 that trigger lightly because they know that probably for
25 the next two or three years their life is going to be on

1 hold because there will be a big inquiry and at the end
2 of it they might get charged with an offence. So when
3 an officer is making up that judgment, human nature is
4 going to put all these things in. So it's not
5 a decision that they are going to make lightly.

6 Q. I have never suggested that it is.

7 A. I just think it's useful, if you don't mind, for the
8 jury to understand that.

9 Q. Also there is a balancing exercise, obviously his, that
10 is the firearms officer, is on the line?

11 A. Yes.

12 Q. Of course, if the person isn't a suicide bomber, so are
13 they?

14 A. That's right.

15 Q. So it's a dual situation. So what you are saying is
16 that if there is nothing there, in other words none of
17 the obvious signs, you can't rely on a profile, and you
18 have not any hard intelligence, and he is there to
19 intercept, what does he do? How is he trained to deal
20 with it? That's what I'm coming to.

21 A. Well, he's trained to make an assessment of the
22 situation that's in front of him, and again I come back
23 to Section 3 of the Criminal Law Act, does this person
24 pose such a threat to members of the public that he
25 needs to take some action to eliminate that threat.

1 It's a judgment call.

2 Q. It's a judgment call but the problem is here, if he's
3 been briefed, as they were briefed, so I am dealing with
4 an actuality here?

5 A. Yes.

6 Q. That you may not be able to see anything and it can
7 happen in a flash, all that's going through his mind?

8 A. Yes, yes.

9 Q. This is why I come back to rules of engagement. Is
10 there no procedure to protect the officer and the
11 innocent member of the public? Do you follow?

12 A. Well, the procedure is their training and what they
13 understand about their powers and what the law says.

14 Q. Then, because the second question, do I need to do
15 anything about it, and you said if there is nothing to
16 see, then no. Maybe they don't do anything, but can
17 I put you back into -- you have done training for --
18 I hesitate to use Kratos but Kratos generally, have you
19 done that training with other people?

20 A. Yes, I have.

21 Q. I think you said you did it with -- for Mr Paddick
22 yesterday.

23 So you have done the training. Between 2001 and
24 2005, was it anticipated, if you are dealing with
25 foot-borne suicide bombers, that you might have to deal

- 1 with one in an urban situation, first of all?
- 2 A. Oh yes.
- 3 Q. And that the urban situation may involve a crowded
4 place?
- 5 A. Yes.
- 6 Q. On the street, or it may involve a crowded form of
7 transport?
- 8 A. Yes.
- 9 Q. A bus or a tube, these are all fairly obvious?
- 10 A. That's right, yes.
- 11 Q. So were the firearms officers -- if it's a firearms
12 question I have asked some already, but if you can't
13 answer it -- but was there training by firearms officers
14 dealing with an interception in these circumstances,
15 either crowded, bus, or tube, as to how to intercept
16 somebody when in fact they had virtually very little to
17 go on?
- 18 A. What I would say about the training is that, I mean, you
19 have seen some of the presentations that we put together
20 around the training, which is about informing them about
21 how suicide belts work, some of the behavioural
22 indicators. That was all part of the training to
23 supplement their everyday firearms training that they
24 get as well.
- 25 Q. Understood. Everyday firearms training of course, again

1 it may be clearly distinguished, may well be dealing
2 with, more commonly dealing with, a visible threat. In
3 other words, there is a man with a shotgun or there is
4 a man with a gun pointed at someone else, and it's
5 a hostage/kidnap situation?

6 A. Yes, yes.

7 Q. So the officer can assess as far as he can whether the
8 person is about to discharge it at someone else, and so
9 they take a decision whether or not to shoot?

10 A. Yes.

11 Q. But this is a situation which is quite different. It's
12 where you have no intelligence and, in this one, all you
13 know -- and I am taking the firearms officers' position
14 for the moment -- is that he is identified from the day
15 before, I leave aside all the controversy over that, and
16 they don't have much else?

17 A. No.

18 Q. So are we again in a situation, or were we in 2005
19 unless it's changed, whereby the firearms officer is
20 going to end up delivering a critical shot, and may
21 I add a little bit more, because the only weapon he has
22 is a close quarter -- the ones who are actually first
23 on, they have only got a close quarter pistol and they
24 are trained to deliver it right on --

25 A. Really close, that's right, yes.

1 Q. What other option did they have? How were they trained
2 to deal with this?

3 A. Well, the options --

4 SIR MICHAEL WRIGHT: Is there any other option?

5 A. Well, the ultimate option they got is shoot or not
6 shoot.

7 SIR MICHAEL WRIGHT: That's what I mean.

8 A. That comes down to a judgment about what they think is
9 in front of them.

10 MR MANSFIELD: Perhaps in answer to the learned Coroner's
11 earlier question in category one, I want to answer this
12 one, not in terms of intelligence, because there isn't
13 any.

14 A. No.

15 Q. This time I want to suggest to you that what ought to
16 have been, and I'm sorry to -- I don't mean, again it's
17 not about you, what ought to have been developed between
18 2001 and 2005, knowing that there was the risk of
19 a foot-borne suicide bomber, who might be on a bus or
20 a tube or whatever, a developed protocol for dealing
21 with somebody who's only a suspect. So instead of
22 saying, "Oh, is he, I'll shoot him", you actually have
23 to go through an earlier procedure?

24 A. And all I can say to you is for me that falls into
25 a Kratos type situation.

- 1 Q. Well --
- 2 A. And I have acknowledged that there is a gap between
3 Kratos and Clydesdale, this intelligence type of thing
4 that we saw emerging on the 21st.
- 5 Q. Yes, and I'm suggesting it's not really a gap at all.
6 What I am suggesting is you are dealing with, and
7 training should have been dealing with, leave out Kratos
8 and how it's arisen, you are faced with somebody who's
9 a suspect?
- 10 A. Yes.
- 11 Q. That was utterly predictable, wasn't it?
- 12 A. And hence the two options under Kratos.
- 13 Q. Yes, that's the problem. Now, can I come to what
14 I suggest to you could be the protocol and procedure?
15 Maybe it's now in place, I don't know. If it's only
16 a suspect, and you have nothing else much to go on,
17 there has to be a procedure to avoid killing innocent
18 people, whereby there has to be a staged approach,
19 non-covert. Do you follow?
- 20 A. Well, I don't think, from all the learning that we had,
21 if you tried to do -- if you had a suspected suicide
22 bomber, and you tried an overt approach and they were
23 a bomber, then the person would probably set their
24 device off.
- 25 Q. This is the dilemma, I appreciate, and I am trying to

1 tackle this now head-on. You accept, as I think every
2 other witness I have put this to accepts, that you can't
3 shoot people just in case they are?

4 A. Of course not, no.

5 Q. That's the rub, if I may put it. If you can't shoot
6 people just in case they are, you have to have a way of
7 finding out if they are?

8 A. I don't know what that way is.

9 Q. I am going to suggest it to you. There are two ways
10 I am going to suggest it could happen; discovering that
11 they are. In a conventional firearms situation -- which
12 some officers regarded this to be, conventional
13 firearms, non-all those terms, Kratos and so on -- is
14 that although they can deliver a shot without warning,
15 and that is accepted in the ACPO manual?

16 A. Yes.

17 Q. But that's normally dealing with a situation where they
18 can see the threat?

19 A. Yes.

20 Q. But if they can't see the threat, the suggestion I'm
21 putting to you is there has to be a way of testing that
22 person, first of all; and I'm afraid it doesn't mean
23 going up and tapping me on the shoulder, but it does
24 mean having to use, whether it's the normal ammunition
25 or abnormal ammunition, there has to be an approach to

1 that person so that you allow -- there is a risk
2 attached to it, but it is trying to guard against
3 shooting the wrong people; that you have to approach,
4 and the learned Coroner encapsulated something that can
5 be said, it has to be communicated quickly "armed
6 police, stand still"?

7 A. And that is the option in Kratos but you could take it
8 out of Kratos, if you are not 100 per cent sure,
9 challenge, and that's there.

10 Q. Yes, but I just want to examine the elements, and
11 I realise it's all happening in the snap of fingers.

12 A. Yes.

13 Q. Obviously if you have officers trained to a high level
14 to deal with pressured situations and they have, I am
15 afraid, a formula which they can issue, which is
16 understandable, provided you speak English, with most
17 people, "armed police, stand still" or "sit still" or
18 whatever it is?

19 A. Yes.

20 Q. Or "do not move"; it can be said in a flash. A risk, of
21 course, but are they trained, CO19, in a suicide bomber
22 situation to do that?

23 A. That is one of the options they have.

24 Q. Right. The elements of that are, firstly, announcing
25 you are armed police?

- 1 A. Yes.
- 2 Q. Because if somebody came in the room and said "armed
3 police", people are going to react different ways?
- 4 A. That's right, that's right.
- 5 Q. So it's not enough just to come in, I'm afraid, for the
6 officer, "I'm an armed police officer", some people
7 might say "so what" and others might duck, and others
8 would run. So you have got to go a stage further and
9 say: this is the instruction, so you can work out
10 whether this person, to use the phrase, isn't complying.
11 Would you agree that's fair?
- 12 A. Well, if you -- let us go back to that, those two
13 options that we had. And actually you could take them
14 outside of Kratos. What you can't do is you can't say:
15 if you do a challenge and they do this, so you do that;
16 or they do this, and so you do that; you just can't do
17 that.
- 18 So the whole point is, and it's written in there, if
19 you are not sure, as I said -- which will be the vast
20 majority -- you challenge and then you react to how they
21 react to that challenge, then you fall back on your
22 training to do that.
- 23 Q. Yes, that's all I am putting to you. That what should
24 be happening in the second category, where you haven't
25 got the hard intelligence but you just think somebody

1 might be, all right, that's this case, somebody might
2 be, that was, if you like, the level of intelligence
3 when they go down the escalator, somebody might be --
4 well, it's an issue for the jury to decide what they
5 thought, in terms of that threat.

6 Then I think you are agreeing there ought to be --
7 this is the first example I want to give you, that
8 protocol or approach to somebody -- you, the firearms
9 officer, are identified and you issue an instruction and
10 of course in a split second you have to weigh up whether
11 the person is acting out of sheer nerves so you don't
12 shoot them, they are not a threat, or whether they are
13 keeping still so you don't need to shoot them, or
14 whether they are reacting in a way that's consistent
15 with a suicide bomber.

16 Those things have to go through your head?

17 A. Yes.

18 Q. But that's the training. Well, sorry, is that the
19 training? Are the CO19 officers -- or is this
20 a question for Bill Tillbrook -- trained to deal with
21 those elements of approach?

22 A. I mean, I would say -- you could ask Bill, but I would
23 say from my experience then yes, they are.

24 Q. I will ask Bill.

25 SIR MICHAEL WRIGHT: You can't, I would have thought, lay

1 down as a rigid rule: you must always challenge before
2 you deliver a critical shot?

3 A. No.

4 SIR MICHAEL WRIGHT: You have only got to state it and you
5 can see that it doesn't work.

6 A. That's right, sir.

7 SIR MICHAEL WRIGHT: So there must be a discretion in the
8 officer, I am putting this to you as a fact, but I'm
9 asking you whether you agree.

10 A. No, no.

11 SIR MICHAEL WRIGHT: There must be a discretion in the
12 officer to say: is this a situation where I can
13 challenge or where I dare not?

14 A. That's exactly right.

15 SIR MICHAEL WRIGHT: Is that right?

16 A. Yes, sir, it is.

17 SIR MICHAEL WRIGHT: Even on Mr Mansfield's proposals, which
18 I fully understand what he is doing, is: look, you have
19 to have a protocol as how you approach in this context a
20 feared suicide bomber, if you like.

21 A. Yes.

22 SIR MICHAEL WRIGHT: It still must remain, surely, to the
23 individual officer to decide what nature of approach
24 there has to be?

25 A. Yes, it does.

1 MR MANSFIELD: Can I just pursue that a little bit, because
2 the discretion in a case where you have no intelligence,
3 I am still dealing with the second category, it's just
4 a suspect and there is nothing that you can see, no
5 obvious bomb, no wires, no rucksack, nothing like that,
6 and he's sitting on a train -- and of course what he did
7 will be a matter for the jury -- but he is just sitting
8 on a train, I am putting to you there is no option other
9 than to, unless suddenly the man gets out a bomb and
10 begins to do it.

11 But if that's all you have, right, nothing more than
12 that, then you have no other option than to make
13 a proper challenge, quick though it can be, "armed
14 police, stand still, sit still", whatever.

15 Do you follow?

16 A. I do follow, and I think you are right in that if there
17 is nothing visible, then I think you are duty bound to
18 make a challenge. But clearly those officers, when they
19 did that, there were factors where that pushed them from
20 that into thinking "I am completely sure that this
21 person has a bomb on them".

22 Q. I accept that.

23 SIR MICHAEL WRIGHT: That is what they have said.

24 MR MANSFIELD: Obviously that will be a matter for the jury
25 to weigh up what they say and so on in the context of a

1 tube --

2 SIR MICHAEL WRIGHT: As I have interrupted, Mr Mansfield,
3 forgive me, there is something at the moment nagging me
4 about all this. I'm wondering whether there is a factor
5 we may be leaving out of consideration.

6 What I want to do is put a little moving scenario to
7 you. As you said earlier on, if the ideal -- if you
8 have intelligence, hard or soft, that somebody may be
9 engaged in manufacturing bombs, the ideal is to
10 intercept him before he ever starts?

11 A. That's right, yes.

12 SIR MICHAEL WRIGHT: We were talking about -- you don't have
13 rockets, but we were talking about effectively
14 intervening in the base --

15 A. Yes.

16 SIR MICHAEL WRIGHT: -- before anybody leaves it?

17 A. Yes.

18 SIR MICHAEL WRIGHT: Now, of course you can mount
19 a surveillance operation around the base and, as long as
20 nobody comes out, you have got time and leisure to
21 assess everything there is to be assessed --

22 A. Yes.

23 SIR MICHAEL WRIGHT: -- about what's going on and to decide
24 whether or not you are going to go in. That's fine.
25 There then comes a time when somebody who, to use the

1 expression in this case, merits a further look, comes
2 out of those premises. The tension goes up a notch;
3 yes?

4 A. Yes, yes.

5 SIR MICHAEL WRIGHT: I'm thinking particularly of the
6 Israeli experiences. As soon as that happens, action
7 has to be taken.

8 A. Yes.

9 SIR MICHAEL WRIGHT: Yes? He will have to be followed at
10 least.

11 A. Yes.

12 SIR MICHAEL WRIGHT: Now, leaving out the question whether
13 this is Kratos or whatever it may be, and forgetting all
14 categorisation that you had been asked about, let us
15 suppose that one of the reasons why you are worried
16 about this particular individual is that you think that
17 he may be a bomber who was involved in trying to put
18 a bomb on the Underground system the previous day, and
19 you follow him, and you discover that he apparently is
20 going back into the Underground system. There will be
21 opportunities, we have been all through this, I am not
22 going to go through it again, when you can intercept him
23 at point A, point B or point C.

24 A. Yes.

25 SIR MICHAEL WRIGHT: And if you can you will, no doubt, or

1 if you think you can, you will. But as he gets nearer
2 to what you perceive to be a potential target, would you
3 expect the perceived need to intercept or intervene to
4 grow?

5 A. I think I would, yes.

6 SIR MICHAEL WRIGHT: So that in effect the pressure gets
7 greater and greater --

8 A. Yes.

9 SIR MICHAEL WRIGHT: -- as the story progresses?

10 A. Yes.

11 SIR MICHAEL WRIGHT: Because a factor here, that maybe we
12 have not been thinking about in the last 10 or 20
13 minutes or so, is not only: do I think this is a bomber,
14 and do I think he has a bomb on him, but how near is he
15 getting to the point where he's likely to detonate that
16 bomb?

17 A. Yes.

18 SIR MICHAEL WRIGHT: It's another factor, isn't it?

19 A. Absolutely, sir, yes.

20 SIR MICHAEL WRIGHT: Sorry, Mr Mansfield.

21 MR MANSFIELD: Yes, I started at that end for that reason,
22 because even if he's been identified -- and I put the
23 qualification on it -- from the day before, and even if
24 he's at a place which could be considered to be
25 a target, then in a sense the greater the risk both ways

1 to somebody who's innocent as well as not?

2 A. Yes, I think that's -- yeah.

3 Q. You see that; and what I am suggesting is, and I'll have
4 to work back down the road, as it were, to why in fact
5 if you can avoid a situation on a tube train, you
6 absolutely have to.

7 A. Yes.

8 Q. You would agree with that?

9 A. Yes.

10 Q. If, in the end, you can't avoid anything other than
11 ending up in the tube carriage, then it's, I suggest to
12 you, vital that the police officer carrying the weapon,
13 not having the information that he is a bomber but that
14 he was the day before, makes sure -- although there are
15 risks -- that there is a protocol at that point? In
16 other words, he is not in the first category, he is in
17 the second category, that he is then properly
18 challenged, however quick; and I'm going to give you,
19 perhaps after lunch, another situation on how you can
20 deal with it even after a challenge.

21 If that's the situation, sitting in the seat, you
22 have to do a challenge, whatever the risk may be
23 perceived to be from the day before, got to do
24 a challenge, "armed police, stand still"?

25 A. I don't think you can be that prescriptive with firearms

1 officers in that situation, they have to fall back on
2 their training and they have to make a judgment call on
3 what's in front of them.

4 Q. All right, obviously making an assessment of their
5 judgment call is another matter. I think, would this be
6 fair: you, I think, perceive the reasonableness of the,
7 I am calling it a protocol, of approach but you are
8 still saying at the end of the day it's going to have to
9 be left to a subjective assessment by the officer?

10 A. Yes, I am, yes.

11 SIR MICHAEL WRIGHT: And that's inevitable?

12 A. That's right, sir, yes. Sir, if you don't mind me
13 interrupting, we have agonised over this for hours and
14 hours and hours and weeks and months about how you could
15 protect the public, you could not make a mistake and
16 shoot somebody by mistake, and you could not put those
17 officers in that situation where they could make
18 a mistake and shoot the wrong person. And frankly
19 I don't know what the answer is.

20 MR MANSFIELD: I am trying to provide some.

21 A. I wish we had you before.

22 SIR MICHAEL WRIGHT: I think, Mr Mansfield, you may be about
23 to get yourself a job offer as a standby DSO.

24 2 o'clock, ladies and gentlemen.

25 (1.00 pm)

1 (The short adjournment)

2 (2.00 pm)

3 (In the presence of the jury)

4 SIR MICHAEL WRIGHT: Yes, Mr Mansfield.

5 MR MANSFIELD: Yes, good afternoon. Just one more matter
6 just dealing with the scenario in a train or bus or
7 wherever it happens to be of the second category, the
8 person who is a suspect, I am still on that, I am
9 afraid. Tab 62, you have seen this once before, it is
10 two pages from an awareness booklet that was provided to
11 firearms officers. It's the tactical options. I only
12 need the first page which is 30 at the bottom.

13 You will see there it says:

14 "There is likely to be two different scenarios..."

15 A. Yes.

16 Q. The reason I was dealing with the question of express
17 challenge plus instruction is building on what is here,
18 and you will see, I'll only do this once because you
19 have been through it once before, when they arrive on
20 the scene, there is some doubt as to whether the subject
21 is carrying a device. Faced with this situation -- now,
22 I pause. Although this isn't -- one on the day isn't
23 strictly Kratos because it wasn't spontaneous, they were
24 faced with a situation in which there was some doubt as
25 to whether the subject was carrying a device.

1 A. Yes.

2 Q. "Faced with this situation officers will have to rely
3 upon their training [that's your point] and experience.
4 You will have to challenge the suspect, paying
5 particular attention to your own safety. Remember your
6 training, seek cover from fire before challenging. Try
7 to minimise the danger to others ..."

