

1 Tuesday, 7 October 2008

2 (10.00 am)

3 (In the presence of the jury)

4 DEPUTY ASSISTANT COMMISSIONER CRESSIDA DICK (continued)

5 SIR MICHAEL WRIGHT: Sorry to keep you waiting, ladies and
6 gentlemen, I hope none of you shared my experience on
7 the Underground.

8 MR HILLIARD: We have a bit of housekeeping from yesterday,
9 which is the note that you were handed by Mr Mellody at
10 9 o'clock. It's going to go in the jury bundle at
11 divider 49.

12 SIR MICHAEL WRIGHT: While you are doing that, Mr Hilliard,
13 there is a question, and I think it's
14 a misunderstanding. I will read it:

15 "The surveillance log states that around 9.48, JC
16 left the number 2 bus and then at 9.52, caught the same
17 number 2 bus at a stop further down the road."

18 Now, that is wrong, my recollection is he got back
19 on at the same stop where the bus had stopped. So I am
20 afraid it's a misconceived question.

21 Questions from MR HILLIARD (continued)

22 MR HILLIARD: Right. I just want to look, please, finally
23 at three passages in Mr Cremin's log. So we have that,
24 you may have it somewhere else, but we have it in
25 divider 47. By all means get the original out. For us

1 it's page 164.

2 SIR MICHAEL WRIGHT: There are two sets of numbers,

3 Mr Hilliard.

4 MR HILLIARD: There are. It's 164, so it's the higher,

5 smaller in fact of the two numbers. Or 5 at the top.

6 SIR MICHAEL WRIGHT: Yes.

7 MR HILLIARD: Can you see, just towards the bottom, before

8 the crossed out part:

9 "Followed [arrow] surveillance into station, entered

10 tube, sat inside, confronted by SO19 team, shot in head,

11 non-compliant."

12 Then in the margin is "from SO19". Do you see that?

13 A. Yes, I do, sir.

14 Q. You help us, does that mean this is the information that

15 was coming from SO19?

16 A. Yes, that's right, sir, I believe this is what I was

17 told by Mr Purser, who was Silver, you remember, and he

18 was standing just outside the tube station. He was

19 given this account and he then passed that account to

20 me, and I told my loggist to write it down.

21 Q. Small numbers 197 at the bottom, 39 at the top, if that

22 helps you, where they have been marked.

23 About the middle of the page, this relates -- looks

24 like something that's said at least at 18.35?

25 A. Yes, sir.

1 Q. Are you with me there?

2 A. Yes, sir.

3 Q. Do you see "Silver Scotia Road, copy MG11" then is that

4 "CD" after that?

5 A. Yes, sir.

6 Q. MG11 is?

7 A. It's a statement form, it's the number for the witness

8 statement form.

9 Q. Then do you see: "SO19 black team, could there have been

10 any confusion re: Kratos -- VE 'no'."

11 Could you explain that entry for us, it might be

12 difficult but could you try?

13 A. Could I take one moment to quickly read a little bit

14 before, make sure that I know where I am?

15 Q. Yes, of course. (Pause).

16 A. I am just reading a tiny bit after.

17 Q. Of course, you do that. (Pause).

18 A. Yes, sir, this is, as you say at 18.35, so it is after

19 I have handed over responsibility for the ongoing

20 operations as DSO to Mr Armand. I then attended

21 a meeting just prior to this at 17.35, where a number of

22 colleagues were present and we discussed what had

23 happened, what was happening now, the intelligence

24 update.

25 At 18.35, together with my loggist, I went to see

1 Silver, Mr Purser, in his office, having phoned him, and
2 I went to see whether he was all right, and to have
3 a brief chat with him about how he was.

4 The reference to the MG11 is that he had already
5 completed a brief statement, and I knew that. S019
6 black team I think is self-explanatory. Then: "could
7 there have been any confusion re: Kratos -- VE 'no'",
8 was me saying that Vince had said "no" in answer to
9 a question earlier on.

10 SIR MICHAEL WRIGHT: Oh, he actually wasn't there?

11 A. No, he wasn't there at that point sir.

12 So there was a question earlier on from I think
13 Mr Boutcher to Vince: could there have been any
14 confusion re Kratos, and Vince was very emphatic at that
15 time, a long time earlier in the day, "no".