8 So it's clear that the guidance that's being issued,
9 admittedly under a Kratos heading, is you will have to
10 challenge?

11 A. Yes.

12 Q. I have dealt with the ultimate extreme situation on the
13 train or on the bus and so on, and I just want to work
14 backwards. Of course as the learned Coroner put just
15 before the break, it would be preferable to plainly do
16 an interception at an earlier point and the earlier the
17 better?

18 A. Yes.

19 Q. So that if you can therefore do an overt but controlled
20 interception where there are -- there is always a risk
21 there will be somebody there in an urban situation,
22 where you can minimise the number of people in the
23 vicinity that is really to be preferred?

24 A. Yes.

25 Q. So clearly in the situation here in this particular

1 case, the strategy -- I don't know, were you aware of
2 the strategy or not?

3 A. Well, not really, and I wasn't involved, so I would
4 prefer not to go down that road, if I may.

5 Q. Don't worry. Anyway, as a principle, you agree it's
6 preferable to do an interception under controlled
7 situation minimising the risk to others?

8 A. Oh yes.

9 Q. And doing it from cover and so on. I am not going to
10 take you through all the various stages where that could
11 happen. Can I just finally on this category ask you
12 about another way in which CO19 officers -- I am
13 concentrating on them and not others for the moment --
14 could do an interception covertly before somebody gets
15 on a bus or gets on the train, all right?

16 A. Yes.

17 Q. So in other words it might be -- it might conceivably be
18 on a pavement or a concourse, and there are other people
19 around, and I want to build on an example you gave, in
20 fact I think you said it was an Israeli example where
21 they came up behind somebody?

22 A. Yes.

23 Q. I'm not following the line that the person is pushed to
24 the ground because of the risks. Could you have, so you
25 see the context, the bottom left-hand corner, you may

1 not have seen these before, perhaps it doesn't have
2 a tab number. This is a CCTV camera photograph of
3 Jean Charles de Menezes on a bus.

4 A. Right.

5 Q. That's how he was dressed. Now, if the firearms
6 officers have not been able to see anything suspicious,
7 in other words no bulky clothing in the sense of no
8 obvious belt or waistcoat, whatever, no wires
9 protruding, and much more particularly nothing in the
10 hands that might relate to detonation -- you have
11 described those?

12 A. Yes, yes.

13 Q. I am dealing with that situation. That one of the ways
14 that CO19 could intercept a suspect bomber who doesn't
15 appear to have any of the usual accessories visible, is
16 an approach from behind, isn't it?

17 A. Yes, it would be, yes.

18 Q. One of the ways they could do it without even running
19 the risk of it exploding because they are pushing him to
20 the ground, if there is two of them, and we know there
21 were a number of firearms officers on this occasion,
22 they come up behind and physically restrain both arms at
23 the same time pulling them out, so there is no way in
24 which the hands, because there is nothing in the hands,
25 can be seen to do anything?

- 1 A. Yes.
- 2 Q. Is that technique one -- I may have to ask
3 Bill Tillbrook again -- are you aware whether that
4 technique is practised by the firearms squad?
- 5 A. I don't know the answer to that.
- 6 SIR MICHAEL WRIGHT: You mean anywhere in the world?
- 7 MR MANSFIELD: Well, I am not in a position to answer that.
8 Perhaps you are. Is that a technique that is
9 practised --
- 10 A. I have never seen a technique like that used anywhere,
11 no.
- 12 Q. But I think you see the --
- 13 A. I do, yes.
- 14 SIR MICHAEL WRIGHT: Mr Mansfield is putting, pulling the
15 arms out sideways.
- 16 A. Yes.
- 17 MR MANSFIELD: Yes.
- 18 SIR MICHAEL WRIGHT: That would cope with pressure pads as
19 it were, on the elbows or anything like that.
- 20 A. Yes.
- 21 SIR MICHAEL WRIGHT: But you were demonstrating to us this
22 morning about a pressure pad on the shoulder or on the
23 neck.
- 24 A. That's right, yes.
- 25 SIR MICHAEL WRIGHT: It wouldn't cope with that?

1 A. No, sir.

2 MR MANSFIELD: That's very rare, though, the pressure pad.

3 A. It is quite rare, yes.

4 Q. So there is that risk, but it's again balancing risk.

5 A. Can I just add a point to that.

6 Q. Certainly.

7 A. It sounds smart and it's not meant to be, but we did

8 actually look about whether you could come up behind

9 somebody and grab their arms but you know the pressure

10 pad is rare, the remote control device is less rare, so

11 there was always a danger to officers that if they did

12 that, that if it was a remote control device, it could

13 be detonated by a third party.

14 Q. Oh yes, I understand that.

15 A. And, you know, I wouldn't discount it but it was

16 something that we did look at but we did discount in

17 where we were with this.

18 Q. I keep trying to root it back into this, and

19 I appreciate you were not involved in the operation, but

20 there is no suggestion on this day that any third eye,

21 however you described it, was actually shadowing this

22 person or in the vicinity, nobody suggests --

23 A. Not as far as I'm personally aware, no.

24 SIR MICHAEL WRIGHT: You are right.

25 MR MANSFIELD: As we have the photograph there, can I ask

1 you, since you have dealt with the nature of explosives
2 and also forms of detonation, plainly the forms of
3 detonation, except for the pressure pad one which you
4 said was rare, involves some action from the hands?

5 A. That's right, yes.

6 Q. Again if you are not available to answer ... are
7 officers who are trained to be dealing with suicide
8 bombers also trained in relation to what to look for
9 when it comes to the hands?

10 A. Yes, they are, yes, because that's the intrinsic part of
11 the training that we have built into this.

12 Q. The most obvious thing, is there something in his hands?

13 A. Yes.

14 Q. Or is a hand in a pocket?

15 A. Yes.

16 Q. Or cut-out pocket or whatever it happens to be. In this
17 particular case we have the photograph -- I think it's
18 the best one in terms of close-up. There are a series
19 of other ones. The explosive that can be secreted under
20 clothing, 3 to 5 kilograms, so it may well be that the
21 jury are well metrified, so therefore they can easily
22 visualise it, but actually what we are dealing with here
23 is if a kilogram is just over 2 pounds --

24 SIR MICHAEL WRIGHT: It's three bags of sugar, Mr Mansfield.

25 MR MANSFIELD: I was going to come to that.

- 1 SIR MICHAEL WRIGHT: 3 kilograms would be about 3 bags of
2 sugar.
- 3 A. Yes.
- 4 MR MANSFIELD: I think --
- 5 SIR MICHAEL WRIGHT: The ladies on the jury will be well
6 aware of that, Mr Mansfield.
- 7 MR MANSFIELD: I hope these days all the men will be too.
8 Anyway, we are dealing in bags of sugar, and there
9 is another way of visualising. In fact the 3 to
10 5 kilograms in terms of bags of sugar is quite a lot of
11 material?
- 12 A. Yes, it is.
- 13 Q. Therefore if you are looking at somebody with an open
14 jacket and a T-shirt, of course it's possible but it's
15 getting less possible to visualise, and I'm not asking
16 you to produce and I don't know whether somebody is
17 going to produce, the kind of waistcoat that is used.
18 Have you seen one?
- 19 A. Oh yes, I have, yes.
- 20 Q. Could you kindly describe to the jury, either the belt
21 or the waistcoat?
- 22 A. There has been a number of different types. The ones
23 that we have seen in Israel is where they sort of fit
24 very closely underneath the clothing (indicated) and the
25 sort of explosives moulds itself to the shape of the

1 body, and then you have the wiring coming out of that to
2 the battery and detonator and everything like that. The
3 Sri Lankan one we saw was about this big, made of
4 leather and covered in ball bearings, about that sort of
5 thickness and then wrapped right round the body. The
6 bra one, the cups were made bigger and filled up with
7 explosive as well.

8 We have seen other types where people have
9 double-layered underwear and the explosive is in the
10 double layer of the underwear as well. So they sort of
11 come in quite a lot of different shapes and sizes, but
12 on average it's about 3 to 5 kilos of explosive, which
13 when you wrap round the body doesn't take up that much
14 amount of space.

15 SIR MICHAEL WRIGHT: In Israel, in the warm weather which
16 I understood is most of the time --

17 A. Yes.

18 SIR MICHAEL WRIGHT: -- people normally wear summer clothing
19 which is not dissimilar to what we wear on the rare
20 occasions in this country when there is any opportunity
21 to do it, what we wear here.

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

23 SIR MICHAEL WRIGHT: In your view, can a viable device be
24 worn so that it's not readily visible under English
25 summer clothing?

1 A. I have a piece of movie, I don't know whether anyone has
2 produced it or not, which is actually a piece of
3 Al Qaeda test film on a device. It's a mannequin with
4 slacks on and just a shirt. The shirt is flapping in
5 the wind because it's not tucked in, but if you looked
6 at it, you would think there was nothing in it at all.
7 But as the film unfolds, so they set the device off, so
8 they are very well -- they can be very well concealed
9 under, you know, just a light shirt.

10 MR MANSFIELD: Just one further matter: the waistcoat, which
11 I think you can also describe, is that usually a series
12 of pouches that are connected?

13 A. Yes, it is, that's right, yes.

14 Q. The belt can be a series of pouches which are
15 connected --

16 A. Yes, it can, yes.

17 Q. Thank you very much on that.

18 Clearly you, in the Israel situation of coming up
19 behind, you indicated very clearly that once -- and why
20 you wouldn't use it here -- the person's pinned down,
21 the example you gave was that actually they went on and
22 shot him and you didn't think it was necessary?

23 A. No.

24 Q. Because once they are pinned down, they do not pose the
25 threat?

1 A. No. There could be a threat from a remote control, but
2 in my judgment if somebody is on the floor and you have
3 two people kneeling on them and their arms and legs are
4 outstretched, to shoot them in that situation, I would
5 say is unreasonable use of force.

6 Q. I'm not disputing that at all. Can I just move on,
7 because I have now gone through the various ways I have
8 suggested to you that this could be dealt with. That's
9 in the second category, not the first, which raises
10 different problems.

11 But again dealing with a situation in which a DSO
12 has been brought in, as was on this occasion, you had
13 had a meeting -- I'm not asking you to go through notes
14 and so on unless -- you will remember it -- you had had
15 a meeting at 8.15 on the 21st in the evening with
16 a number of officers, but particularly I think one of
17 the people you met was the Gold Commander; do you
18 remember?

19 A. John McDowall?

20 Q. Yes.

21 A. Right.

22 Q. Do you remember the meeting or not?

23 A. Is that the one in the hotel?

24 Q. I don't think this was in a hotel.

25 A. I don't remember it.

- 1 Q. All right, if you don't remember, I will not tax you
2 about it. You were the conscience, I think you have put
3 it in one statement, you were the adviser to the
4 overnight oncall in-house DSO, Mr Carter?
- 5 A. He was on during the day.
- 6 Q. There was one during the night?
- 7 SIR MICHAEL WRIGHT: Allison.
- 8 A. Chris Allison, yes.
- 9 MR MANSFIELD: Did you go on doing it during the night?
- 10 A. No, I didn't. There would be another person in my role
11 doing it for him.
- 12 Q. Coming to Cressida Dick, when she is asked to do it and
13 then comes in later just after 7 -- she comes in before
14 that, but comes on to the job around 7 am, would she
15 have had a Kratos adviser as opposed to a tactical
16 adviser?
- 17 A. What happened is I actually phoned her up that morning
18 and said, you know, we have put you in this position,
19 would you like a Kratos adviser with you; and she said
20 yes; so I made arrangements with somebody to come and do
21 that but they had not turned up before the incident took
22 place.
- 23 Q. Ah, right. Do you happen to remember who it was?
- 24 A. Who was going to be there? It was a guy called
25 Nick Skillen.

- 1 Q. So he had not come. Now, is he, sorry, can I ask a bit
2 more about him, I know he didn't get there in time but
3 is he an SO13 officer?
- 4 A. Yes, he was, yes, but he is not a detective. He was
5 like me, a uniformed superintendent working in the
6 Anti-Terrorist Branch.
- 7 Q. All right. There was something you said this morning
8 about the DSO and the arrest when I asked the question.
9 From a CO19 point of view, once they are told that a DSO
10 is involved, you have agreed that there is a risk they
11 will connect it with Kratos, as you have defined it,
12 spontaneous, or Clydesdale?
- 13 A. Yes.
- 14 Q. Do you think it is in fact important to ensure that the
15 firearms officers are aware of what the role of the DSO
16 on this day was?
- 17 A. Well, I would expect that they would know what the role
18 of the DSO was anyway. Now then, what created here was
19 not a Clydesdale or a Kratos, but I would expect that
20 they would make an assumption that it would be a similar
21 role, yes.
- 22 Q. Can I go straight into, because of that risk of
23 association, Clydesdale we can put probably to one side
24 because it's the pre-planned event, there were code
25 words and there would be hard intelligence. So I am

1 leaving that out of it for the moment.

2 In terms of what they might customarily associate
3 a DSO with is a situation -- well, a spontaneous
4 situation in which a DSO, in the past, had not been
5 normally associated with Kratos people-borne?

6 A. No, I don't think that's true because we had this
7 situation where you had a DSO on call 24/7.

8 Q. Yes, I understand.

9 A. And now, the instances where an ARV, an armed response
10 vehicle, which is S019, were deployed, as I said on
11 those figures earlier were very remote, were not very
12 common but I would expect that they would know that.

13 Q. All right. What I'm coming to here is the DSO, as it
14 were, on this job on the day, it's not Clydesdale or
15 Kratos, but let us assume for a moment that it is
16 a Kratos situation, because I want to put to you the
17 difference between intelligence that's come one way as
18 opposed to another is quite slim, so we have a situation
19 in which a suspect bomber is out there, but the DSO is
20 in control; were there at that time any code words in
21 relation to a non-Clydesdale DSO situation?

22 A. I don't know the answer to that. Oh, you mean in the
23 actual operation or generically?

24 Q. I have left Clydesdale out because we understand there
25 are, I think I know two of the code words but there are

- 1 code words for Clydesdale, and I do not want to deal
2 with that.
- 3 A. No.
- 4 Q. It's non-Clydesdale, let us take the category you are
5 familiar with, that is spontaneous?
- 6 A. Yes, yes.
- 7 Q. If the DSO, if there is a DSO who has come into that
8 situation, specifically --
- 9 A. Yes, yes.
- 10 Q. -- and wants to authorise a critical shot, so we are
11 getting back to Clydesdale a bit?
- 12 A. Yes, yes.
- 13 Q. Were there code words in the non-Clydesdale situation to
14 communicate critical shot?
- 15 A. Well, the situation you would have had is that the
16 tactical adviser would have had the same range of
17 options that there are available for Clydesdale.
- 18 Q. Yes?
- 19 A. And given that this had been running a while, then
20 I don't know because I wasn't there, but my expectation
21 would be that the tactical adviser would be able to
22 offer that same range of options there were with
23 Clydesdale along with the code words as well.
- 24 Q. Well, yes, all right. So --
- 25 SIR MICHAEL WRIGHT: Forgive me, that's interesting, but in

1 this context most officers, nearly all the officers,
2 firearms officers, said, "We didn't think this was
3 Kratos or Clydesdale"?

4 A. No, I acknowledge that.

5 SIR MICHAEL WRIGHT: What they were expecting to hear, if
6 the DSO had ever got to this situation, would have been
7 what is in fact a wholly unambiguous phrase, "critical
8 shot authorised"?

9 A. Yes.

10 SIR MICHAEL WRIGHT: That's what they would have expected to
11 hear. Does that make sense to you?

12 A. Yes, it does, sir, yes.

13 MR MANSFIELD: Can I just continue mixing the actual with
14 the theory, in a sense.

15 What we have understood from the evidence is that
16 the officers have all said that they didn't think it was
17 actually Kratos at the point they were at Stockwell, but
18 some of them thought that it could be a Kratos from the
19 briefing, because they are told about unusual tactics
20 and all that kind of thing and they have the special
21 ammunition and so on.

22 Now, trying to put myself in the shoes of a firearms
23 officer who has been told, well, it could be Kratos but
24 it isn't yet, we have a DSO, how does the firearms
25 officer know when it becomes Kratos? So it's not

1 a Clydesdale.

2 A. No.

3 Q. Are you following me?

4 A. I am not -- I don't know if I can give you an answer to
5 that, other than to make a comment that you know, they
6 have been deployed, they know there is a DSO involved in
7 this, so they are probably almost certainly sure that
8 what they are dealing with is some kind of incident
9 involving a suspected suicide terrorist. Is it
10 a Kratos? Well, not in the pure sense of the term. But
11 I suppose what I am saying is that some of this, it
12 wasn't made up on the hoof but it was an amalgam of
13 different tactics because we didn't have anything
14 specifically around that scenario.

15 Q. Yes, what I want to just develop is: there is a serious
16 risk on this particular day that, because there was no
17 specific language attached to Kratos, as opposed to
18 Clydesdale, although -- and there was no Kratos adviser
19 for Cressida Dick, that officers on the ground might
20 misinterpret what is being conveyed to them by a DSO
21 outside a Clydesdale situation. Have you followed?

22 A. I have. And I don't know the answer to that question.
23 You know, I think sometimes you can get hung up on these
24 code words because they were not very popular and
25 although they were there as I have said in case there

1 was a radio breakdown, there would be a communication to
2 give some clarity about what was expected.

3 Q. Well, I understand that entirely, and I quite understand
4 how code words can in fact themselves be misleading.
5 But the problem then is that the nature of the language,
6 non-code word language used, and the tone of voice may
7 communicate quite the wrong message?

8 A. Well, I don't know if I can give an answer to that.

9 Q. All right. The question I want to go back to is: in
10 fact a firearms officer wouldn't, on the scheme you have
11 just, as it were, have in place on that particular day,
12 wouldn't know the point at which it actually becomes
13 a Kratos as opposed to a non-Kratos on the ground?

14 A. I don't know. I don't know the answer to that question.
15 Again, I am sorry if I am ducking it, I am not trying
16 to, but I wasn't there so I don't know what was in their
17 mind.

18 Q. I appreciate that. Is there a way in which they could
19 judge this is now Kratos as opposed to non-Kratos?
20 That's all. Is there something that happens like, I am
21 not suggesting it would be this, Cressida Dick saying:
22 right, we are now in a Kratos situation. Would it have
23 to be something like that?

24 A. I am not sure it would be as overt as that, no.

25 SIR MICHAEL WRIGHT: You mean it might be covert. Surely

1 somebody's got to know.

2 A. Well, my view is that this is an ongoing operation;
3 there is a lot of communication going backwards and
4 forwards between everyone involved; and you know, would
5 it be -- would somebody stand up and say, "I think we
6 are in a Kratos now". I am not sure it happened like
7 that.

8 SIR MICHAEL WRIGHT: You don't think it would be as formal
9 as that?

10 A. That's right, yes.

11 SIR MICHAEL WRIGHT: All right.

12 MR MANSFIELD: The problem is that once you have
13 informality, in other words it will not be as formal as
14 that, there are all sorts of risks attached to
15 an informal situation, aren't there?

16 A. Yes, I think there are, but the bottom line for me is
17 these officers are confronted with a situation and they
18 have to make a judgment call about what they are going
19 to do --

20 Q. I realise that. This is the final matter, you will
21 probably be glad to know. I am sorry it has taken a bit
22 of time. I started by asking about rules of engagement
23 and so on and I want to finish on the same topic. Could
24 we have -- the jury don't have the document -- document
25 3228. Could we have, I only want to ask you about the

1 first bit of this letter. Is that legible to you?

2 A. Yes, it is, sir.

3 Q. First of all, have you seen this letter before?

4 A. Yes, I remember now, there was a bit of a discussion
5 about this when it was produced, at Scotland Yard, and
6 there was a debate about how to respond to it, if
7 I remember, and I was invited to be part of that
8 discussion.