16 Jacket, T-shirt and jeans refers I think to the
17 clothing Mr de Menezes was wearing, and then Mr Purser
18 talked me through who he had handed over to, so you see
19 those names there. And the fact that it says "ambulance
20 delayed" I don't actually remember that, I'm not sure
21 that's accurate, and the S019 officer had come racing up
22 the stairs to grab a first aid kit and run back down the
23 stairs again.

24 MR HILLIARD: VE you say Vince Esposito?

25 A. Yes, sir.

1 Q. All right. Then nearly at the end, if you turn over the
2 page --

3 A. Sorry, just to help, sir, that conversation was probably
4 10 minutes, something like that, and you know, I talked
5 to Mr Purser about what he was going to do next, he
6 wanted to carry on working, I thought it might be better
7 if he didn't, and the welfare conversation.

8 Q. We don't need any more.

9 A. Thank you.

10 Q. 189, so over the page, little drawing there, then
11 a reference to "yellow pole", obviously a figure, and
12 "challenged shot 9 to 10 head".

13 Do you see that?

14 A. Yes, sir, I do.

15 Q. Can you help us, is that -- that's obviously one side of
16 a page. What's the other side of that page?

17 A. It's my page 41.

18 Q. So your page 41, you need that on one side, and 40 on
19 the other?

20 A. That's right, sir.

21 Q. Can you help us about that, what that was about?

22 A. I can, sir. I mean, perhaps it would be helpful, people
23 may have understood this already, but just to explain,
24 in my original, you will see that I used a red pen and
25 my signature is in the red pen. When there is a sort of

- 1 blank bit of page in the loggist's log, I strike through
2 it with my red pen when I am reading the log later on
3 that night. That's --
- 4 Q. Just to make sure that nothing could be added in by
5 anyone later?
- 6 A. So that nothing could be added in, it's kind of standard
7 practice.
- 8 Q. So you have put those big marks through and then signed
9 each page; is that right?
- 10 A. Exactly, so on page 40 which we have on the screen at
11 the moment, you will see a line going in a Z shape with
12 CD at the end. That's a red line meaning that my
13 loggist had left it blank and I then struck it through
14 later on in the evening. Likewise there is another
15 bigger Z at the bottom of the page, which finishes with
16 "Cressida Dick Commander" which is my sort of signature
17 at work.
- 18 Q. You have struck through the blank parts on a page,
19 leaving what was there. Can you help us: as it now is
20 on the screen, can you hold the book up, I think the
21 jury may be -- I meant can you hold it open and up, so
22 they see the sort of book it is. So we have writing on
23 one side and then as you say you are scoring through,
24 all right. Yes?
- 25 A. So that creates a slightly strange image on here but

1 obviously the bit that my loggist had drawn is just the
2 middle section there.

3 Now, at this stage, I had spoken to Mr Purser, as
4 I told you, I then met with Mr Rose who had finished his
5 work at Portnall, that same sort of welfare
6 conversation, and then I drove to Leman Street and
7 I arrived there at 19.45. My intention was to speak
8 briefly to the firearms team and to the surveillance
9 team if they were available, with my loggist present,
10 and being very careful about the nature of the
11 conversation that I was going to have. But I thought it
12 was important, as their commander and the person that
13 had effectively put them in the position that they had
14 found themselves in, that I went to see them
15 face-to-face if I could.

16 I met the black team leader at 19.45, just outside
17 Leman Street, and on page 41, on the right-hand side,
18 you can see a little bit of conversation. I don't know
19 whether you want me to go through that, sir?

20 Q. This is thanking people for their hard work, that bit?

21 A. Yes, so --

22 Q. No, we don't need to, it's just about the drawings?

23 A. Again it was essentially a welfare conversation and
24 a leadership conversation, I suppose, for want of
25 a better word. [name redacted] the team leader, my

1 apologies, said very, very briefly -- told me where the
2 principal officers currently were and I never spoke to
3 them because they were engaged.