9 SIR MICHAEL WRIGHT: Is this addressed to the
10 Permanent Secretary of the Home Office?

11 MR MANSFIELD: Yes, I think it is.

12 You see the date above that, 21 July, the very day,
13 it seems, of the attempted bombings that this letter
14 goes to the Home Office. I don't ask for the next page
15 but you will accept from me it is in fact a letter from
16 the Commissioner, Ian Blair. Can I just read the
17 paragraphs which I want to deal with, with you,
18 especially as you had some input:

19 "Dear John,

20 "Operation Kratos: suicide bombers.

21 "In the meeting we had with the Prime Minister
22 yesterday, I raised the issue of maximising the legal
23 protection for officers who had to take decisions in
24 relation to people believed to be suicide bombers."

25 May I pause there. The meeting therefore must have

1 been on 20 July if this letter is accurate.

2 MR HORWELL: I am sorry to interrupt. The date must be the

3 22nd. The date on the letter must be wrong. If you

4 read the letter, it was written on the day of the

5 shooting.

6 MR MANSFIELD: Well, there may be a question about that.

7 I appreciate, and for the moment I'm not accepting that

8 it was --

9 SIR MICHAEL WRIGHT: We have not seen the whole of the

10 letter yet.

11 MR MANSFIELD: I was not in fact going to go through the

12 whole letter.

13 SIR MICHAEL WRIGHT: If there is a point to be made about

14 this, we ought to try to sort it out.

15 MR MANSFIELD: I would ask if we can be told when the

16 meeting was with the Prime Minister as well as when this

17 letter was started and finished.

18 I don't suppose you have answers to this?

19 A. No, I am afraid I don't. I remember a discussion about

20 this. I think it was either on the 21st or the 22nd,

21 but I can't remember.

22 Q. All right. Maybe we can --

23 SIR MICHAEL WRIGHT: Were you there? Did you go on it?

24 A. The meeting with the Prime Minister? No, sir, I didn't.

25 MR MANSFIELD: I think the next bit you probably have got

1 some observations to make:

2 "This is clearly a fast-time decision-making
3 process, in which officers cannot risk the kind of
4 containment and negotiation tactics which would normally
5 be the case. Put simply, the only choice an officer may
6 have may be to shoot to kill in order to prevent the
7 detonation of a device. In due course [and this is the
8 sentence I want to ask you about] I believe we need
9 a document similar to the military rules of engagement
10 but time does not permit its creation at the present
11 time."

12 Then it goes on to Section 3, and then IPCC and
13 other matters in the letter.

14 SIR MICHAEL WRIGHT: Can we go on to see if there is
15 something in Mr Horwell's point that we can tell from
16 the letter when it was actually written.

17 MR MANSFIELD: You can only tell --

18 SIR MICHAEL WRIGHT: "the shooting that has just occurred at
19 Stockwell".

20 MR MANSFIELD: That's right.

21 SIR MICHAEL WRIGHT: That's what you had in mind, I imagine?

22 MR HORWELL: Sir, yes.

23 MR MANSFIELD: It may be a mistake at the top of the
24 left-hand corner; on the other hand, as it sometimes
25 happens --

- 1 SIR MICHAEL WRIGHT: Or it might have been started one
2 day --
- 3 MR MANSFIELD: Yes, and finished the next. I am less
4 concerned with the rest of the letter, and obviously
5 others can go into it if they wish. It's mostly about
6 the IPCC. I want to ask you, if I may, Mr Swain, about
7 the observation there which appears to suggest that
8 there isn't any document containing rules of engagement.
9 Do you see that?
- 10 A. I do, yes.
- 11 SIR MICHAEL WRIGHT: You agree with that? There is the blue
12 card which has Section 3 of the Act on it.
- 13 A. Yes, there is, and there is the training course that
14 officers undertake about when they can or can't use
15 firearms and the like situations.
- 16 SIR MICHAEL WRIGHT: Yes. We don't know what
17 the Commissioner had in mind but there is nothing that
18 an officer carries around with him?
- 19 A. No, there isn't, apart from the blue card.
- 20 SIR MICHAEL WRIGHT: Apart from the blue card which reads a
21 bit of law.
- 22 A. Yes.
- 23 MR MANSFIELD: I'm sorry to tax your memory about something
24 three years ago but you indicated that you had some
25 input here. Was the discussion at the highest level

1 within the Met a school of thought which was, I am
2 putting it bluntly: we will just have to shoot them and
3 that was being discussed and in terms of how it was
4 going to be put either to the Prime Minister or the
5 public; is that what it was all about, do you remember?

6 A. I mean, I don't really remember the detail of the debate
7 about how that unfolded and I'm sorry if that sounds
8 evasive. It's not meant to be like that. You know,
9 I was a part of the team that was looking at this.
10 I don't remember too much of the detail. So if you
11 don't mind, I actually think I would prefer to say
12 nothing about it. Because I can't remember enough
13 detail and I wouldn't want to say something that
14 somebody might contradict me on later on.

15 MR MANSFIELD: I will respect your position and end my
16 questions. Thank you very much.

17 SIR MICHAEL WRIGHT: One question before anybody else asks
18 you anything.

19 This is a question from the jury. You remember the
20 scenario I put to you just before we rose for lunch
21 about the progressive story about getting nearer and
22 nearer to the possible target. The question is this,
23 really: taking the Coroner's earlier scenario with your
24 experience of suicide bombers, would you expect that the
25 risk associated with the individual from the premises --

1 I mean, he was a hypothetical individual, but apply it
2 to this case -- the risk of the individual coming from
3 the premises has decreased because he is not carrying
4 a rucksack when all examples of failed attempts from the
5 day before did involve rucksacks.

6 You see the point?

7 A. I do. As I said this morning, rucksacks were very
8 unusual, and so I would not expect that would change the
9 thought processes around the people involved; the fact
10 that there wasn't a rucksack involved, it could well be
11 something hidden on his body.

12 SIR MICHAEL WRIGHT: We do know, of course, that the failed
13 bombs of the previous day were rucksack bombs.

14 A. That's right, yes.

15 SIR MICHAEL WRIGHT: But your experience is that that's
16 unusual anyway.

17 A. It's very unusual, sir, yes.

18 SIR MICHAEL WRIGHT: So the fact that -- it's an obvious
19 point really -- the individual is not carrying
20 a rucksack the following day, given that he is by
21 definition from what you believe, associated with
22 bomb-making or bomb-carrying, and it doesn't really
23 reduce the likelihood that he might be wearing one on
24 his body on the second occasion.

25 A. That's right.

1 SIR MICHAEL WRIGHT: There you are. Thank you very much.

2 MR MANSFIELD: Sir, may I ask a supplemental on that?

3 SIR MICHAEL WRIGHT: Of course.

4 MR MANSFIELD: Obviously dealing with the same question, and
5 you may not be able to help on this.

6 In fact in relation to this case, whether on the 7th
7 which were rucksacks or the 21st which were rucksacks,
8 there was no material -- that means either intelligence
9 or actual discovery of anything that pointed to
10 body-borne explosives being used by this group; did you
11 know that or not?

12 A. Did I know ... I don't think I did, no.

13 SIR MICHAEL WRIGHT: You may have to wait to hear what Neil
14 has to say.

15 MR MANSFIELD: I will ask about Neil. But you don't know?

16 A. No.

17 SIR MICHAEL WRIGHT: You don't know the answer to that.

18 A. No, I don't.

19 SIR MICHAEL WRIGHT: Very well. Mr Gibbs.

20 Questions from MR GIBBS

21 MR GIBBS: Mr Swain, I represent the red and grey
22 surveillance teams.

23 A. Right.

24 Q. You have had very little to say about surveillance, but
25 you have been asked a lot of questions, many of which,

1 you may agree with me, illustrate the dilemma of the
2 frontline officer, and obviously the surveillance teams
3 are frontline officers. We as lawyers and members of
4 the jury have been no doubt wracking our brains for what
5 better way there might be to do all of this, faced with
6 the ghastliness of these people who want to kill us all.

7 Your answer is that you can't think of a better way
8 yet?

9 A. That's correct. As I said, you know, this morning, we
10 have been to a lot of countries, we have had a look at
11 an awful lot of different scenarios that these things
12 have taken place, and what we have got, I think, is as
13 good as it gets. I acknowledge that there was a gap
14 that we had which has now been filled, and most, as
15 I say, most Western law enforcement agencies have copied
16 what we have done because nobody has anything better.
17 And throughout the whole period from when we started on
18 this until I retired, we were always constantly looking
19 for: has anyone come up with anything better; there has
20 been another attack here; how did that work; what
21 lessons can we have learnt from that and bring back.
22 These are hideous situations. What we had is as good as
23 it gets.

24 Q. Can I just deal with one suggestion, it's the: say very
25 quickly, "Armed police, stand still"?

- 1 A. Yes.
- 2 Q. That's a suggestion that might have been, if it was
3 different from what was there on the day, a better
4 thing. I am sure that's a question you had asked
5 yourself before?
- 6 A. Oh, yes, yes, but the clear evidence was if you alert
7 these people, they will detonate the device if they have
8 got one.
- 9 Q. If you say, "Armed police, stand still", and it's
10 an innocent man, it's not a bomber but he doesn't stand
11 still, then what do you do next?
- 12 A. It would be the officers at the front with the firearm
13 who make a judgment call about what that person is doing
14 and how they would react to that.
- 15 Q. What if he doesn't speak English?
- 16 A. Well, that's a very strong possibility in London.
- 17 Q. What if he just panics and runs?
- 18 A. But I think whether you can speak English or not, the
19 act of somebody pointing a gun at you and shouting,
20 I would have thought must put something in your mind
21 that there is something fairly serious here that I need
22 to pay attention to.
- 23 Q. Yes. What if the person who is confronted is frightened
24 of the police because of his status or his habits or
25 because he's had some bad experience with the police and

- 1 he's perfectly innocent. He's not a suicide bomber, but
2 he doesn't, as it happens, stand still; what do you do
3 next?
- 4 A. Tragically, he could get shot because that's the reality
5 of what you have got in front of you is the officers
6 have to make a judgment about what they are dealing with
7 and they need to react.
- 8 Q. What if he simply puts his hands in his pockets, where
9 he may have a trigger or a device or a switch or
10 a battery or, what then, what do you do then?
- 11 SIR MICHAEL WRIGHT: Or his passport.
- 12 MR GIBBS: Or his passport, precisely?
- 13 A. Well --
- 14 MR GIBBS: Or his Oyster card. How does the officer know?
- 15 A. It's a matter of judgment for the officer who is there
16 at the time.
- 17 Q. You kept this morning coming back to this, that in the
18 end, wherever we start, you keep coming back to the
19 necessity of those frontline officers having to make
20 split-second judgments, one way or another, which may
21 involve the life or the death of the people around them;
22 am I right?
- 23 A. That's right, yes.
- 24 Q. One dearly loved innocent man may die if you get it
25 wrong?

- 1 A. Yes.
- 2 Q. Hundreds of equally dearly loved innocent men and women
3 may die if you get it wrong the other way?
- 4 A. That's right.
- 5 Q. Those frontline officers, and we all know we are talking
6 about this tube carriage, it may come down to their
7 cowardice, their hesitation, or perhaps their bravery,
8 and their ability, their willingness to sacrifice
9 themselves for the public around them; those things
10 going on inside their heads may determine what happens
11 next; am I right?
- 12 A. Yes. Yes.
- 13 Q. And their ability to make those decisions is all that
14 stands between us, between us lawyers and us members of
15 the public, and these people?
- 16 A. That's right, yes.
- 17 Q. Can I give you a scenario: a frontline officer is on the
18 tube with a possible suicide bomber, who may or may not
19 have a concealed device about him, and armed men appear
20 on the platform and, if he's a suicide bomber he may
21 detonate and if he isn't, he may not. And he grabs the
22 man around the arms and he pushes him back into his seat
23 and immobilises him. That's one option?
- 24 A. Yes.
- 25 Q. It's not a bad option, is it?

1 A. Well, I mean, the only thing I would say about that is
2 that, in the policy you will see that it says that
3 officers shouldn't act independently because they might
4 compromise the actions of other officers.

5 Q. If he is not a bomber, he is immobilised?

6 A. Yes.

7 Q. If he is a bomber, then the members of the public around
8 may just have been given enough time to save their own
9 lives; yes?

10 A. Yes.

11 Q. If he has 3 to 5 kilograms of peroxide and ball bearings
12 strapped to him, and he manages to detonate them, then
13 it may be that some of those ball bearings will be
14 absorbed by the body of the officer who has grabbed him
15 and will not kill or blind or maim the others in the
16 carriage?

17 A. That's correct, yes.

18 Q. And that decision has to be made as quick as that?

19 A. Yes, it does.

20 SIR MICHAEL WRIGHT: Thank you, Mr Gibbs. Mr Stern?

21 Questions from MR STERN

22 MR STERN: I represent the two firearms officers C2 and C12.

23 A. Right.

24 Q. I think it's right that there are no rules of engagement
25 for firearms officers but they have to apply the law as

- 1 understood by all of us?
- 2 A. They do have to apply the law, that's right, yes.
- 3 Q. And that is why, at the end of each briefing they are
- 4 reminded of the law?
- 5 A. That's right, yes.
- 6 Q. Officers, firearms officers, as I think you have already
- 7 told us, will make an assessment as to whether or not
- 8 an oral warning ought to be given out of necessity as
- 9 set out in the circumstances of the ACPO manual which we
- 10 have looked at?
- 11 A. Yes, that's right.
- 12 Q. So they must make that assessment at the time?
- 13 A. Yes.
- 14 Q. Outside an order to make a critical shot -- I say
- 15 an order -- the officer's assessment is the determining
- 16 factor as to how it is that the officer conducts himself
- 17 at the scene?
- 18 A. Yes.
- 19 Q. That officer's assessment of the subject's conduct at
- 20 the time will determine whether he decides that he needs
- 21 to fire a shot?
- 22 A. Yes.
- 23 Q. That of course will be determined to some extent by the
- 24 briefing or briefings that they have had?
- 25 A. Yes, it could be, yes.

- 1 Q. By the intelligence that they have been given during the
2 course of the surveillance follow?
- 3 A. Yes.
- 4 Q. And of course, very importantly, by the conduct of the
5 suspect at the time?
- 6 A. That's right, yes.
- 7 Q. Now, 22 July 2005, as you have told us, was unique?
- 8 A. Yes.
- 9 Q. It was unique because a failed suicide bomber, we knew
10 at least four, suicide bomber, was on the loose?
- 11 A. That's right, yes.
- 12 Q. Now, the fact that the suspect had been identified as
13 one of the suicide bombers of the previous day, you
14 would agree is a very important fact in assessing the
15 threat of that individual?
- 16 A. Oh yes.
- 17 Q. It would be ridiculous not to, wouldn't it?
- 18 A. Yes, that's right.
- 19 Q. Because it was known on 22 July, if the identification
20 was accurate, that the individual had actually tried to
21 commit mass murder the day before?
- 22 A. Yes.
- 23 Q. So the police were not dealing with someone who was
24 unidentified or unknown to them?
- 25 A. I think you could make that assumption, yes. Yes.

1 Q. Also the fact that this individual had been followed by
2 surveillance to the tube, a location or a type of
3 location where it was known that the very day before,
4 that suicide bomber had sought to carry out
5 a detonation, is also significant in the threat.

6 A. Yes.

7 Q. Now, I'm not going to ask you about the conduct of the
8 individual on the day, but it's clear, isn't it, that
9 non-compliance by an individual is of significance in
10 that context?

11 A. Yes, it is, yes.

12 Q. In order to determine whether an individual, in
13 particular this individual, had a bomb on him on that
14 particular day, there is, as I understand it from what
15 you are saying, no way of divining it but just a way of
16 inferring or assessing from all of those factors that we
17 have just been through. Is that right?

18 A. Yes, it is, yes.

19 Q. So an officer doing the best he can or she can at the
20 time, trying to assess all of those factors in the way
21 that my learned friend Mr Gibbs has put it, in a split
22 second, is the only way in which these matters can be
23 dealt with; is that right?

24 A. That's right, yes.

25 Q. Can I ask you about methods of detonation, because

- 1 I just need to be clear about one or two things, and I'm
2 not sure I have got it absolutely clear. I think you
3 said that there were four, in your statement you have
4 five and it may be that they are the same, I don't know,
5 there is a switch method?
- 6 A. Yes.
- 7 Q. Just remind us as to what --
- 8 A. Let me stand.
- 9 Q. Yes, of course.
- 10 A. It's where the device is under the clothing and there
11 will be one or two switches actually fixed to the belt
12 itself that you press them or turn them or flick them
13 and then they detonate the device.
- 14 Q. So have I understood that the switch will be underneath
15 the clothing?
- 16 A. Yes, it will, yes.
- 17 Q. So it takes, what, one hand to move in a particular way
18 just to put the switch on?
- 19 A. That's right, yes.
- 20 Q. That will be the end of those people around him?
- 21 A. Yes.
- 22 Q. That switch can be on the belt, which of course as we
23 have heard, can be slightly lower than the point that
24 you were pointing to?
- 25 A. Oh yes.

- 1 Q. Where is it that you have seen --
- 2 A. I mean, I have seen them from sort of around the chest,
3 which was the bra type ones, all the way down into
4 underpants, so they are really around the groin as well.
- 5 Q. For the sake of the record, you are pointing in the
6 pockets area there, is that right?
- 7 A. Yes.
- 8 Q. So all it would take is one hand to push a switch under
9 the clothing, concealed, not in the hand, to detonate
10 a bomb to destroy the people's lives around them?
- 11 A. That's right, yes.
- 12 Q. The toggle, I don't think you mentioned that, and it may
13 be that is something completely different or the same,
14 forgive me if I am asking you to repeat something, but
15 what is the toggle?
- 16 A. There was that one where the switches are actually
17 attached to the device.
- 18 Q. Yes.
- 19 A. There was the one where the wires come down the sleeve
20 into like a rocker switch that you hold in your hands.
- 21 SIR MICHAEL WRIGHT: That's what you are talking about.
- 22 MR STERN: That's the toggle.
- 23 A. Yes.
- 24 MR STERN: So the wires come through the jacket.
- 25 A. Yes.

- 1 Q. Then there is a switch that you do hold in your hand
2 which can be, what sort of size are we talking about?
- 3 A. It's like a switch off the dashboard of a vehicle, like
4 a rocker switch is the most common type we have seen.
- 5 Q. So just a little switch that you can flick.
- 6 A. That's right, yes.
- 7 Q. What would that be? Just in the hand you just flick it
8 like that?
- 9 A. Yes, you would, you just hold it in your hand and they
10 flick it with a hand and away it goes, yes.
- 11 Q. Obviously the method of detonation that an individual is
12 going to use will only be known afterwards?
- 13 A. That's right.
- 14 Q. Concealment is the byword, is it not, for the suicide
15 terrorist?
- 16 A. Oh yes, very much so.
- 17 Q. You have described how the material could be -- the
18 explosive material could be tied very tightly, I think?
- 19 A. That's right, yes.
- 20 Q. That's what you found in the main.
- 21 A. That's right, yes.
- 22 Q. Very tightly from almost up, as you have pointed to the
23 bra, right the way down into the groin area?
- 24 A. Yes.
- 25 Q. Any one of those areas?