4 But he said some words and I am struggling at the
5 moment to remember exactly what he said, which led my
6 loggist to write this little drawing. This is, I think,
7 my loggist's writing, it's not the team leader's
8 writing, but he was describing the scene in the
9 carriage, and this three -- I think there are three
10 seats, a yellow pole, and Mr de Menezes lying on the
11 floor.

12 Q. Beyond what's there, have you any other recollection of
13 what it was he said?

14 A. No, it was a very brief conversation.

15 Q. All right. Thank you. Lastly, and I am not even going
16 to go into the explanation for it, but just in case
17 anybody noticed, we can clear it out of the way,
18 something went wrong with the numbering, I think, at one
19 point in the little numbers. Did you put those numbers
20 with rings in that we have?

21 A. Did, yes.

22 Q. In fact there isn't, is this right, a page -- is it 15,
23 16, 17.

24 A. I remember something went wrong.

25 Q. I am not even going to ask you to go back to it because

1 it really doesn't matter.

2 SIR MICHAEL WRIGHT: We are talking about the ones in the
3 rings at the top of the page?

4 MR HILLIARD: Yes. Because we could spend hours on the
5 explanation, which just doesn't matter, but in case
6 anybody notices and asks, the numbering went wrong. And
7 I think if anybody wants to ask you about it, they will.
8 But the book is as you had it.

9 A. The book is intact; the numbering went wrong.

10 MR HILLIARD: Thank you very much.

11 SIR MICHAEL WRIGHT: Yes. Mr Mansfield, I'm very conscious
12 of the fact that you have, as it were, the whole case to
13 deal with by contrast with your colleagues, but I am
14 confident that you will bear in mind any exhortations of
15 last night.

16 MR MANSFIELD: Oh yes.

17 SIR MICHAEL WRIGHT: Thank you.

18 MR MANSFIELD: I wonder if it might be appropriate, in the
19 light of that just to do it through the officer, so the
20 jury understand, because they may not understand, and
21 the officer may not understand.

22 Questions from MR MANSFIELD

23 MR MANSFIELD: Good morning, my name is Michael Mansfield,
24 I represent the family of Jean Charles de Menezes, but
25 in the light of the Coroner's very proper observations,

1 you have given evidence before, as the jury are aware --

2 A. Yes, I have, sir.

3 Q. -- at the Health and Safety trial?

4 A. Yes, I have, sir.

5 Q. You weren't called by the prosecution, you were called

6 by the defence; is that right?

7 A. Yes, for the Metropolitan Police.

8 Q. For the Office of the Commissioner?

9 A. Sorry, I beg your pardon, yes, the Office of the

10 Commissioner.

11 Q. I'm not being particular but that's how it was

12 described. So you understand, many of the areas that

13 I am going to ask you about today you have been asked

14 about before; not all of them, do you understand?

15 A. Yes, sir.

16 Q. So the jury appreciate, that trial was dealing with

17 centrally a very different issue to this inquest, wasn't

18 it?

19 A. It was dealing with an alleged failure in Health and

20 Safety by the Metropolitan Police.

21 SIR MICHAEL WRIGHT: Well, it dealt with the responsibility

22 of the Office of the Commissioner to the general

23 public --

24 A. Thank you, sir.

25 SIR MICHAEL WRIGHT: -- as opposed to a particular

1 individual.

2 MR MANSFIELD: You were aware of that, were you, when you
3 gave evidence?

4 A. Yes, sir, I think there was some legal debate about the
5 duty of care to the individual, that's the only reason
6 for hesitation. But I am not a lawyer.

7 Q. No, no, I appreciate, but again so it's clear to this
8 jury, the learned judge in that trial was very anxious
9 to point out that their function was not looking at, if
10 you like, a chain of causation leading to the death of
11 Jean Charles de Menezes, all right?

12 A. I understand entirely, sir, yes.

13 Q. And that is a different context, so you will forgive me
14 if I go over some of the same ground, but the reason
15 I am going over some, but not all, of the same ground is
16 in order to ascertain its impact, all right, the same
17 ground, on the life of a particular individual?

18 A. I understand entirely, sir.

19 Q. And the preservation of the life of that individual.
20 You appreciate?

21 A. Yes, sir.

22 Q. Because of course you spent a little time in your
23 decision -- I'm not asking you to look it up -- at one
24 stage referring to human rights and the Human Rights Act
25 and so on?

- 1 A. Yes, sir.
- 2 Q. You did appreciate that you had a dual function,
3 protecting the public at large as far as is humanly and
4 reasonably possible against the threat posed by
5 terrorists, and also you had another obligation which
6 was to protect individual members of the public from
7 death at the hands of a police officer?
- 8 A. Absolutely, sir.
- 9 Q. I mean, that's a very important thing, isn't it?
- 10 A. Very important.
- 11 Q. Because we don't want members of the public being
12 worried that they might be next?
- 13 A. No, sir, my job is to protect everybody, members of the
14 public, people we may be arresting, and indeed my
15 officers, and the public need to have confidence in our
16 ability to do that safely.
- 17 Q. You see, I have asked a question of several officers to
18 date, you have already been asked it, so I will not ask
19 it again now but I will come back to it, what went wrong
20 here; you have been asked it by my learned friend
21 Mr Hilliard yesterday. In consequence of one officers'
22 reply to this jury, I asked him bluntly whether he
23 thought it could happen again and he said yes. Do you
24 say the same?
- 25 A. I am afraid, sir, I do believe that this or something

1 like this could happen again. The nature of these
2 operations is that they are incredibly high risk to all
3 concerned, and that is because of the nature of the
4 threat that we face from suicide terrorists, and the
5 difficulty that there is in dealing with such a threat,
6 and the very fast timescale in which these things can
7 happen. Our job is to reduce the risk to everybody as
8 best as we possibly can all the time. That's what we
9 set out to do. But I do fear that, in the future,
10 a bomber might not be prevented from setting a bomb and
11 people later might say -- there would be a huge scrutiny
12 of why we did not manage to prevent that. And equally,
13 I pray it doesn't happen, but it is possible that
14 an innocent member of the public might die in
15 circumstances like this. Our job is to minimise the
16 risks. Given the huge scale of the risks, we may only
17 be able to do that to a less than perfect extent.

18 SIR MICHAEL WRIGHT: Well, the magnitude of the risk is
19 illustrated by what happened on 7/7.

20 A. Yes, sir.

21 SIR MICHAEL WRIGHT: Fifty-two people died.

22 A. Yes, sir.

23 MR MANSFIELD: It's in that context of minimising the risk
24 to both, obviously the public at large vis-a-vis the
25 terrorist and the individual citizen from being killed

1 by officers of the State, effectively, it's that area,
2 the minimising of the risk on this particular day that
3 I am going to make it clear to you straightaway so you
4 know where the questions are going, that you dismally
5 failed to minimise the risk vis-a-vis Jean Charles
6 de Menezes.

7 Do you follow that?

8 A. I follow it, sir; I don't accept it.

9 Q. No, I appreciate you won't accept it. Can I ask you
10 this: is there a problem within the Metropolitan Police
11 hierarchy about admitting things that go wrong?

12 A. No, I don't think there is at all, sir.

13 Q. All right. Is there within you any problem about
14 admitting when things go wrong?

15 A. I regard myself as somebody who will always take full
16 responsibility for what I have done. I will be quick to
17 say if I think I have done -- I have done something
18 wrong. The phrase you use, "something's gone wrong", is
19 a fairly broad phrase, and of course I don't wish to be
20 trivial about it but there are things that go wrong in
21 life, even, you know, the learned Coroner coming to here
22 on the tube train, something went wrong, things go
23 wrong, and I absolutely will accept that also. I also
24 accept that we don't operate in a perfect world.

25 But I would be quick to admit if I thought --

1 Q. You would? Because I'm going to take you through those
2 areas and I'm going to ask you the same question. I am
3 not asking whether, for example, the learned Coroner
4 should be held responsible for the lateness of a tube
5 train --

6 SIR MICHAEL WRIGHT: Stop treading on delicate subjects,
7 Mr Mansfield!

8 MR MANSFIELD: I am really only interested -- and you must
9 follow this and understand it -- in those areas for
10 which you have responsibility and can do something about
11 it.