- 1 A. Yes.
- 2 Q. It doesn't take up much space as you have told us?
- 3 A. No.
- 4 Q. It is clearly designed, as I say, concealment being the
5 byword, not to be seen?
- 6 A. That's right.
- 7 Q. Even under loose clothing, as you have described it to
8 us?
- 9 A. That's right, yes.
- 10 Q. The question that was asked by the jury about the
11 rucksack and you have answered that, in fact was a very
12 similar question -- you won't know this but the jury
13 will -- asked by one of the CO19 officers at the
14 briefing about whether it could be concealed and easily
15 concealed. I take it from your answer that you would
16 wholeheartedly agree with the answer that was given at
17 the briefing that it can be?
- 18 A. Well, I actually know how the rucksack ones from the
19 21st, what they were actually like, and what they had is
20 on the rucksack, there were wires coming out of the
21 bottom of the device and the bottom of the rucksack, and
22 then they came out of the bag and they were wrapped
23 round the belt of the bomber and then actually fed into
24 their pocket. And what they -- I think it's a PP9, the
25 little 9 volt battery and all they had to do was put

- 1 their hand in their pocket and just touch the PP9 to the
2 terminals and then that would have set the device off.
3 I didn't know that obviously on the 21st but I have
4 subsequently found out about that.
- 5 Q. The bombs on 7 July, as we understand, were, and I am
6 not going to read out the whole name, but it's HMTD; is
7 that right?
- 8 A. That's right, yes.
- 9 Q. Was it the same on 21 July?
- 10 A. Well, it was more of a -- HMTD is a mixture of a number
11 of different materials. I think the ones from the 21st
12 were more peroxide based rather than that sort of much
13 more complex formula.
- 14 SIR MICHAEL WRIGHT: Basically the same type of material.
- 15 A. Yes.
- 16 MR STERN: Same type of explosive material, highly volatile?
- 17 A. Yes.
- 18 Q. As we understand it from your evidence, if there were no
19 metal fragments actually put on to the device, could
20 provide a bomb that would explode, I think you said, 10
21 or 15 metres?
- 22 A. Yes.
- 23 Q. So fatality to those within 10 or 15 metres?
- 24 A. Yes.
- 25 Q. So a police officer running towards, or a surveillance

1 officer running towards that sort of bomb, even without
2 any galvanised nails, would certainly lose his life?

3 A. Absolutely, yes.

4 Q. It would be a greater and an increased level of fatality
5 if there were galvanised nails or wrap-around nails?

6 A. Yes.

7 Q. That, I think you said, would amount to about
8 150 metres?

9 A. That's right, yes.

10 Q. That would, of course, include not just the officers and
11 those in the particular carriage but probably two
12 carriages at least?

13 A. That's right, yes. And if you look at the device from
14 the 7th, it's my understanding that there wasn't any
15 fragmentation on the ones they used on the 7th, but
16 there was a crude attempt to put fragmentation on the
17 ones from the 21st.

18 SIR MICHAEL WRIGHT: You mean shrapnel?

19 A. Yes, sir. I don't know if you have seen a picture of
20 the device on the 21st. It's a tupperware-like
21 container about that depth (indicated), about that
22 diameter, and what they had done, they had wrapped
23 Sellotape round it and fixed to the Sellotape were nuts
24 and bolts and washers.

25 MR STERN: We are in fact going to hear from the man who

1 found the bombs in Luton, but are you familiar with
2 those?

3 A. I have seen the pictures of them.

4 Q. You have seen the pictures of them. They are very
5 small, aren't they?

6 A. Which ones?

7 Q. They are small, the ones found at Luton in the vehicle.

8 A. Yes, they are, yes.

9 Q. As I said we are going to hear from the man who actually
10 found them.

11 A. Right.

12 MR STERN: Yes, thank you.

13 MS LEEK: No questions.

14 SIR MICHAEL WRIGHT: Mr Penny.

15 Questions from MR PENNY

16 MR PENNY: Just three topics, please, Mr Swain. So it's
17 clear, I represent a number of the senior officers, but
18 these questions are asked specifically with respect to
19 Commander Dick's position.

20 A. Right.

21 Q. Firstly, 21 July. The matter has just been dealt with.
22 Can I summarise the matter in this way: both the devices
23 on 7 July and 21 July involved explosives created
24 through the reduction of hydrogen peroxide?

25 A. Yes.

- 1 Q. The point that you have just made as far as the 21 July
2 devices is that they were packed with, or at least
3 an attempt had been made to pack them with nails or
4 other forms of metal fragments?
- 5 A. Well, I would say "packed" is probably too strong
6 a word. There were --
- 7 Q. -- to the outside.
- 8 A. There were four bands of Sellotape around them, with
9 nuts, bolts, as opposed to others I have seen where they
10 literally were packed into the explosive.
- 11 Q. It sounds like a ridiculous thing even to conceive of,
12 but on the face of it, an even more deliberate attempt
13 to cause loss of life and serious personal injury --
- 14 A. Yes, yes.
- 15 Q. -- than had been achieved on 7 July.
- 16 Now, the bomb factory as far as 21 July was
17 concerned, it transpired, was in a flat in
18 New Southgate, a place called Curtis House, are you
19 aware of that?
- 20 A. I don't know that much about the investigation detail.
- 21 Q. Are you aware of how much other hydrogen peroxide was
22 found?
- 23 A. I think there was quite a lot of it found, yes.
- 24 Q. There was evidence that there had been significant
25 efforts to reduce hydrogen peroxide?

- 1 A. That's right, yes. I'm told if you get it, the sort of
2 percentage that you have -- "Neil" will tell you this,
3 but the sort of percentage when you buy hydrogen
4 peroxide to bleach your hair is about 5 per cent, but if
5 you reduce hydrogen peroxide to 60 per cent or above,
6 then it's an explosive in its own right.
- 7 SIR MICHAEL WRIGHT: You use the word "reduce" in the
8 chemist sense. What you are actually doing is
9 concentrating it.
- 10 A. That's right, yes, sir.
- 11 MR PENNY: Of course the point has been made a number of
12 times now, but when we come to consider what took place
13 on 22 July, we shouldn't forget that those who were
14 being sought were those who had been directly concerned
15 in these efforts.
- 16 A. That's right, yes.
- 17 Q. I want to just ask you, please, about a couple of
18 decisions that you were involved in making during the
19 course of 21 July and that you have told us about. You
20 have told us that when you were with Commander Carter on
21 the afternoon of the 21st, there was a suspicion because
22 of the reports that were coming in to you in the early
23 stages that this was a chemical or a biological attack?
- 24 A. Yes.
- 25 Q. As a result you made a decision together with him to

- 1 deploy the appropriately clothed police officers to the
2 scenes as a result?
- 3 A. That's right, yes.
- 4 Q. Equally because of what was happening, you told us that
5 there was a change of policy on the hoof regarding the
6 way in which calls into Scotland Yard would be handled?
- 7 A. Yes.
- 8 Q. Or rather calls regarding suspected suicide terrorists
9 would be handled by the Metropolitan Police on the
10 21 July?
- 11 A. Yes.
- 12 Q. That was effectively to introduce a filtering system
13 whereby those calls would be handled in the first place
14 by the borough Operational Command Unit?
- 15 A. That's right, yes.
- 16 Q. Would you agree with this, Mr Swain, both of those
17 decisions which you were party to were made fast time,
18 if I can use that phrase?
- 19 A. Oh yes.
- 20 Q. Both of those decisions were made showing flexibility?
- 21 A. Yes.
- 22 Q. The need, as a decision-maker, to adapt to the
23 circumstances as they presented themselves to you and to
24 Commander Carter at the time?
- 25 A. That's correct, yes.

- 1 Q. I want to move to a second area, please, and that is
2 Deputy Assistant Commissioner, as she now is, Dick.
3 I think the position is that in 2002, she was one of
4 four Association of Chief Police Officer officers within
5 the Metropolitan Police who were selected for training
6 in relation to tactics for dealing with suicide bombers?
- 7 A. That's right, yes.
- 8 Q. I think you were involved in, indeed principally
9 responsible for, that training?
- 10 A. I was, yes.
- 11 Q. Can we just spend a second or two just thinking about
12 the rationale of the involvement of a senior officer --
- 13 A. Right.
- 14 Q. -- in the making of these decisions. You have told us
15 that it was the position that, in the very original
16 policy or the very -- when this was first thought about,
17 Chief Inspectors, who were performing the role within
18 the intelligence unit, were expressing the view that
19 this was a decision which really ought to be made by
20 more senior officers?
- 21 A. Yeah, it was Chief Inspectors in information room who
22 were -- who command the policing response to London, and
23 they were quite uncomfortable with making that decision,
24 really, because of the magnitude of it. It was not
25 an unreasonable position for them to be in, really,

1 because we had a designated senior officer who was
2 an ACPO rank dealing with the pre-planned, and yet in
3 the spontaneous we had left it to a Chief Inspector.
4 That's why there was this evolution into having an ACPO
5 officer actually command the spontaneous ones as well.

6 Q. So the rationale, therefore, was it not, was that you
7 need a senior officer firstly to manage the risks based
8 upon the information available to her or to him?

9 A. Yes.

10 Q. Secondly to, in due course, if called upon, take finely
11 balanced decisions based upon the information available
12 to her or to him depending upon the situation?

13 A. Yes.

14 Q. May we lastly, then, look at the position as far as the
15 operation is concerned. I think you have told us, or
16 rather may I introduce the topic in this way: during one
17 of the hypotheticals which was being put to you by
18 Mr Mansfield this morning, and can I just introduce it
19 in this way, you asked him a question rhetorically why
20 would there be a DSO if it's not a Kratos, and you
21 remember the reaction at that stage.

22 We have heard that it was your idea to put in place
23 a designated senior officer for the manhunt?

24 A. Yes.

25 Q. Because that's what it was?

- 1 A. Yes.
- 2 Q. In the aftermath of the events of 21 July. You have
3 said, and we have been round the houses on this goodness
4 knows how many times, with you and with others, that
5 this operation did not fall neatly under either of the
6 labels, so to speak?
- 7 A. No.
- 8 Q. Of course it is the case, is it not, that no police
9 operation is ever the same?
- 10 A. Well, there are always variations, yes.
- 11 Q. Can you just help us, then, with your thought processes
12 in the early hours of the morning when you attended that
13 meeting on 22 July, knowing what faced the
14 Metropolitan Police Service?
- 15 A. Yes.
- 16 Q. So that it's clear, I think this was a meeting that you
17 were present at with the Assistant Commissioner?
- 18 A. Yes, yes.
- 19 Q. Two Commanders?
- 20 A. Yes.
- 21 Q. And indeed Andrew, we are calling him, one of the senior
22 tactical advisers in C019?
- 23 A. Yes, yes.
- 24 Q. Just explain to the jury why it was that you thought it
25 was wise to have a designated senior officer present at

1 Scotland Yard for the operation which lay ahead?

2 A. Right. If you accept the principle that, because of the
3 momentous nature of this decision that somebody's got to
4 make, it should rest in the hands of a very senior
5 police officer rather than put it down to a very junior
6 officer, if you accept that principle, and then we have
7 adopted it for Clydesdale, which is the pre-planned
8 event; and then as we have become more adept at doing
9 this, we have decided to have it for a Kratos type of
10 event as well; and then we have this third scenario that
11 nobody had really thought about before but here it was
12 unfolding in front of our eyes, it's very logical to
13 say, well, let us have a DSO for this type of role as
14 well.

15 Conversely, if we had not done that, you know, if we
16 had one for Clydesdale but we didn't have one for
17 a Kratos or we didn't have one for this, and somewhere
18 along the line somebody was killed, not dissimilar to
19 where we are now with this innocent person being killed,
20 there could be a lot of criticism of the organisation
21 for having this specially created role and then not
22 using it in this situation.

23 So the logic was, you know, we have got it for
24 Clydesdale. We now use it for Kratos. We have got
25 something else which has emerged which is not

1 dissimilar, so we should have it for that as well.

2 Q. We know of course that Commander Dick was contacted in
3 the immediate aftermath of this meeting, and we know of
4 course that she took charge of the operation as the
5 learned Coroner pointed out shortly before 8 o'clock
6 that morning in the operations room, and we know, and
7 have heard evidence about the others who were present in
8 the operations room that morning. May I invite you and
9 may we all please look at paragraph 50 of the witness
10 statement that you made in relation to this particular
11 matter. Here I think the position is, Mr Swain, that
12 you were invited in the course of making your witness
13 statement to comment upon the witness statements --

14 SIR MICHAEL WRIGHT: Sorry, 50 or 15?

15 MR PENNY: 50, page 1342, please.

16 The position is that you, Mr Swain, had been invited
17 to comment upon the witness statement which had been
18 tendered from Mr Paddick?

19 A. Yes.

20 Q. Mr Paddick had levelled certain criticisms as to, as it
21 were, where he said the boundary lay for the role of the
22 designated senior officer in the course of this
23 operation, and we have heard your opinion on that matter
24 in relation to questions that were asked of you this
25 morning by counsel for the Coroner.

1 I just wanted to follow through this paragraph with
2 you, so that we understand what the outcome of these
3 events has been.

4 If we just follow it through:

5 "In paragraph 24 Brian states that in his opinion
6 Kratos policy was not properly developed and the
7 scenario that took place was not anticipated. In my
8 opinion Brian is only half correct in this assertion.
9 He is correct in that we did not have..."

10 And that's a --

11 A. Standard operating procedure.

12 Q. "... which dealt with the encounter with a suspected
13 suicide bomber as part of an intelligence-led proactive
14 operation. In all our research globally, the two
15 scenarios that were identified were the spontaneous
16 sighting of a suspected suicide bomber and the
17 pre-planned event where intelligence indicated that
18 a suicide bomber (is) would try to attack a specific
19 event. Therefore, the UK was not alone in this gap. In
20 addition, I believe that the structure put in place on
21 the evening of 21 July 2005, involving a DSO assigned to
22 the proactive operation, was actually a sound model
23 which has been developed into the current standard
24 operating procedure."

25 So that decision, which was made in your presence

1 with the Assistant Commissioner, two Commanders and the
2 decision to appoint Commander Dick who came in, and the
3 structure that was put in place, is the structure more
4 or less which is in place for the Metropolitan Police
5 three years later?

6 A. That's correct.

7 Q. With all the opportunities to learn and reflect upon
8 what went on that day?

9 A. That's correct, yes.

10 MR PENNY: Thank you.

11 SIR MICHAEL WRIGHT: Thank you very much, Mr Penny.

12 MR KING: Nothing from me, thank you, sir.

13 SIR MICHAEL WRIGHT: Very well. Mr Horwell.

14 Questions from MR HORWELL

15 MR HORWELL: Mr Swain, Richard Horwell on behalf of
16 the Commissioner. You probably didn't expect to be
17 there that long today.

18 A. I didn't, no.

19 Q. I'll try and ensure you depart as soon as possible. Can
20 I first ask you about a number of questions that
21 Mr Mansfield has put to you over the course of today.
22 He put forward a hypothetical situation of events in
23 Israel, and I think you almost immediately issued a word
24 of caution when comparing England to Israel, because,
25 over the years, it has developed an extremely effective

- 1 intelligence-driven --
- 2 A. Yes.
- 3 Q. -- policy --
- 4 A. Yes.
- 5 Q. -- in their fight against suicide bombers. Perhaps like
- 6 we once had with the IRA?
- 7 A. That's right, yes, yes.
- 8 Q. The example that he gave you was that the Israelis had
- 9 intelligence that a suicide bomber coming out of
- 10 a building to get on a bus on foot, and tried to compare
- 11 that to the situation that we have here. But here there
- 12 was no intelligence whatsoever --
- 13 A. No.
- 14 Q. -- that there was anyone in the building. The belief in
- 15 fact was that there were no bombers in the building, as
- 16 I'm sure you are aware. And if anyone were to come out
- 17 of this building, there was no idea, let alone
- 18 intelligence, as to whether the person would leave on
- 19 foot or in a vehicle, and if so in which direction they
- 20 would go?
- 21 A. That's right, yes.
- 22 Q. Of course the resources available to the
- 23 Metropolitan Police Service were limited?
- 24 A. Yes.
- 25 Q. Are the two events in any sense comparable?

- 1 A. Not really, no, I don't think they are, no.
- 2 Q. The Israeli one and what actually happened here?
- 3 A. One of the things that has really frustrated my team
4 over the years is that often people have said that all
5 we have done is adopt Israeli tactics, and that's
6 actually not the case. We always felt from the
7 innuendo, the way they told us about things and some of
8 their actions that what they were doing was actually far
9 too aggressive for where we are, and so they are not
10 Israeli tactics, they are tactics that have been very
11 carefully thought about in the UK and that's what we
12 have got, and you know, you can make comparisons about
13 the type of device and things like that. Can you make
14 comparisons between their environment and ours? I don't
15 think you can.
- 16 Q. But even factually the two scenarios are extremely
17 different, would you not agree?
- 18 A. Yes, they are, yes.
- 19 Q. You were asked many questions about whether or not there
20 exists a threshold under the heading of rules of
21 engagement. Before this inquest commenced, we had
22 provided to all the interested persons this summary, and
23 I'm going to read it to you and ask whether or not you
24 agree:
- 25 "In either circumstance [that means Kratos or

1 Clydesdale] there is no threshold which is specific to
2 either Kratos or Clydesdale. The particular individual
3 [and this is the firearms officer] must use his or her
4 judgment and make an assessment of the threat and risk
5 which is present, and a decision must then be made
6 within the requirements of the law."

7 A. Yes.

8 Q. "The ACPO manual of guidance on police use of firearms
9 is the relevant guidance in each and every circumstance
10 in which firearms were used by police officers."

11 A. Yes.

12 Q. Do you agree with that?

13 A. I do, yes.

14 SIR MICHAEL WRIGHT: That of course applies to what has been
15 called a conventional armed stop as well as Kratos or
16 Clydesdale. It's standard.

17 A. That's right.

18 MR HORWELL: Do you agree that it is too easy to get bogged
19 down with phraseology?

20 A. I think it is, yes, yes.

21 Q. Because ultimately, as I know you have said on a number
22 of occasions during the course of today, ultimately it
23 has to depend on the judgment of the firearms officer
24 who is faced with the threat?

25 A. That's right, yes.

- 1 Q. One could have volumes of guidance and it would make no
2 difference?
- 3 A. That's right, yes.
- 4 Q. The suggestion that the mere fact that a DSO was used on
5 the 22 July could have raised the tension and could have
6 misled officers as to what was taking place; that point,
7 I am not suggesting --
- 8 A. No, no.
- 9 Q. -- that that is what happened. I just want to analyse
10 with you what is suggested there, because we mustn't
11 lose sight, do you not agree, of the fact that this was
12 22 July of 2005, 52 people murdered, 997 injured on the
13 7th, and there could have been a replication of that
14 atrocity on the 21st?
- 15 A. That's correct, yes.
- 16 Q. These officers knew that they were going to possibly
17 confront failed suicide bombers?
- 18 A. Yes.
- 19 Q. So with the atmosphere that must then have existed, and
20 with the stark reality that suicide bombers may be
21 confronted, the use of a DSO, would it have made any
22 difference at all to the raising of tensions?
- 23 A. Well, I mean --
- 24 Q. In those circumstances?
- 25 A. No, it wouldn't, because back in those, you know, in

1 2005, if those bombs on the 21st had actually gone off,
2 goodness only knows where we would have been, because
3 that would have been two atrocities in two weeks, a lot
4 more people killed, you know, the tube system would
5 probably have collapsed, people wouldn't have come into
6 London, and the fact that the DSO was there, you know,
7 as far as us dealing with it, was, it's not
8 an irrelevance because it's an intrinsic part of what we
9 were dealing with, but it was just another factor,
10 a part of that scenario.

11 SIR MICHAEL WRIGHT: I think what Mr Horwell is putting to
12 you is the knowledge that a DSO had been appointed to
13 the individual officers, what he is suggesting is it
14 wouldn't have made any difference --

15 A. No, because we actually had one in the information room
16 24/7 at that time anyway.

17 MR HORWELL: We have -- you may not know, Mr Swain -- been
18 waiting for seven weeks now for a suggestion from
19 Mr Mansfield as to how this policy should proceed for
20 the future. We heard for the first time today the
21 suggestions, as I have understood it -- and tell me if
22 you have understood it in a different way -- but the
23 challenge which has always been part of police policy --

24 A. Yes.

25 Q. -- if it can be issued, that the challenge should be

- 1 obligatory. Is that, in your opinion, a practical
2 response?
- 3 A. Not in these circumstances, no, it isn't, because if
4 this had been a suicide bomber and they had issued
5 a challenge, and he had detonated himself -- as we know
6 has happened -- you know, we might well be sitting here
7 saying: well, why did you issue an oral challenge,
8 because you alerted that person and gave the opportunity
9 to blow themselves up.
- 10 Q. It comes back down again, does it not, to the same old
11 point: leave it to the discretion of the officers who
12 are faced with the threat?
- 13 A. Yes, it does.
- 14 Q. It's for them to decide?
- 15 A. Yes.
- 16 Q. Did I understand correctly the questions that Mr Gibbs
17 asked you -- he was the first counsel after Mr Mansfield
18 to ask you questions -- do I understand it correctly
19 from the questions that Mr Gibbs asked you that, even on
20 Mr Mansfield's suggestion, there is a significant risk
21 of an innocent member of the public being shot?
- 22 A. Yes, there is, yes. And more's the tragedy.
- 23 Q. Of course. No-one loses sight of that, Mr Swain.
- 24 A. No.
- 25 Q. You were asked many questions about what a firearms

1 officer might be able to see in a situation such as
2 this. But is this a summary of your response, that
3 absence of signs does not mean absence of a device?

4 A. No, it doesn't.

5 Q. And this is the dilemma that again we have referred to
6 time and time again throughout this inquest?

7 A. Yes.

8 Q. Can I ask you a few more general questions: the DSO and
9 the role of the DSO. The jury have heard in particular
10 from two witnesses: Dick, who was one of the very first
11 four people in the country to be trained as a DSO.

12 A. Right.

13 Q. And Mr Paddick, who has had half a day's training before
14 the shooting, followed by a day after, and we have heard
15 that he had never acted as an oncall DSO, and had never
16 acted even as a DSO in any circumstances.

17 A. No.

18 Q. From Mr Paddick's witness statement, how would you
19 assess his understanding of Kratos and Clydesdale
20 policies and the role of the DSO?

21 A. Well, I actually thought he understood it better than
22 what he said in his statement, frankly, so what he said
23 in his statement, if that's what he believes, then
24 frankly he doesn't know that much about it.

25 Q. Does that comment also apply to the evidence that he

- 1 gave yesterday?
- 2 A. I think it does, yes.
- 3 Q. Paddick's understanding that a DSO should only be used
- 4 to decide if a critical shot should be taken?
- 5 A. I mean, that's just not feasible, really, because the
- 6 DSO is going to be there as part of that build-up for
- 7 it, and the prospect that this person is just going to
- 8 step up, say "shoot him" and then step back is just --
- 9 is ridiculous.
- 10 Q. When a DSO is appointed, I think you have said this
- 11 already, it's a matter of discretion between the DSO and
- 12 the SIO, the senior investigating officer --
- 13 A. Yes.
- 14 Q. -- as to when the DSO should come in?
- 15 A. That's right, yeah. We have had -- we had quite a lot
- 16 of debate in the development of the policy around that
- 17 particular aspect, and trying to be prescriptive is not
- 18 something you can do, really, because so much depends on
- 19 what's unfolding in front of you. So it's really -- and
- 20 of course that was frustrating for these people because
- 21 sometimes they want a clear direction, but it's really
- 22 a debate between the SIO and the DSO about when they
- 23 should take -- when they should hand over control and
- 24 who should be in charge.
- 25 Q. Let us move from theory to fact. You were present on

1 the night of the 21st/22nd, and you have told us at the
2 meeting at which it was decided -- and you suggested the
3 point -- that a DSO should be assigned to this manhunt,
4 and this was innovative policing?

5 A. I think it was, yes, yeah.

6 Q. Now, Dick, as we know, took control of the manhunt from
7 the beginning, and that has received criticism from
8 Mr Paddick, and I think we have a fair idea now about
9 your views of his opinions, Mr Swain. The fact that
10 Dick took control of the manhunt as the DSO, was that
11 consistent with the policy as you understood it?

12 A. Well, one of the reasons Cressida was actually one of
13 the first four DSOs is that she is one of the most
14 experienced persons in the police at that rank dealing
15 with public order and crime in action, in this situation
16 we are talking about, a crime in action. And her taking
17 over, you know, I would respect her judgment. If she
18 felt that was the right thing to do, then I am sure it
19 was the right thing to do, and I think it's entirely
20 consistent with, you know, how the policy's developed
21 since then.

22 Q. Would you seek to criticise her in any way whatsoever
23 for doing what she did?

24 A. Absolutely not, no.

25 Q. The point about which, again, you have been asked many

- 1 questions, the whole ethos of the suicide bomber is to
2 conceal both his device and his intent?
- 3 A. Yes.
- 4 Q. Again if we can move away from theory to fact for one
5 moment, there is film, is there not, taken on 21 July of
6 one of the bombers attempting to detonate the bomb?
- 7 A. That's right, yes.
- 8 Q. I think it's Ramzi Mohammed at the Oval?
- 9 A. Yes.
- 10 Q. Let us not matter for the moment who it was. And there
11 is a camera in the carriage that is filming this bomber,
12 who is standing up?
- 13 A. Yes.
- 14 Q. Is there any suggestion before the detonation of what he
15 is about to do?
- 16 A. Oh nothing at all, no, no, he is just standing there,
17 it's the same on the bus as well, that they are just
18 sitting there, and then you can see the passengers turn
19 round because of the small explosion, and there is no
20 indication of anything up to that point.
- 21 Q. Code words.
- 22 A. Yes.
- 23 Q. Anything unclear or ambiguous about "critical shot
24 authorised"?
- 25 A. No, there isn't, actually, no.

- 1 Q. And this suggestion that to a firearms officer "stop"
2 can mean shoot, what do you say about that?
- 3 A. I would say, having been an AFO myself, if I was asked
4 to stop somebody, I wouldn't think that would mean shoot
5 them, no.
- 6 Q. Have you ever heard that from anyone else other than
7 Mr Paddick?
- 8 A. No. No. No.
- 9 Q. No doubt there are circumstances where, although
10 difficult, a suicide bomber can be relatively
11 controlled, for example from a checkpoint?
- 12 A. Yes.
- 13 Q. And no doubt Israel has much experience of this?
- 14 A. Yes, they do, yes.
- 15 Q. From a checkpoint, the suicide bomber in a sterile area.
16 But the suicide bomber on a crowded bus, in a crowded
17 street, in a crowded station, in a crowded train; there
18 are no easy answers, Mr Swain?
- 19 A. No, absolutely not, no. There are not, no.
- 20 Q. You have spent years trying to find an answer?
- 21 A. I have, yes.
- 22 Q. The rest of the civilised world has spent years trying
23 to find an answer?
- 24 A. That's right, yes.
- 25 Q. And one still does not exist?

- 1 A. No.
- 2 Q. You have referred to some statistics from
3 Professor Robert Pape --
- 4 A. That's right, yes.
- 5 Q. -- in your statement, and this perhaps indicates the
6 fact that the world has not yet found the answer:
7 "Suicide attacks between 1980 and 2003 accounted for
8 only 7 per cent of the total number of terrorist
9 attacks."
- 10 A. Yes.
- 11 Q. "Even though 7 per cent of the number, they accounted
12 for 48 per cent of the casualties."
- 13 A. That's right, yes.
- 14 Q. Both before and after 22 July, was the threat from
15 suicide terrorists taken very seriously by the
16 Metropolitan Police Service?
- 17 A. Oh yes, yeah, very much so.
- 18 Q. Were we ahead of Europe, for example, as far as you were
19 aware?
- 20 A. I would say that, where we were around July 2005, that
21 in the sort of society that we live in, that the tactics
22 that we had were probably better than anyone else
23 anywhere in the world, in my opinion.
- 24 Q. And since this dreadful day, we have gone forward --
- 25 A. Continued, yes.

- 1 Q. -- and Europe has followed?
- 2 A. That's correct, yes.
- 3 Q. A point was raised some time ago, this is before you
4 gave evidence, as to the fact that firearms officers
5 cannot be trained for incidents such as this. I want to
6 ask you just a little bit about that, please. The
7 circumstances in which a suicide bomber can be
8 confronted are infinite?
- 9 A. Yes.
- 10 Q. And therefore is there any purpose in training them for
11 specific occasions and incidents?
- 12 A. I think you can give examples of incidents that have
13 taken place, but the principle really is that you can't
14 train for everything, but what you can do is you can
15 train for anything, and so what you do is that you make
16 your training specific enough so that they have got
17 knowledge about what it is they might be facing, but
18 then the training is generic enough so that they can be
19 flexible and adapt to what they are faced in front of
20 them.
- 21 Q. I think one witness put it in this way: you train and
22 develop the core skills of a firearms officer; and do
23 you agree with that?
- 24 A. Yes, I do, yes.
- 25 MR HORWELL: Thank you, Mr Swain.

1 SIR MICHAEL WRIGHT: One or two, please.

2 Questions from THE CORONER

3 SIR MICHAEL WRIGHT: If, as you are telling us, peroxide,
4 hydrogen peroxide, which is after all a commonplace
5 domestic product in this country, is being used as the
6 base for these very volatile, very powerful bombs --
7 I ought to know the answer to this, and I regret
8 I don't -- is there any legal or other constraint on the
9 quantities of hydrogen peroxide that can be sold?

10 A. No, there isn't. There is three main components that
11 make up TATP, which is --

12 SIR MICHAEL WRIGHT: Careful, don't tell us too much.

13 A. Well, you could go on the internet and find it out,
14 actually, sir. But it's acetone, hydrogen peroxide, and
15 some sort of acid. Now, acetone, you can go and buy
16 that in the builders' merchant, ladies use it to clean
17 off their nail varnish, so it's readily available.

18 The hydrogen peroxide, you can use it to bleach your
19 hair, so again its a very common --

20 SIR MICHAEL WRIGHT: Its a well known domestic cleaning
21 product.

22 A. It is, that's right. And acid, you can use acid out of
23 a car battery, you could use citric acid which you use
24 in food preparation. You just need to put them together
25 in the right constituent parts --

1 SIR MICHAEL WRIGHT: And you've got a bomb?

2 A. -- and that's where the danger comes, this one in five
3 that gets killed making it, but when you are finished
4 you have an extremely powerful explosive.

5 SIR MICHAEL WRIGHT: And of course other things like --
6 other innocuous things like fertiliser.

7 A. That's right, yes. Now, there has been some work done
8 around there -- I won't elaborate, but there has been
9 some work done around fertiliser to try and reduce the
10 damage from that, but of course that's a different
11 scenario to the sort of thing we are looking at
12 nowadays.

13 SIR MICHAEL WRIGHT: The second question I have is this:
14 Mr Stern asked you -- and indeed the answer was
15 perfectly understandable -- that if, on challenge --
16 well, sorry, forget on challenge, I'll start the
17 sentence again.

18 If a suspect is observed to be non-compliant, that
19 fact may well be something of importance for the
20 firearms officer to put into his mental computer when he
21 is deciding what he is going to do?

22 A. Yes, sir.

23 SIR MICHAEL WRIGHT: The difficulty about that, as it seems
24 to me, is that, as we have seen from the guidance given
25 by ACPO and other documents we have seen in the course

1 of this inquest, one of the things an officer is
2 cautioned not to do is to alert the person who is
3 suspected, for the reasons you have given us: if you
4 alert, he will detonate?

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

6 SIR MICHAEL WRIGHT: So that effectively means that, in
7 those circumstances, a challenge may be inappropriate?

8 A. Yes.

9 SIR MICHAEL WRIGHT: If you have no challenge, you have
10 nothing to comply with?

11 A. That's right.

12 SIR MICHAEL WRIGHT: And so in that sense, compliance or
13 non-compliance is a rather more speculative basis for
14 making up your mind about who you are dealing with?

15 A. Yes.

16 SIR MICHAEL WRIGHT: Again I suppose this is another of
17 these dilemmas to which there is no answer?

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

19 SIR MICHAEL WRIGHT: The third thing is this: I'll put it
20 a slightly different way from the way the juror has put
21 the question, but I think you will see what he or she is
22 after.

23 We are now three years down the line from July 2005.

24 You served in the Force for 18 months after these
25 events. Is it likely that there is a single senior

1 police officer in the United Kingdom or a firearms
2 officer in the United Kingdom who is not absolutely
3 au fait, absolutely familiar with what happened on the
4 22 July?

5 A. No, that's not likely, no.

6 SIR MICHAEL WRIGHT: Not likely, no, not even -- not likely.

7 A. No.

8 SIR MICHAEL WRIGHT: Since 22 July, and you were
9 contributing to it for 18 months, in your view, have the
10 Metropolitan Police been seeking to learn the lessons to
11 be learnt from the events of 22 July?

12 A. There was a review body set up under
13 Assistant Commissioner Steve House after the events of
14 22 July, which I think is still running now, and that
15 was reviewing the whole ethos of the policy: do we have
16 it right? What other learning is there that we can do?
17 Should we adapt it? Kratos has become like the generic
18 title for all suicide bomber tactics, and then you have
19 got three specific tactics underneath.

20 But I would say, given you know, the outcome of the
21 22nd, it's been taken so seriously because of the, you
22 know, the tragedy of Jean Charles de Menezes, and the
23 people involved in that as well, that I would say every
24 stone -- there is not a stone unturned to try and come
25 up with some solution. But the reality is these are

1 extremely difficult things to deal with. Life will
2 always be in danger in these type of things and I don't
3 know what the answer to that is, I'm not even sure there
4 is an answer.

5 SIR MICHAEL WRIGHT: Certainly in the 18 months that you
6 were still there, and I have no doubt you have a fair
7 idea of what's been going on since --

8 A. Yes, I do.

9 SIR MICHAEL WRIGHT: -- is it in your view plain that the
10 lessons to be learnt from 22 July have been incorporated
11 into --

12 A. Very much so, yes.

13 SIR MICHAEL WRIGHT: At all levels?

14 A. Yes, sir.

15 SIR MICHAEL WRIGHT: Having said all that, I dare say you --
16 if you have been following the evidence here -- will
17 have read that Mr McDowall, very early on, in answer to
18 Mr Mansfield and I think Mr Boutcher, also said that it
19 would be impossible to guarantee that a tragic mistake
20 might not be made again.

21 A. And I wouldn't disagree with that, no.

22 SIR MICHAEL WRIGHT: That, sadly, is right?

23 A. That's right, yes, and that's the reality not just in
24 the UK but round the globe, really, of people who have
25 to face these sort of things ... You know, countries

1 deal with them differently, according to their sort of
2 local cultures and things, but the reality is that
3 dealing with this type of thing there is always going to
4 be mistakes made.

5 SIR MICHAEL WRIGHT: In one sense, would it be fair to say
6 that the real responsibility for those accidents,
7 situations, lie with the people who indulge in
8 terrorism?

9 A. Yes, sir, I would, yes. If we had not had the 7th or
10 the 21st, then we wouldn't be where we are now.

11 SIR MICHAEL WRIGHT: We wouldn't be here today?

12 A. No.

13 SIR MICHAEL WRIGHT: No. Mr Hough?

14 Further questions from MR HOUGH

15 MR HOUGH: Just one matter to deal with. You were asked by
16 the Coroner, and I think also by Mr Horwell, I think you
17 accepted this proposition, that whatever intelligence
18 a firearms officer has coming through to him, there has
19 to be a discretion one way or the other whether to fire
20 without having issued a challenge or warning?

21 A. Yes.

22 Q. You also accepted that that, the exercise of that
23 discretion, making that decision, is exceptionally
24 difficult?

25 A. Yes.

- 1 Q. In 2005, as far as you were aware, was there any written
2 guidance to help officers in the exercise of that
3 discretion or decision in the suicide terrorist
4 scenario?
- 5 A. Outside of what we have already talked about?
- 6 Q. Yes.
- 7 A. No, there isn't.
- 8 Q. For example, actions to take account of, specific
9 intelligence to take account of, and Mr Stern gave you
10 examples in this particular case but I am talking about
11 training beforehand in general terms; any guidance like
12 that?
- 13 A. Well, they get guidance about how these devices work,
14 about what the methodologies these people adopt, so they
15 get that guidance and that supplements their basic
16 firearms training that they get.
- 17 Q. But guidance of any kind, specific guidance on the
18 exercise of that difficult choice?
- 19 A. Well, apart from what I have said -- and again I do not
20 want to duck the question -- but is it a better question
21 put to Bill Tillbrook?
- 22 Q. I ask you because you were involved in the production of
23 the policy --
- 24 A. Yes, I was.
- 25 Q. -- learning from around the world. I will just ask you

1 this finally: looking at it now, is it practicable in
2 your view to produce such guidance?

3 A. Could you produce more than what we have produced
4 already? I don't think it's practical because then you
5 go down the road of producing lots of different "what
6 ifs", and where do you stop? Because what you can
7 guarantee is that the "what if" you haven't thought
8 about is what you would be facing.

9 MR HOUGH: Thank you very much.

10 I think that's probably a time where we really do
11 need a break.

12 SIR MICHAEL WRIGHT: Very well. Mr Swain, thank you very
13 much indeed, that's all as far as you are concerned.
14 You may stay or go as you wish, and I hope you enjoy
15 a rather more peaceful retirement.

16 A. Thank you, sir.

17 MR MANSFIELD: Sir, may I just raise very quickly, because
18 it does affect the witness -- he can go, obviously.

19 Given the jury's question and your observations, and
20 given who the next witness is, in relation to the gap
21 that's been explored and the assurance that things have
22 changed, it really would be useful --

23 SIR MICHAEL WRIGHT: I remember you have made this request
24 before, and I hope Mr Tillbrook will be able to deal
25 with it, I don't know. Don't sit down, because I'm not

- 1 A. I am, sir, yes.
- 2 SIR MICHAEL WRIGHT: OCU?
- 3 A. Operational Command Unit, sir.
- 4 MR HOUGH: You did not hold that post in July 2005, I think?
- 5 A. That's correct, sir, I didn't.
- 6 Q. What post did you hold at that time, just to help us?
- 7 A. At that stage, sir, I was the OCU Commander for the
- 8 Met's Clubs and Vice Unit.
- 9 Q. You have made a statement dated 10 September 2008, and
- 10 that deals primarily with the structure and history of
- 11 CO19?
- 12 A. Yes, sir.
- 13 Q. There is no difficulty about you having it to hand and
- 14 I think you already have it?
- 15 A. Thank you, sir, yes.
- 16 Q. I will deal with much of this quite briefly because we
- 17 have had quite a lot of it from other witnesses, you
- 18 understand?
- 19 A. I understand, sir, yes.
- 20 Q. First of all dealing with the structure of CO19, and
- 21 I am looking now at paragraphs 8 and 9 of your statement
- 22 on page 3, in terms of its size, how many inspectors,
- 23 first of all, are in CO19?
- 24 A. It fluctuates, sir, but generally around 25 to 30,
- 25 carrying out various roles.