12 Do you follow that?

13 A. Yes, I do, sir.

14 Q. I want to start by asking you to go back to page 40, we
15 had it on the screen a moment ago, it's in your red
16 book. I am sorry, it's in the Cremin note?

17 SIR MICHAEL WRIGHT: It's the log, isn't it?

18 MR MANSFIELD: Yes, page 40.

19 Now, you didn't read it out, and I am not
20 complaining about this, but this brief note, very, very
21 brief you have made the point, did you make any note of
22 your own about this conversation?

23 A. No, I didn't, sir, no, no.

24 Q. Why not?

25 A. Because I had a loggist with me when I spoke to him.

1 Q. You now don't really remember much about the
2 conversation, do you?

3 A. Well, I remember it was very brief.

4 Q. Well, of course, yes.

5 A. So I don't know that there is an enormous amount to
6 remember beyond what is written on the right-hand page.

7 Q. How did it go, did he volunteer this or did you ask him?

8 SIR MICHAEL WRIGHT: We are talking about the drawing, are
9 we?

10 MR MANSFIELD: The drawing on the left and the little bit of
11 narrative that's there.

12 A. I am afraid I am not even sure of that. He was leaving
13 Leman Street, he had obviously been through a very, very
14 challenging operation, and he told me very briefly about
15 this. I don't know whether -- I can't remember whether
16 I asked him or he told me.

17 Q. I am going to put it certainly for the jury, this is
18 right at the centre of what the jury are going to be
19 looking at, what actually finally happened in the
20 carriage on the tube train. Now, did you ask him, as
21 the officer in charge, since you have gone there to
22 enquire about their welfare, there is the welfare of the
23 man who was shot; did you ask him how this came about?

24 A. I don't think I did, sir, I was very conscious that even
25 in going to see the officers I could potentially open

1 myself up to some criticism at a future date by someone,
2 because it would be quite wrong if I was perceived to
3 have tried to investigate, it would be quite wrong if
4 I was perceived to have tried to influence in any way
5 any subsequent account, and you will actually see on
6 a previous page that before going I discussed whether
7 I should or I shouldn't with a senior officer. I said
8 "I think it's my duty", these were my actual words,
9 "I think it's my duty to go and see that they are all
10 right and to show my face to them". I had no intention
11 of getting into a detailed conversation about what
12 happened, and I still think it would have been
13 inappropriate for me to do so.

14 Later on in the log, you will see the conversation
15 that I had with the surveillance team, and
16 "conversation" is not quite the right word because it
17 was all me speaking, I certainly didn't ask them what
18 had happened. That's my training --

19 SIR MICHAEL WRIGHT: Is that in the knowledge, which
20 undoubtedly you would have had, that after an event of
21 this kind there would be an independent inquiry?

22 A. Absolutely, sir. You will have noticed earlier on in my
23 log I talked about the IPCC needing to be called, yes,
24 sir.

25 MR MANSFIELD: Did you know they were being kept away?

1 A. No, sir, I did not know.

2 Q. You didn't know, no-one told you about that?

3 A. No, they didn't and actually as you know I had handed
4 over responsibility for the scene and putting the wheels
5 into motion for the investigation to another colleague,
6 not something I needed to know at all. That's quite
7 inappropriate again for me to become involved in that.

8 Q. Let us work again on the basis that you didn't ask any
9 questions of the Silver, Mr Purser, who is upstairs at
10 Stockwell, and he just speaks, and your loggist notes
11 this down. The yellow pole, just help us, what does
12 that indicate, do you remember?

13 A. I am sorry, sir, this is the firearms team leader
14 conversation here.

15 Q. Yes.

16 A. I can't remember the yellow pole, I don't know what the
17 yellow pole was.

18 SIR MICHAEL WRIGHT: I can offer you a guess, as I have been
19 a guest of the Northern Line quite recently, it's the
20 pole -- it's a hand-hold for people standing on the
21 tube.

22 A. Thank you, sir.

23 MR MANSFIELD: The reason I'm asking you about this to begin
24 with for two reasons, one is this pole I'm afraid may
25 feature in some accounts.