- 1 Q. Then how many sergeants and constables?
- 2 A. Around 500, sir.
- 3 Q. Those officers, is this right, are divided between the
4 three main parts of C019: armed response vehicles,
5 tactical support teams, and specialist firearms
6 officers?
- 7 A. In addition to that, sir, we have firearms instructors
8 and for the sake of completeness I will mention that we
9 carry out a firearms licensing function as well.
- 10 Q. Thank you. The operational officers who perform
11 interventions on the ground --
- 12 A. Yes.
- 13 Q. -- are divided into those in armed response vehicles,
14 tactical support teams and SFOs?
- 15 A. That's correct, sir, yes.
- 16 Q. We have heard that in order to get into C019 and then in
17 order to progress up through the different parts, the
18 officers have to achieve a certain level of training and
19 certain levels of proficiency with firearms?
- 20 A. Absolutely, yes.
- 21 Q. In addition, we have heard the acronym AFO, authorised
22 firearms officers?
- 23 A. Yes.
- 24 Q. I think that, in addition to those in C019, quite a lot
25 of other divisions of the Metropolitan Police have

- 1 authorised firearms officers?
- 2 A. That's correct, sir. C019 is one of ten commands.
- 3 Q. Thank you. Just to deal with armed response vehicles,
4 then, because there has been some evidence about the
5 possible use of armed response vehicles in this case.
- 6 A. Yes.
- 7 Q. So just some general information about them, first of
8 all. How many officers in a typical armed response
9 vehicle?
- 10 A. Three, sir.
- 11 Q. Those officers in uniform?
- 12 A. They are, in marked vehicles.
- 13 Q. We have heard about armoured vehicles. Is that
14 a resource available to C019?
- 15 A. It's available, sir, not one that's regularly deployed,
16 as an ARV would be.
- 17 Q. Thank you. Now, I think C019 has an agreement with the
18 Metropolitan Police governing its provision of armed
19 response vehicles for the use of the police force as
20 a whole?
- 21 A. That's correct, sir, we would term it a service level
22 agreement.
- 23 Q. And this indicates --
- 24 SIR MICHAEL WRIGHT: Almost sounds as though you are running
25 a separate business.

- 1 A. It does, sir. It's there to provide the reassurance to
2 our unarmed colleagues that we are available to them.
- 3 SIR MICHAEL WRIGHT: They know what's available.
- 4 A. Indeed.
- 5 MR HOUGH: That sets down the number of ARVs that will be on
6 patrol at any given time?
- 7 A. During a 24-hour period, yes.
- 8 Q. Is this right, the intention is, and I am looking at
9 paragraph 18 of your statement, that an ARV should
10 arrive at a requested location within 12 minutes of
11 a call for assistance?
- 12 A. That's correct, sir, it's guidance. Not 12 minutes at
13 all costs. They have to get occasionally from one side
14 of London to the other. I want them to be able to get
15 there and deploy once they get there.
- 16 Q. Paragraph 19 of your statement, have you in fact done
17 some research into the data to find out how many ARVs
18 were on patrol on the morning of 22 July 2005?
- 19 A. I have examined a print-out from what we would term the
20 MDT or mobile data terminal, sir, yes.
- 21 Q. How many ARVs were on patrol across London at that time?
- 22 A. On that day, sir, there were five on patrol for the
23 early shift, plus a supervisor both north and south of
24 the Thames. Additionally there would be a duty officer
25 or an inspector on for that shift as well. The directed

- 1 patrols, would you like me to cover this point?
- 2 Q. Yes, please.
- 3 A. Directed patrols, and we may come on shortly to discuss
- 4 how we post the ARVs, but at that stage the directed
- 5 patrols for the ARVs were -- there was one ARV posted to
- 6 cover Westminster and Kensington, one to cover Haringey
- 7 and Islington, another to cover Hackney and
- 8 Waltham Forest, one for Lambeth and Wandsworth and
- 9 lastly one for Southwark borough.
- 10 Q. So is this right, from your summary, each ARV would
- 11 cover two boroughs except for the one for Southwark
- 12 which just had Southwark?
- 13 A. On that day, yes.
- 14 SIR MICHAEL WRIGHT: I hardly like to ask you this, because
- 15 we are in it, is that a perceived higher crime level.
- 16 A. Sir, we may come on to discuss this in more detail, but
- 17 the basic process is we look at intelligence around
- 18 various boroughs and we look at the calls from the
- 19 public or from our unarmed colleagues. On those bases
- 20 we post our ARVs where we think they are most likely to
- 21 be useful.
- 22 SIR MICHAEL WRIGHT: It's the question of numbers of calls
- 23 over a period.
- 24 A. Indeed, sir, it's one element and also you could add to
- 25 that local intelligence as well.

- 1 MR HOUGH: The speed of response of an ARV, quite apart from
2 the intention or guidance that you have discussed, will
3 be dependent on where it happens to be in relation to
4 the call for assistance?
- 5 A. That's right, sir, yes.
- 6 Q. And will also be dependent, I suppose, upon the size of
7 the area it's covering?
- 8 A. And time of day, weight of traffic, and a number of
9 factors.
- 10 Q. Yes. Can we move on to tactical support teams because
11 there has been some reference to the availability of
12 these as a resource on 22 July.
- 13 A. Yes.
- 14 Q. Officers in tactical support teams are one up the ladder
15 of training and proficiency from ARV officers; is that
16 right?
- 17 A. They have undertaken some extra training, sir, yes,
18 mainly around supporting surveillance operations.
- 19 Q. MASTS?
- 20 A. MASTS, you are familiar with that phrase?
- 21 Q. Yes. What have you discovered from your researches
22 about the availability of TST teams on 22 July?
- 23 A. On that day, sir, the indication is that there was one
24 TST available consisting of a sergeant and nine
25 constables, that was available from 7 am.

- 1 Q. That was available, was it, for those involved in
2 Operation Theseus?
- 3 A. OP Theseus, that's correct, sir.
- 4 Q. Now turning to specialist firearms officers, they are
5 the officers who have received the highest level of
6 training and achieved the highest level of accuracy with
7 their weapons?
- 8 A. Yes.
- 9 SIR MICHAEL WRIGHT: Before you embark on that, the one
10 sergeant and nine constables, how many TSTs is that? Or
11 how many units is that? That's just the one unit?
- 12 A. That would be one team, sir.
- 13 SIR MICHAEL WRIGHT: In several cars?
- 14 A. The make-up could vary. It would depend what they are
15 called upon to do, sir, much like the SFOs.
- 16 SIR MICHAEL WRIGHT: Are these the ones we see in a van?
- 17 A. No, they will be deployed in cars.
- 18 SIR MICHAEL WRIGHT: Unmarked.
- 19 A. Unmarked, depending again on the task. They can deploy
20 in uniform. I would surmise on this day they would be
21 available to deploy in unmarked cars.
- 22 SIR MICHAEL WRIGHT: Because of the job they were doing, the
23 Theseus support.
- 24 A. Yes, sir.
- 25 SIR MICHAEL WRIGHT: So really in one sense, they are almost

- 1 like a second level of specialist firearms teams but not
2 trained to the same level.
- 3 A. Indeed, sir, they can undertake some of the roles.
- 4 MR HOUGH: Specialist firearms officers as we were just
5 discussing, we have heard something about the additional
6 training that they undertake.
- 7 A. Yes.
- 8 Q. We have heard from others that they receive a standard
9 set of five days training in every six weeks?
- 10 A. The refresher training, yes.
- 11 Q. What is the size and make-up of the typical SFO team?
- 12 A. Ideally, sir, a sergeant and between 10 and 12
13 constables. We would aim for 12. It fluctuates around
14 that number.
- 15 Q. They received, in addition to generic training for
16 dealing with armed interventions, specific training to
17 deal with all sorts of different and unusual situations?
- 18 A. Indeed, sir. What you could refer to as the higher risk
19 operations, yes.
- 20 Q. Turning specifically to the officers involved in this
21 case, and I am looking at paragraph 39 of your
22 statement, have you been able to look specifically at
23 the training records for them?
- 24 A. What I did, sir, was tasked my chief instructor,
25 Chief Inspector Martin Rush, to do that.

1 Q. What did he find?

2 A. He reviewed the training history in respect of officer
3 C2 or Charlie 2, and what he discovered was that C2 took
4 part in 104 C019 training events prior to 22 July 2005.

5 Q. Of those, how many related to intervention skills of the
6 kind that might be pertinent to this kind of operation?

7 A. Yes, sir. Mr Rush's view was that he identified 46 of
8 those training events that would, you could classify as
9 refreshing, improving armed intervention skills.

10 Q. You then deal in your statement with the --

11 SIR MICHAEL WRIGHT: You are not distinguishing there,
12 I suppose, between intervention and interception?

13 A. No, I am not, sir. It's the intervention skills that
14 enable an interception to take place.

15 MR HOUGH: You deal in your statement also with the role of
16 a firearms tactical adviser and with briefings. I am
17 going to deal with those because we have heard quite
18 a lot about them from other officers. I am sure others
19 will ask you about them if they wish to.

20 May I deal with something you deal with towards the
21 end of your statement, which is the shots fired by C019
22 officers. For this purpose, can we perhaps have on
23 screen a couple of tables which you exhibit to your
24 statement, page 1321 of the statements bundles. Is this
25 a record that you have provided of the number of times,

- 1 looking first at table 1, that specialist firearms
2 officers were called to perform operations?
- 3 A. It is, sir. It's based on the best available
4 information.
- 5 Q. For each year you have set out the number of SFO
6 operations, the number of operations in which shots were
7 fired, number of persons who were hit by one or more
8 bullets, and the number of fatalities caused by SFOs?
- 9 A. Yes, sir.
- 10 Q. We can see, I think, that in the many hundreds of
11 operations in each year, no more than two or three
12 shots -- no more than two or three operations in which
13 shots were fired at all in any given year, no more than
14 two, in fact?
- 15 A. Indeed, sir. It's also worth bearing in mind that any
16 number of these operations could involve more than one
17 team.
- 18 Q. Then also in each year, no more than two or three people
19 hit by bullets fired by SFOs?
- 20 A. Indeed, sir.
- 21 Q. And no more than two or three fatalities obviously as
22 a result?
- 23 A. Correct, sir.
- 24 SIR MICHAEL WRIGHT: These run down to August of this year?
- 25 A. That's correct, sir, up until August 2008.

1 MR HOUGH: Then table 2, a similar exercise performed for
2 ARV officers who obviously are more numerous than SFOs?

3 A. Yes.

4 Q. And called upon to attend more times because they are
5 permanently on patrol?

6 A. Indeed. May I add, sir, a spontaneous response,
7 therefore without perhaps the benefit of planning and
8 intelligence.

9 Q. Do those tables give us a picture of the regularity with
10 which shots are fired and people are harmed by your
11 officers?

12 A. They do, sir, of the many, many thousands of armed
13 responses, yes. They are, I would suggest, minimal
14 numbers.

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

16 SIR MICHAEL WRIGHT: Can I go back a minute. I am not sure
17 Mr Hough has dealt with this and it may not matter much.
18 We know that you have told us that certainly on the
19 22nd, there were five ARVs on patrol around London
20 generally.

21 A. Yes, sir.

22 SIR MICHAEL WRIGHT: I am not sure, do we know, ordinarily,
23 let us leave out Theseus for a minute, ordinarily how
24 many SFO teams will be on standby at any time of the day
25 or night?

1 A. On a weekday, sir?

2 SIR MICHAEL WRIGHT: Yes.

3 A. They work to a roster. On any given weekday there will
4 be up to three available. They term themselves as early
5 1, early 2 and early 3. If an operation comes in
6 overnight or indeed the night before, the early 1 would
7 be the response made available to that, and the others
8 would simply shift up. In addition to that, there would
9 be a team available later on.

10 SIR MICHAEL WRIGHT: So there is a sort of first call,
11 second call and third call?

12 A. Indeed, sir, and the late team as well.

13 SIR MICHAEL WRIGHT: And the late team. Were there any
14 special arrangements being made in the fortnight of the
15 7th down to 21 July because of what had been happening?
16 You may not know.

17 A. Sir, not having been there, I can try and find out of
18 course.

19 SIR MICHAEL WRIGHT: Don't worry. We know in fact that on
20 the night of the 21st into the early morning of the
21 22nd, the orange team was on standby and in fact was
22 therefore kitted up and subject to briefing ready to go.

23 A. Yes.

24 SIR MICHAEL WRIGHT: And in fact spent quite a lot of its
25 time probably drinking vast quantities of tea in the

1 canteen at Scotland Yard.

2 A. But ready to respond, sir, yes.

3 SIR MICHAEL WRIGHT: Yes. That, I suppose, would be more or
4 less a standard state of affairs?

5 A. It's not an unusual situation, sir, when the demand
6 reaches the level --

7 SIR MICHAEL WRIGHT: I don't mean the tea, I mean just being
8 on standby.

9 A. I understand the question, sir. It's not unusual that
10 at times of high demand, that a team may be, rather than
11 go home, they may be held in a hotel --

12 SIR MICHAEL WRIGHT: In case if there is some reason to
13 think they may be needed.

14 A. Indeed.

15 SIR MICHAEL WRIGHT: There is always scope to have at any
16 given time two teams on, available.

17 A. Yes, sir.

18 SIR MICHAEL WRIGHT: The last one off and the next one on.

19 A. Indeed, and they are flexible individuals, they have to
20 be.

21 SIR MICHAEL WRIGHT: Very well, thank you.

22 MR HOUGH: We have actually heard some evidence about
23 provision of SFO teams.

24 SIR MICHAEL WRIGHT: From the tactical firearms officers.

25 MR HOUGH: Over the earlier period.

1 SIR MICHAEL WRIGHT: Thank you.

2 Mr Mansfield.

3 Questions from MR MANSFIELD

4 MR MANSFIELD: Yes.

5 Good afternoon, Mr Tillbrook, my name is
6 Michael Mansfield. As you know, I represent the family.

7 I am not sure I will be able to finish you tonight,
8 I am sorry about this, but could I ask first of all
9 a question which may require or may not, I don't know
10 the answer to it, some research by you or somebody on
11 your behalf again?

12 A. Yes, sir.

13 Q. I think you have been sitting in court today?

14 A. Today, sir, I have, yes.

15 Q. There is no objection to that. It saves me having to
16 preface everything because you will have heard questions
17 asked of the last witness and in particular two
18 questions, as I understand it, certainly one of them
19 from the jury and one from elsewhere: the first one is
20 that there is no police officer probably in the land
21 that is unaware of what happened to Jean Charles
22 de Menezes, that seems to be one question?

23 A. I couldn't disagree with that, sir.

24 Q. Really the rider to that is clearly whether lessons have
25 been learnt, and we are assured they have been. Is that

1 right?

2 A. Yes.

3 Q. Lessons have been learnt?

4 A. Yes, sir, I would agree with that.

5 Q. The question I have is this: from a firearms point of
6 view, since you are the senior officer in relation to
7 this, and that's why I have waited a few weeks before
8 asking these questions, until we get the key people,
9 from a firearms point of view, what has changed? Really
10 the question is: if there were to arise again, a suspect
11 bomber who isn't, would the situation be handled
12 differently and, if so, how?

13 A. Okay, sir, and this question is purely from the firearms
14 and armed intervention perspective?

15 Q. Well, if you are able to go beyond it, but I have
16 assumed that that's your area of expertise.

17 A. It is the area around which I have knowledge, sir. If
18 I might add, this hearing could probably take one or two
19 days' worth of evidence on the scrutiny --

20 SIR MICHAEL WRIGHT: Forgive me one moment, Mr Tillbrook.
21 Mr Mansfield, I have been thinking about this. I am not
22 going to stop you because there has been a jury
23 question, but I am acutely conscious of the limitations
24 and range of evidence that I ought to allow on this
25 particular topic and you know perfectly well why.

- 1 MR MANSFIELD: Yes, yes.
- 2 SIR MICHAEL WRIGHT: I'm going to let Mr Tillbrook answer
3 this question to the best of his ability and see how
4 much information he can give you, but if you want to go
5 any further, I think we will have to discuss it at
6 5 o'clock.
- 7 MR MANSFIELD: Yes. Can I focus it, perhaps?
- 8 SIR MICHAEL WRIGHT: If you can, yes.
- 9 MR MANSFIELD: Because the concern obviously that the family
10 and the public would have is the use of firearms
11 officers to intercept suspect, suspect, all right, I am
12 dealing with that category for the moment, not confirmed
13 bombers, all right?
- 14 A. Yes, sir, I understand.
- 15 Q. That second category I used.
- 16 A. I understand.
- 17 Q. The interception of suspect bombers who may end up on
18 a tube train, a bus or in a shopping precinct or many
19 urban environments we can think of, obviously. And so
20 the question, if I can focus it on that category, in
21 that kind of urban situation, whether in fact any
22 changes have been made to procedures or resources?
- 23 SIR MICHAEL WRIGHT: Insofar as it relates directly to SFOs.
- 24 A. SFOs or firearms officers.
- 25 MR MANSFIELD: Well, CO19 because you have given us a range,

1 well, you have given us some of the alternatives to
2 SFOs, I'll have to come back to those, that's ARVs and
3 TSTs and so on. So SFOs for the moment.

4 A. I understand, sir. The SFOs would be the response for
5 a pre-planned operation generally. I don't wish to
6 oversimplify things, but as far as firearms tactics, and
7 the carrying out of an armed intervention is concerned,
8 very, very little has changed.

9 The other thing is the -- I don't know, sir, whether
10 the jury or the hearing has discussed the conflict
11 management model, the ACPO conflict management model,
12 has that come up?

13 Q. It's been mentioned.

14 A. That is still the tried and tested model. It's
15 a cyclical model for assessing and addressing threat.
16 I don't wish to oversimplify it, but as far as the SFO
17 officers are concerned, their tactics and their
18 training, the tactics available to them, little has
19 changed. There may be plenty of other discussion and
20 the learned Coroner has alluded to it, around
21 intelligence and communications and everything else, but
22 there would be people better placed than I to update the
23 jury on that.

24 Q. Well, the concern again, and I do it because of who
25 I represent, in other words an ordinary member of the

1 public who is in fact just going about his daily life,
2 and we have had a balancing exercise this afternoon,
3 I think you heard it done, by my learned friend behind
4 which is on the one hand sacrificing a person who is
5 innocent in order to save others. In other words you
6 just have to shoot him and hope that he is the bomber.

7 Now, is that the kind of balancing exercise that's
8 been going on within the firearms department?

9 A. No, sir.

10 Q. No?

11 A. No, no. The officers would assess the threat, look at
12 what is in front of them and apply the most appropriate
13 tactic according to their training.

14 Q. Right. Then could we look at, I may have to return to
15 your first answer but you may perhaps have more time to
16 think about it, the statement you have in front of you.
17 The jury don't have it but I would ask for page 13,
18 paragraph 38. This is a statement you provided for this
19 hearing or these hearings in September. This is
20 a section dealing with SFOs, function, deployment and
21 training. That's how it starts.

22 A. I have it, sir, yes.

23 Q. That's the context. Perhaps I should put it in the
24 context so you have a chance to see. Could we go back
25 to 28, that's the previous page, 131. There you set

1 out, so it's a statement this year, so would it be fair
2 to say that what you have put in the statement is
3 actually describing the current situation?

4 A. That is a broad description of the types of operation in
5 which SFOs would engage.

6 Q. Yes.

7 Can we see the first paragraph because you have not
8 been asked to go through it. It's not a complaint, but:

9 "SFOs are CO19 officers with ARV experience who have
10 received additional training in dynamic entry and
11 intervention. These are what would generally be
12 considered as higher risk operations."

13 Then you specify the operations:

14 "Hostage rescue; rapid entry into buildings and
15 other structures; armed intervention in crime in action,
16 intervention in an armed robbery..."

17 Then we move on to tactical options.

18 Can I just pause. Do any of those operations (a) to
19 (c) involve intervention for the purpose of detention?

20 A. Yes, they do, sir. Intervention in crime in action.

21 Q. So it's the last one?

22 A. Yes, if that's the tactical option that's decided upon
23 by the Silver Commander.

24 Q. Yes. What will have been, as it were, developed in (c),
25 28(c), is tactics for providing for a detention which

- 1 will what, either be done by the CO19 officers
2 themselves or other officers?
- 3 A. Dependent upon the risk, sir, what would generally
4 happen is that the CO19 officers would, to use armed
5 operation parlance, neutralise any threat. They would
6 then hand over to unarmed colleagues as appropriate.
- 7 Q. In those circumstances, if you are going to hand
8 somebody over, it plainly must be based on the fact that
9 they are not going to be shot dead, or are you
10 postulating that possibility in 28(c)?
- 11 A. I don't understand the question, sir, I am sorry.
- 12 Q. The neutralisation, it's --
- 13 A. I see where you are coming from. The word
14 "neutralisation" just means to remove a threat. Negate
15 a threat.
- 16 Q. All right. Does it include shooting someone dead?
- 17 A. Potentially that's an outcome, sir.
- 18 Q. All right.
- 19 A. It depends, of course, upon what the officers are faced
20 with when they go to carry out the tactic.
- 21 SIR MICHAEL WRIGHT: How they assess the threat, what they
22 are seeing and what their training teaches them to do.
- 23 A. Indeed. All of those elements, sir, yes.
- 24 MR MANSFIELD: The reason I'm asking you with some care is
25 the paragraph I was going to start with, 38, but I want

1 to go through the rest before we get to that.

2 Paragraph 29 deals with tactical options that are

3 applicable.

4 A. Yes, sir.

5 Q. Then 30, the training is set out there?

6 A. Yes.

7 Q. Weapons course, tactics course and so on?

8 A. Yes, sir.

9 Q. In those (a) to (d) in 30, presumably some of those

10 courses involve an armed intervention for the purpose of

11 detention?

12 A. Yes, sir.

13 Q. Right. Can we go over the page now to the next page?

14 A. Just to clarify, by detention you mean to -- I'll come

15 back to this word -- to negate a threat from a subject

16 in order that they might be dealt with by unarmed

17 colleagues such as investigators.

18 Q. Yes. Then over the page we have some more paragraphs

19 that I can go through them a little more rapidly. You

20 have marine-borne operations, chemical, biological, and

21 the compulsory training and so on?

22 A. Yes.

23 Q. Then they operate in teams, you have dealt with that.

24 Then 34, where you deal with the team situation:

25 "Some operations will require the deployment of more

1 than one team. They operate covertly until the point of
2 intervention."

3 A. Yes, sir.

4 Q. That again applies to an intervention leading to
5 detention?

6 A. Yes, sir.

7 Q. Limited resource. Then you deal with sergeants. Then
8 37, tactical advice. 38:

9 "As of July 2005 SFOs were trained to intervene and
10 neutralise an immediate threat to life in a range of
11 circumstances and environments. This included the
12 threat presented by a suspected suicide bomber either on
13 foot or in a vehicle."

14 A. Yes, sir.

15 Q. Pausing there, the threat may be by somebody who is
16 confirmed to be a suicide bomber?

17 A. Yes.

18 Q. So not suspended but confirmed to be, that's one
19 category, as well as somebody who's suspected to be?

20 A. Yes, sir.

21 Q. Does CO19 recognise the distinction?

22 A. Yes, sir, they do. The officers would operate based on
23 intelligence and information available to them, combined
24 with a threat assessment.

25 SIR MICHAEL WRIGHT: The greater includes the lesser,

1 I assume.

2 A. Indeed, sir. If it's confirmed, of course the
3 intelligence and threat assessment I suggest would be
4 different.

5 SIR MICHAEL WRIGHT: The distinction between confirmed and
6 suspected doesn't mean anything in this context. If you
7 have a suspected suicide bomber you will have to be
8 trained to deal with him.

9 A. Yes, sir.

10 SIR MICHAEL WRIGHT: And ditto with a confirmed.

11 A. The skill levels required are exactly the same.

12 SIR MICHAEL WRIGHT: That's what I mean.

13 A. Yes, sir.

14 MR MANSFIELD: I want to keep the distinction, if possible.
15 I will suggest to you it really matters when we are
16 dealing with innocent members of the public, and you are
17 only dealing with a suspect, I say only dealing but you
18 are dealing with a suspected suicide bomber, and
19 although there is assessment in both cases, it may be
20 slightly different, so that's why I am asking you,
21 either on foot or in a vehicle, relevant training was
22 included in the regular training given to SFOs.

23 A. Yes.

24 Q. There was, and do you see in brackets "and is" -- one
25 presumes you mean in this year in September -- no

1 specific training course dedicated solely to suicide
2 bomber confrontation?

3 A. That's correct, sir.

4 Q. Is that still the case?

5 A. It is, sir. The skills required, this is an armed
6 intervention. The skills that the officers possess to
7 carry out that intervention are the same; whether it is
8 a suicide bomber confirmed, unconfirmed or a bank
9 robber, the skills they possess are the same. It boils
10 down to the information available to them and their
11 threat assessment.

12 Q. Yes. I understand that. But of course dealing with
13 a suspect suicide bomber, a great deal more has -- and
14 you have no intelligence that he is a suicide bomber,
15 then a great deal more exercise of judgment and
16 discretion is involved?

17 A. It must be, sir, of course it must be.

18 Q. Yes, so there is a difference. Now --

19 A. Sorry, sir, yes, there is a difference there but it's
20 the application of the tactics --

21 SIR MICHAEL WRIGHT: You can get a wide range. You can get
22 people on the street with a wide range of lethal
23 weapons.

24 A. Yes, sir.

25 SIR MICHAEL WRIGHT: Suicide bombs, non-suicide bombs, in

1 other words --

2 A. Indeed, or firearms.

3 SIR MICHAEL WRIGHT: That's where I was going to. Firearms,

4 to think of a case we have actually had certainly not

5 all that long ago, Samurai swords and so forth.

6 A. Yes, sir.

7 SIR MICHAEL WRIGHT: Is what you are really saying here that

8 the intervention training is basically the same?

9 A. It is, sir.

10 SIR MICHAEL WRIGHT: In each case, in every case.

11 A. It's the scenarios that will differ.

12 SIR MICHAEL WRIGHT: There is an infinite number of them.

13 A. Infinite, sir. You have a million and one scenarios,

14 they will all be different.

15 MR MANSFIELD: Of course one could just sit back and say

16 there are so many scenarios, we can't deal with it; or

17 on the other hand, one tries to, as it were, anticipate

18 events that may present themselves?

19 A. Indeed.

20 Q. And sensible realistic ones that may present themselves;

21 that's a pretty straightforward approach, isn't it?

22 A. Clearly, sir, the department will do its best to

23 anticipate the likely scenarios or the likely crimes in

24 action they will have to deal with, whether that's

25 a suspected suicide bomber or somebody who may be in

1 possession of a firearm that's not immediately visible.

2 The thought processes will be the same.

3 Q. I understand, but if you like the diagnosis may be
4 different?

5 A. Can you qualify your question, please?

6 Q. I will. I will finish this sentence and come back to
7 what I want to ask you about:

8 "... but the training consisted of development and
9 refinement of SFO skills relating specifically to the
10 threat posed by suicide bombers."

11 A. Yes, sir, ie intervention skills.

12 Q. Yes, intervention skills. Now, you have probably heard
13 and I'm not going to rehearse all the different
14 situations but I'm going to ask you about them from
15 a firearms point of view.

16 If you have a situation, and I'm going to take the
17 one end of the spectrum here, which is in fact this
18 case, where you have no obvious weapon, in other words
19 no obvious bomb?

20 A. Right.

21 Q. Right?

22 A. Yes, sir.

23 Q. You have no obvious behaviour beyond responsible, and
24 I just put it in brackets for the moment, nervous and
25 twitchy, on and off a bus?

- 1 A. Okay.
- 2 Q. You have a situation in which we are being told that you
3 can't rely on any profile of a bomber, that they may be
4 dressed in a particular way or behave in a particular
5 way?
- 6 A. Okay.
- 7 Q. Of course you might get an armed robber in the middle of
8 a bank robbery behaving as though there is nothing going
9 on, but it's a very different situation if you are being
10 asked to intervene with somebody, I'll take it in the
11 street to begin with, in the street who is either,
12 because you have intelligence, a suspect suicide bomber,
13 not confirmed, suspect, because you have had
14 an eavesdropping device and you have heard about it,
15 which might happen in Israel or Cumbria or anywhere
16 else, or because there is somebody who was a suicide
17 bomber the previous day; do you follow?
- 18 A. I do, sir.
- 19 Q. That's the way in which I suggest there may be
20 a similarity. So you have just a level of intelligence,
21 but it's not going beyond suspect. Now, how is CO19 --
22 I am going to ask you currently unless there is
23 an objection -- currently trained to deal with somebody
24 in that category in the street?
- 25 A. Okay, I'll talk through the thought processes, sir, but

- 1 you will understand I won't delve into tactics.
- 2 Q. All right. Perhaps you will be kind enough to go as far
3 as you can?
- 4 A. I will, sir. The thought process will be an assessment
5 of the intelligence and information, so what the officer
6 has been told, what they have been told that they are
7 going to deal with; they will of course be aware of
8 their legal powers and the policy, they will consider
9 the tactical options available to them, and they will
10 take action, and there could be hundreds and hundreds of
11 different scenarios but the thought process will be the
12 same. It boils down to what the officer honestly
13 believes they are dealing with in front of them at the
14 time.
- 15 Q. Yes, but I think you will appreciate that it's of course
16 necessary for us to rely on the good sense and
17 professional judgment of all sorts of people in all
18 sorts of circumstances.
- 19 A. Yes, sir.
- 20 Q. But because we are all human and there is a risk that we
21 will all make mistakes, certain safeguards are put in
22 place to prevent mistakes, aren't they, as far as
23 possible?
- 24 A. As far as possible, sir, but you are quite right, you
25 make the point, we are all human beings, and I include

1 SFOs and every one of us in this room.

2 Q. What I am striving to do, and your answer doesn't, if
3 I may say so, answer it, is -- and if there is
4 a reassurance -- you are saying that not much has
5 changed as far as the firearms officers are concerned,
6 what safeguards are in place, and I'm only dealing with,
7 and of course there are a myriad of in the street
8 situations, and I'm not suggesting every single one has
9 to be practised.

10 But given that that is a possibility of having to
11 stop someone in the street, and all you have is what
12 I have suggested, information that he was a suicide
13 bomber yesterday or information from a eavesdrop that he
14 is a suspect bomber, how is the intervention leading to
15 an arrest in the street going to take place?

16 A. There are a broad range of tactics, sir. It does not
17 automatically mean that an officer is going to walk up
18 and shoot an individual. There are a broad range of
19 tactics available to them.

20 Q. Were these tactics that we are talking about available
21 in 2005?

22 A. Yes, sir.

23 Q. Right. Now I am dealing with the street situation.
24 I think you will agree that it's preferable, highly
25 preferable, that if you are going to do a street stop

1 you need to do it, if you can, with as few people around
2 as possible?

3 A. The objective is to neutralise, I am sorry to use that
4 word, but that is in the ACPO manual, neutralise
5 a threat by the safest possible means. That's having
6 regard of course to the environment, the time of day and
7 many, many other factors.

8 Q. In other words, to gain the safest environment, it's
9 necessary to prevent if possible the person getting
10 anywhere near an environment which is less safe, that is
11 desirable, isn't it?

12 A. If it's possible, sir, but of course the -- it depends
13 on the time of day and again I come back to this million
14 and one different scenarios, but of course it's
15 desirable.

16 Q. Of course I am just dealing with principles for the
17 moment in a street situation.

18 We have heard from a number of firearms officers to
19 the effect that they would not be used for
20 an intervention unless there was a positive
21 identification. Are you aware of that being said?

22 A. I have heard it. I haven't heard it put directly in
23 evidence. I think I have heard that phrase used.

24 Q. Yes, would you accept from me that there have been
25 a number of firearms officers who have expressly said

1 that, that they didn't think they would be used unless
2 there was a positive identification --

3 SIR MICHAEL WRIGHT: When you say used, Mr Mansfield --

4 MR MANSFIELD: I am so sorry, intervened.

5 SIR MICHAEL WRIGHT: That's right.

6 A. Deployed.

7 MR MANSFIELD: I don't mean got out of their beds and got
8 to --

9 A. I do accept that, sir, I will accept that, yes.

10 Q. I had better take it in stages. Was that in 2005
11 a correct analysis?

12 A. Let me think this through carefully, sir, because
13 obviously I wasn't there in 2005, and I think we need to
14 consider the word "identification". I have thought
15 about this, and there may be times where officers are
16 asked to go and stop, detain a subject, or go to
17 an address or stop a car. That is an indication, so
18 it's I want that car stopped, I want that person
19 stopped, I want -- that address. This is an indication
20 rather than an identification where we know that is
21 Joe Bloggs of Smith Street or whatever. It's I want
22 that person stopped. That's all I would suggest.

23 SIR MICHAEL WRIGHT: Yes, that doesn't depend upon
24 identification. It's an instruction.

25 A. No, sir, it's an instruction and it's an indication of

1 a subject or a vehicle or an address.

2 SIR MICHAEL WRIGHT: I think probably Mr Mansfield would

3 assert, and I dare say you would agree, that that's not

4 really what we are dealing with here.

5 A. No, sir.

6 SIR MICHAEL WRIGHT: It's a different situation.

7 A. Yes, sir.

8 SIR MICHAEL WRIGHT: Here we are dealing with something that

9 starts with an unknown person.

10 A. Indeed, sir, but what I am saying is I don't know what

11 was in the officers' mind when they gave those

12 responses, but I find it difficult to imagine that if

13 they are asked to go and stop that individual that they

14 would say no. That's why I am querying the

15 identification --

16 MR MANSFIELD: Can I put it to you, I hope this is a fair

17 analysis of the officers who said it, is that it's

18 informing them even more about the person and the

19 relationship with the information ie bomber from the day

20 before, definitely the man; do you follow?

21 A. I understand that, sir, and yes, of course, that would

22 feed into the process of looking at the intelligence and

23 assessing the threat, I understand that point.

24 SIR MICHAEL WRIGHT: It's not a question of their saying no.

25 What Mr Mansfield is saying is if they are told to

- 1 intervene in the context of which they were dealing,
2 that would be one more tick in the box, if you like, or
3 one more item to put into their brains to say, ah, they
4 think this chap is a positively identified --
- 5 A. I understand, sir, yes, and I kind of misinterpreted but
6 what I am saying is -- what I thought you were asking is
7 that the officers suggested that they would not act or
8 intervene unless they are told that is definitely our
9 man.
- 10 MR MANSFIELD: Yes, go on, because I think you had a little
11 more to say, or not?
- 12 A. No, that's what I thought you were asking. What I was
13 saying is there is a difference between confirming an
14 identity of someone, ie this is the person we are
15 looking for, to indicating or identifying a subject they
16 would like to stop. So I am thinking more generally
17 rather than the specific scenario you are talking about.
- 18 Q. I think you had not misinterpreted. In fact what the
19 officers who said it were saying was effectively they
20 didn't think they would be called to intervene --
- 21 A. Right.
- 22 Q. -- unless the person had been positively identified?
- 23 A. I understand.
- 24 Q. That's why I have made a distinction between how do you
25 deal with the different categories, the one who has been

1 definitely identified in the context of suicide bombing
2 as opposed to the person who's only a suspect. Would
3 that inform you in a way that you might use a different
4 range of assessments and judgments? Do you follow?

5 A. Yeah, I do, sir, and clearly it would be the nature of
6 the intervention that would differ, depending on the
7 circumstances.

8 Q. Well, I'm trying to, as it were, keep it rooted in this
9 case as far as possible. If the nature of the
10 intervention is, "Stop him before he gets on the train
11 or the tube", if that's the nature of the intervention,
12 then does that mean that there will be different tactics
13 used?

14 A. That's a very difficult question for me to answer, sir,
15 I can't put myself in the shoes of either the DSO or the
16 Silver or the firearms officers on that day.

17 Q. No, all right. Then can I approach it in a different
18 way: are you aware of what training and tactics is being
19 carried out either then -- perhaps then is more
20 difficult since you were not involved then but I'll ask
21 now -- tactics involved now in training officers to deal
22 with interventions related to public transport?

23 A. Broadly, sir.

24 Q. It does happen now? Suicide bombers on public
25 transport.

- 1 A. Yes, I understand. Again, the skills would be broadly
2 the same. They do practice in a range of environments,
3 yes, they do.
- 4 Q. Were they doing that by July 2005?
- 5 A. I would have to confirm that, sir, for you. I would
6 have to look at that.
- 7 Q. The reason I'm asking you so that you can either confirm
8 or not is of course --
- 9 SIR MICHAEL WRIGHT: I understood you to say the skills
10 would be broadly the same.
- 11 A. The skills would, sir. It's the environments that would
12 change. Tube train, aeroplane, boat --
- 13 SIR MICHAEL WRIGHT: I am not sure what Mr Mansfield is
14 asking here.
- 15 MR MANSFIELD: I will be precise. Using skills will depend
16 on the environment because, if you have got a lot of
17 room in a street, maybe you can use the skills to
18 assess, you can do a containment, you can do a challenge
19 from cover and all the rest of it.
- 20 A. Yes.
- 21 Q. Right, and that's a tactic?
- 22 A. Yes.
- 23 Q. When you end up in a railway carriage you are actually
24 getting a very limited environment in which to exercise
25 the skills?

- 1 A. Of course, the environment is different, the skills
2 available are the same but the environment is different.
- 3 Q. The skills are not all the same in the sense that, and I
4 have been through it with the last witness when you were
5 here, you can't clearly, without some serious risk, do
6 a containment exercise on a tube train, can you?
- 7 A. Exactly. The skills available are the same. Okay, I am
8 not suggesting they would still all be available or
9 appropriate to deploy. The range of skills available to
10 the officers are the same. I am not saying they would
11 necessarily deploy all of them because of the changing
12 environment.
- 13 Q. The skills will depend on what he can see and what he
14 can do?
- 15 A. That would influence, of course, the officers' choice on
16 their action.
- 17 Q. There are two ends. One is out in the open and the
18 containment and so forth, and the other is in a very
19 tight environment. I want to ask you, therefore, in
20 this context, are there any specific tactics that have
21 changed in relation to training officers in the light of
22 what happened on 22 July, of how they might approach
23 a suspected suicide bomber, and that's all he is, on
24 a tube train?
- 25 A. I do not feel I can answer that in all honesty, sir,

1 without delving into tactics, into the tactical area,
2 I wouldn't be comfortable discussing in an open forum.

3 SIR MICHAEL WRIGHT: You have been the CO19 Commander for
4 three years.

5 A. Yes, sir.

6 SIR MICHAEL WRIGHT: You obviously must have read and
7 re-read everything there is to read about what happened
8 on 22 July.

9 A. Indeed, sir.

10 SIR MICHAEL WRIGHT: I will put Mr Mansfield's point again,
11 if I may. For whatever reason, doesn't matter what, two
12 of your officers find themselves in a tube train with
13 a suspected suicide bomber, and they form the view that
14 there is an immediate risk and they have to do something
15 about it.

16 A. Yes, sir.

17 SIR MICHAEL WRIGHT: Your point as I understand it is this.
18 The skills that they will use will be the same whether
19 it's in a tube train or out in the open.

20 A. The skills available to them, sir, are the same. Those
21 that they deploy, clearly it would differ according to
22 the environment.

23 SIR MICHAEL WRIGHT: Because they have been got into
24 an extremely confined situation, you agreed with
25 Mr Mansfield about this, the risks are much greater.

1 A. They are, sir. The range of tactical options, of
2 course, are reduced then.

3 SIR MICHAEL WRIGHT: And the ultimate outcome may be very
4 tragic.

5 A. It may of course, sir, it may be.

6 SIR MICHAEL WRIGHT: The point I am after is this: what
7 determines the problems that your men are facing is not
8 their training or their skills but the situation that
9 they have got into.

10 A. Indeed, sir, it's their deployment, how they are placed,
11 briefed, used, again these can vary day by day.

12 SIR MICHAEL WRIGHT: If they have got themselves into -- it
13 sounds like their fault. If they find themselves in
14 such a confined situation, no amount of training is
15 going to make them better able to deal with what
16 happens?

17 A. Again that's a tough one to answer, sir. We would like
18 to think that we equip them with all the skills -- the
19 skills and equipment that enables them to do their job
20 to get themselves, as they do, to put themselves between
21 the public and a threat.

22 SIR MICHAEL WRIGHT: Put it this way, if they had had to
23 deal with a suicide bomber in the middle of Hyde Park,
24 the chances that they would be able to achieve
25 a satisfactory result are quite good.

1 A. Again, that depends on the environment, sir.

2 SIR MICHAEL WRIGHT: That's why I picked the middle of Hyde
3 Park. It's the biggest environment I can think of.

4 A. It depends on the environment and yes, there may well be
5 more options open to them.

6 SIR MICHAEL WRIGHT: If they have to do the same exercise on
7 a tube train, the chances that they will be able to
8 achieve a satisfactory result are much less.

9 A. The one -- the issue or the ingredient that's clearly
10 missing already is distance and cover. There are two
11 ingredients that are clearly missing already when
12 they've been on to a tube train.

13 SIR MICHAEL WRIGHT: If the distance isn't there, isn't
14 available, no amount of their skills can improve that
15 situation.

16 A. Indeed, sir.

17 SIR MICHAEL WRIGHT: They have to grapple with what they
18 have.

19 A. They know that they have to put themselves between the
20 public and the threat. They have to.

21 SIR MICHAEL WRIGHT: As I have interrupted you,
22 Mr Mansfield, forgive me, I have a piece of paper.
23 This is something you may well have thought about:
24 plainly SFOs facing feared or suspected suicide bombers
25 will find themselves in a situation which they

1 themselves must recognise present a great deal of danger
2 to themselves?

3 A. I certainly wouldn't disagree with that.

4 SIR MICHAEL WRIGHT: It would be very surprising if they
5 weren't affected or conscious of fear for themselves.

6 A. As I said, sir, like everybody here they are human
7 beings.

8 SIR MICHAEL WRIGHT: And somebody has suggested, it's been
9 talked about at any rate an adrenaline rush or impact on
10 their attitudes and vision.

11 A. Indeed.

12 SIR MICHAEL WRIGHT: When you have a fully trained SFO, how
13 much of an element do you think that is?

14 A. I think these are all inbred in human nature. You can't
15 train --

16 SIR MICHAEL WRIGHT: You can't eliminate it.

17 A. You can't eliminate it, sir, no. All you can do is
18 equip them with the skills to do their job and when you
19 train them is to get them to think about and acknowledge
20 these reactions. So at least they are aware of them.
21 But you cannot train them out. But they will be aware
22 of their -- of bodily reactions during, let us face it,
23 a traumatic incident as this is. Any firearms
24 operation, particularly one like this, is a traumatic
25 incident. They will be aware and have knowledge of the

1 reactions that they are likely to undergo themselves,
2 yes.

3 SIR MICHAEL WRIGHT: They will have been taught that in
4 their training.

5 A. It would have been debriefed with them, sir. They will
6 be provided with that knowledge, but I come back to the
7 point, you can't train it out.

8 SIR MICHAEL WRIGHT: Thank you.

9 MR MANSFIELD: In the last few minutes, can I go back to the
10 situation; I have taken you to the open space one where
11 you can do the containment and so on, you have distance,
12 and the other end is where you have no distance and so
13 on.

14 This is where I suggest to you what becomes
15 extremely important for the ordinary member of the
16 public who isn't a suicide bomber, who isn't going to be
17 sacrificed because it's thought he might be, do you
18 follow?

19 A. Sorry, sir, I think that's a tiny bit unfair, to
20 consider that my officers might sacrifice somebody.

21 Q. I agree, but this has been posed earlier on, because
22 nothing can be told, in other words you might get
23 an innocent person who stands up in the face of an armed
24 police officer who isn't a bomber and he gets shot.
25 That was posed earlier on, do you follow?

- 1 A. I do follow.
- 2 Q. What I am attempting to do is not leave it at that
3 level, but attempt to construct, and that's why I want
4 to know what goes on now, not the fact that you might
5 have the right weapons or the right back-up with people.
6 It is forming the view, which was included in this last
7 bit, what, in other words what guidance is given to
8 officers in this tight ultimate situation about how they
9 may form the view that this man now presents
10 an immediate threat. Are you following?
- 11 A. I am following you.
- 12 Q. Right. I don't mind whether you use the words
13 safeguards, protocols, whatever it is; what is now in
14 place to at least reduce and minimise the risk of
15 an innocent man getting shot?
- 16 A. At the risk of repeating an earlier answer, the thought
17 processes or the process or the action process, whatever
18 you want to call it, the conflict management model
19 remains good to this day. The intelligence and the
20 information that has been made available to the
21 officers, there have been, I am not really in a position
22 to give this, but there are changes that have been made
23 around identification, communications, et cetera, but
24 I'm not best placed to provide that information to the
25 jury.

1 So the information and intelligence of course is
2 crucial, because that -- from there the officers will
3 consider their tactical options based on what they have
4 been told, combined with what they see in front of them.
5 That will determine the outcome and the course of action
6 that they take.

7 Q. Although the word obligatory was included in
8 Mr Horwell's question, I am suggesting that there should
9 be a presumption in favour, when you know no more than
10 he is a suspect, I am not dealing with a confirmed
11 situation, dealing with the suspect, so the officer's
12 got to form a view, all right?

13 A. Yes.

14 Q. I think you accept that. He does have to form a view?

15 A. Of course the officer does, yes.

16 Q. The only information he has is suspect, so you don't
17 have to elaborate that, that's agreed, that's all the
18 information he's got plus maybe a bit nervous on the
19 bus. So you have information that he is a suspect and
20 nothing else, no rucksack, no wires protruding, nothing
21 in his hands that is commensurate with detonation, so he
22 has very little?

23 A. I understand, sir, I follow.

24 Q. Now, in that situation, have the tactics changed, and
25 I include the word tactics, but what I ought to say is

- 1 has there been a development of a different approach
2 which involves necessarily a proper and organised vocal
3 challenge, not over-ridden by no warning, proper
4 challenge including a proper instruction and time for
5 compliance?
- 6 A. The situation in 2005, as I understand, and certainly to
7 this day, is outlined in the ACPO manual about giving
8 audible warnings.
- 9 Q. In other words they don't have to?
- 10 SIR MICHAEL WRIGHT: Actually what it says is when it's
11 clearly not appropriate.
- 12 A. If it's not appropriate, sir, or would place people in
13 danger is what it also says.
- 14 MR MANSFIELD: So we are back to a situation in which, is
15 this what you are saying, effectively we will just have
16 to trust the firearms officer, period? There may be no
17 warning because he has worked out somehow or another
18 with very little to go on, this person is an immediate
19 threat?
- 20 A. What we have to do is look at, or rely upon a, yes,
21 a human being, but a highly trained and experienced
22 individual to make that very, very difficult decision.
- 23 SIR MICHAEL WRIGHT: Who is also aware that he is subject to
24 the law.
- 25 A. Indeed, sir, they never lose sight of that and the fact

1 that they are completely accountable for everything they
2 do. In fact they insist on being held accountable.

3 That is what it boils down to. It's down to the
4 judgment call of that professional.

5 MR MANSFIELD: Sir, would that be a convenient moment?

6 SIR MICHAEL WRIGHT: Indeed. I suppose, this is a flippant
7 remark but it will not come amiss at this end of the
8 day. I suppose really, I have just been going through
9 my mind, that this is a problem that will never be
10 resolved until you can have a range of firearms officers
11 who have computers instead of brains?

12 A. Yes, sir. Like every other organisation on the planet,
13 we employ the mark I human being, just like everybody in
14 this room.

15 SIR MICHAEL WRIGHT: What I had in mind is that you can then
16 give your computer a program and you can feed in
17 a series of facts and theoretically it would produce the
18 right answer, except that you can be absolutely sure
19 that it won't.

20 A. Theoretically, sir, having said at the start of my
21 statement that I have had 28 years' service, I have
22 tipped into year 29, I don't think that's going to
23 happen in my police career.

24 SIR MICHAEL WRIGHT: I don't think so either. Thank you
25 very much indeed. I am afraid we will have to bring you

1 back tomorrow. Would you like to stand down, that's
2 fine. Ladies and gentlemen, I am not going to start you
3 tomorrow, because we are undoubtedly going to go into
4 Monday, so we will say 10 o'clock tomorrow.

5 (5.00 pm)

6 (In the absence of the jury and the witness)

7 Housekeeping

8 MR HOUGH: Sir, I was simply going to deal with a couple of
9 timetabling things.

10 Tomorrow, we plan to call Mr Tillbrook obviously to
11 finish, then Mr Macbrayne, then --

12 SIR MICHAEL WRIGHT: I can't remember, yes, I know,
13 intelligence.

14 MR HOUGH: Then the screens to go up and then in order
15 Alpha 1, Central 2402, and Neil.

16 SIR MICHAEL WRIGHT: I'm assuming because they are only
17 Portnall Road that the two officers, whatever they are,
18 Alpha 1 and the other one, are going to be pretty short.

19 MR HOUGH: I am hearing around me that they are going to be
20 quick and I think that's true as well. Neil should not
21 take long. Mr Macbrayne may take a little time.

22 It may be helpful for us to know how long more
23 Mr Tillbrook will be, because --

24 SIR MICHAEL WRIGHT: Mr Mansfield and I may have to have
25 a chat about that.

1 MR HOUGH: -- Mr Macbrayne has to be told roughly when he
2 will be needed. He has currently been warned for 11 but
3 I don't know how much longer Mr Tillbrook will be.

4 In relation to Monday, obviously we hope that we
5 will finish those five tomorrow. If somebody has to
6 slip over into Monday then so be it. Mr Mellody and
7 Mr Reynolds also on Monday. We will read whatever
8 statements are remaining that people want us to read and
9 I have been told about a couple of Rule 37s by Mr Stern
10 which were actually notified and are yet to be read.

11 Just, though, to give everybody fair warning, that
12 in view of what everyone has been saying over the last
13 week or so and in view of what we have remaining, we
14 don't have any more time beyond Monday in this building,
15 so we will finish the evidence by the end of Monday,
16 even if it means sitting late both tomorrow and Monday.

17 SIR MICHAEL WRIGHT: At all costs, Mr Hough?

18 MR HOUGH: I shudder to use that phrase. That is obviously
19 because arrangements have now been made.

20 SIR MICHAEL WRIGHT: Certainly. Right, well, that's the
21 plan, ladies and gentlemen.

22 Now, Mr Mansfield, where are we getting to?

23 MR MANSFIELD: Yes, the only question in relation to the
24 current witness is, I appreciate what he is saying in
25 general terms --

1 SIR MICHAEL WRIGHT: I am bound to say you are getting, if
2 I may say so, quite a lot of information out of
3 Mr Tillbrook. I have allowed it to run because
4 I understand the pressures that the family have. But
5 I simply want to remind you that, as it seems to me,
6 anything relating to changes, improvements, alterations
7 and so forth in strategy, tactics or policies, whatever,
8 in the Metropolitan Police after July 2005, are really
9 essentially a matter for me under Rule 43, and although
10 I -- and I have, as you know, perfectly sensible ways of
11 discovering what I might need to know if I were to
12 consider to write anything under Rule 43, but it's
13 nothing to do with what this jury have to decide.

14 MR MANSFIELD: Evidence was certainly adduced from the last
15 witness along the lines, is there any police officer who
16 is not aware of what happened on the 22nd --

17 SIR MICHAEL WRIGHT: That was because I had a specific
18 question from a member of the jury.

19 MR MANSFIELD: Yes, and it's because of that --

20 SIR MICHAEL WRIGHT: I have to tell them in the end when the
21 time comes that they are not to concern themselves with
22 that, am I not?

23 MR MANSFIELD: It depends. May I say why I am pursuing it
24 a bit? So far there doesn't appear to be any changes
25 but he has let drop that there are some changes but then

1 it was going to involve tactics. If in fact the changes
2 involve tactics which provide a much better opportunity
3 for assessment and judgment call by individual officers,
4 the sort of thing which I would submit comes into the
5 ambit of the inquest, if they are manoeuvres or whatever
6 they are that could have been put in place before July,
7 it relates to the question of planning and it relates to
8 the question of anticipation by not only CO19 but Kratos
9 and non-Kratos situations dealing with suicide bombers,
10 which had started in 2001.

11 I don't know what the changes are as far as tactics
12 are concerned, and I would want to ask or at least ask
13 the witness to be in a position to deal with what the
14 changes of tactics are. He did say in relation to
15 public transport because that was the context. If they
16 are such obvious things that should have been in place
17 before --

18 SIR MICHAEL WRIGHT: Nobody has been asked as far as I can
19 remember, we have gone over and over and over again the
20 possibilities with various officers about what other
21 approaches could have been adopted, like for example,
22 you have what you wanted out of I can't remember who it
23 was.

24 MR MANSFIELD: Ivor, I think.

25 SIR MICHAEL WRIGHT: Ivor, I think it probably was who told

1 you this is how I would have done it. Nothing else in
2 respect of any specific tactics or approaches that
3 nobody has ever thought of was put to anybody in the
4 course of the case. Now, as it seems to me, any changes
5 that may have been thought up by the Metropolitan Police
6 after July 2005 is not something for this jury to
7 consider. It is for me, if necessary, to consider
8 whether I think that a Rule 43 letter should be written
9 on the basis that whatever has been done is not good
10 enough or is not effective.

11 Is that not the right approach?

12 MR MANSFIELD: It is the right approach and I have been very
13 careful not to develop anything post 2005 unless it does
14 have some impact on pre 2005.

15 SIR MICHAEL WRIGHT: This officer is in a position actually,
16 whether if I let you do it, and I have been fairly
17 indulgent with you up to now if I may say so, this
18 officer can tell you what changes there may have been,
19 and he won't tell you about tactics because I am sure
20 they are sensitive anyway.

21 That's another problem. If they are sensitive, we
22 haven't had any PII consideration of post 2005 tactics,
23 but as it seems to me, he can tell you what he can tell
24 you from his own knowledge, but I don't think I am going
25 to set him off to start making enquiries amongst his

1 colleagues as to what else there may be, because you
2 were looking also, I think, probably, hinting anyway,
3 that you were looking at surveillance and control
4 techniques as well.

5 MR MANSFIELD: Well, that comes into it.

6 SIR MICHAEL WRIGHT: I know it did and that's why I stopped
7 you at the beginning and said that his expertise only.

8 MR MANSFIELD: Because one of the tactics plainly which
9 I put to the last witness and Ivor produced it himself,
10 is the covert approach from behind. Now, I will want to
11 ask him whether that is -- that's a tactic which can be
12 employed, in fact whether you have a confirmed bomber or
13 non-confirmed, in other words a suspect or a confirmed,
14 but if it's a suspect, it's even more appropriate
15 because you haven't made -- there's nothing being
16 carried and so forth.

17 I would want to ask him if there has been any
18 training in relation to that, because the last witness
19 says he couldn't answer that, and it seems to me that
20 that is an important aspect of this, because I'm
21 speaking for myself here, when we first saw the CCTV it
22 wasn't just the question of seeing how close
23 surveillance officers were in the concourse but also
24 going down the escalator and so on. There was more than
25 one opportunity to approach and surprise somebody from

1 behind and it's interesting the example the last witness
2 has given.

3 So I would want to ask Mr Tillbrook -- he is sitting
4 over there.

5 SIR MICHAEL WRIGHT: He is listening avidly.

6 MR MANSFIELD: I have made the point. I am not going to
7 trespass on sensitive ground but it's clear that quite
8 rightly the jury are concerned about whether there have
9 been changes and --

10 SIR MICHAEL WRIGHT: It's a very natural question from
11 a jurymen, I fully understand that, but I still think at
12 the moment, and I want Mr Hough or Mr Hilliard to help
13 me about this, I still think it is a subject where I
14 have to say to them in due course, while I can
15 understand your concern, it is not something which comes
16 within your ambit of consideration when you come to
17 consider your verdicts.

18 MR MANSFIELD: I understand that.

19 SIR MICHAEL WRIGHT: That's the point. I don't know which
20 one of my team have really been looking at this one but
21 do you want to say anything about it?

22 MR HOUGH: Sir, in the course of your first ruling delivered
23 back in April, you made clear two things, first of all
24 that the inquest would not be addressing questions of
25 policy in the abstract.

1 SIR MICHAEL WRIGHT: I remember it well.

2 MR HOUGH: And also that you would not be dealing with
3 events after the shooting save for, for example,
4 accounts given by those involved, which may therefore
5 shed light on the credibility of their evidence about
6 what happened afterwards.

7 SIR MICHAEL WRIGHT: Am I right in the approach that I have
8 just been indicating to Mr Mansfield?

9 MR HOUGH: Yes. It is a natural question from a jurymen.
10 However, if this inquest were to receive full and
11 balanced evidence of what the Metropolitan Police has
12 done since July 2005, that would prolong the inquest
13 very considerably and it would expand the range of the
14 inquest far beyond what you set out in your initial
15 ruling.

16 SIR MICHAEL WRIGHT: And would in fact offer no assistance
17 to the jury in deciding what they have to decide.

18 MR HOUGH: And potentially distract them from what they do
19 have to decide. Sir, there is the further point that
20 obviously you will have in due course the consideration
21 of whether to write a Rule 43 communication and in what
22 terms, but as you have indicated --

23 SIR MICHAEL WRIGHT: It is within my power to ask for
24 further information from the Metropolitan Police.

25 MR HOUGH: That's already been requested and that can be

1 considered at a later stage, but without the need for it
2 to be put in evidence.

3 SIR MICHAEL WRIGHT: That's the point. It doesn't have to
4 go in evidence.

5 MR HOUGH: Because a Rule 43 communication is more of an
6 administrative exercise.

7 SIR MICHAEL WRIGHT: Yes, thank you.

8 MR HOUGH: I don't know if anybody else has observations.

9 SIR MICHAEL WRIGHT: The only one I can think of might be
10 Mr Horwell.

11 MR HORWELL: It's not the hour that makes me say I have very
12 little to say; it's simply I agree with everything that
13 Mr Hough has said, and that this must not become
14 an inquiry as to what tactics have changed; the very
15 thought of that is, one only has to think of it for
16 a moment to realise that it is not only inappropriate
17 for this inquest, it's inappropriate full stop.

18 SIR MICHAEL WRIGHT: Thank you very much. Mr Mansfield,
19 I am clear about this, as Mr Horwell says, the
20 temptation isn't very strong but in any case it isn't
21 a public inquiry. I do not feel it is appropriate. In
22 fact not only do I feel it's not appropriate, I do not
23 believe I am permitted or should allow you to explore
24 ex post facto developments in the Metropolitan Police's
25 general approach to the way in which they deal with

1 suicide bombers, for the reasons I have endeavoured to
2 make plain.

3 I'm a little troubled as to how much further I ought
4 to let you go with Mr Tillbrook, but I think he can
5 certainly deal with the experience that he has had in
6 the time he has been the Commander of CO19 to deal with
7 what he thinks of the way in which his officers dealt
8 with the problems they were faced with, and I have Ivor
9 in particular in mind in July 2005 but I don't think it
10 really ought to go further than that.

11 I fear in the end I would have to stop you.

12 MR MANSFIELD: Well, that's why I have raised it.

13 SIR MICHAEL WRIGHT: I know, that's why I wanted to
14 determine it.

15 In the light of that, can you give me an estimate?

16 MR MANSFIELD: I think 15 minutes.

17 SIR MICHAEL WRIGHT: Thank you very much. That looks as
18 though Friday may be all right. Thank you very much
19 indeed. You are as always, Mr Mansfield, if I may say
20 so, extraordinarily helpful and I'm grateful to you.

21 Thank you very much. 10 o'clock.

22 (5.15 pm)

23 (The court adjourned until 10.00 am on
24 Friday, 7 November 2008)

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