1 Can you remember what the black team leader was
2 saying about this pole?

3 SIR MICHAEL WRIGHT: His pseudonym I think is Ralph?

4 A. Yes, it is.

5 MR MANSFIELD: I think he used another name but it doesn't
6 matter.

7 Can you remember what --

8 A. No, I can't, sir, I am sorry.

9 Q. You can't. Then there are the three seats and
10 a diagram. Then it has "challenged". Was there any
11 more detail than that?

12 A. I can't remember what else he said.

13 Q. Does it say anything about non-compliance?

14 A. Not there, no, it doesn't.

15 Q. Did he say anything about non-compliance?

16 A. (Pause). I think he did. I can't be certain. I had
17 been told earlier on in the very brief account that came
18 through Silver about non-compliance and that's why
19 I can't be certain. But I think he did. I can't be
20 sure.

21 Q. Then I want to deal with the last. At the time that
22 this happened, that is this conversation, at I think you
23 have given the time of roughly 19.45 in the evening; is
24 that right?

25 A. Yes, sir.

1 Q. By that time, you did know that the person had documents
2 on them in the name of Jean Charles de Menezes, didn't
3 you?

4 A. I did, sir.

5 Q. Yesterday when you were asked the question about your
6 reaction in the first place when somebody was shot was
7 rather considered, you were then moved on. It was put
8 to you: "When did you discover about the name?" Again
9 very considered: "Needed to be checked". When you heard
10 that there were nine to ten shots to the head, what was
11 your reaction to that?

12 A. I can't remember any particular reaction to that, sir.

13 Q. Well, please think. You are Kratos trained: critical
14 shot, brain stem, close quarters. Now think about this:
15 what was your reaction when the black team leader said:
16 "Nine to ten shots to the head"?

17 A. I don't think I had any reaction, sir, he was giving me
18 information. I was not surprised --

19 Q. You weren't?

20 A. No, I was not. I was not -- I was not surprised.

21 Q. The whole object of the exercise in Kratos, especially
22 if it's close-up, I mean, you are familiar with this,
23 are you?

24 A. I don't know what you are going to say, sir.

25 Q. You know Kratos?

- 1 A. Yes, oh, I am sorry.
- 2 Q. I am using it as a generic term for the moment.
- 3 A. Yes, yes.
- 4 Q. The delivery of a critical shot --
- 5 A. Yes.
- 6 Q. -- which has been developed -- you do appreciate this
- 7 has been developed without any public debate, hasn't it?
- 8 A. The Kratos policy you are talking about?
- 9 Q. Yes, that's right.
- 10 A. Very, very limited debate.
- 11 Q. All right. Now, the idea of the delivery of a critical
- 12 shot, whether it's Kratos specific as opposed to
- 13 Clydesdale specific, is, if it is close quarter, with
- 14 a handgun; right?
- 15 A. Yes, sir.
- 16 Q. I am dealing with that, because that's what was used
- 17 here.
- 18 A. Yes.
- 19 Q. A handgun right against the head. There is no, is this
- 20 right, professional advice suggesting that anyone needs
- 21 to fire nine, or a combination of people need to fire
- 22 nine shots, is there?
- 23 A. I don't think there is any professional advice about how
- 24 many shots should be fired.
- 25 Q. Ideally it is suggested one will be enough to the brain

1 stem to incapacitate completely. That's the idea, isn't
2 it?

3 A. I don't -- you have taken me out of my area of
4 expertise, sir; you may be better to ask somebody else.
5 I don't think the idea is that -- the idea is that
6 incapacitation will follow quickly from such a shot.

7 Q. A shot -- yes. You see, what I want, the reason I'm
8 asking you about this is, please understand, not for
9 dramatic effect, it is in fact to point out to you that
10 what happened on this day, under your authority and
11 responsibility, was a chain of events that spiralled out
12 of your control such that, at the end of the day, nine
13 shots were fired. Now do you understand?

14 A. I understand what you are going to suggest, yes.

15 Q. That's why I have started at the end, and I'm going to
16 work backwards. The reason I am going to suggest, so
17 it's entirely clear what the context is, the reason that
18 it spiralled out of your control disastrously was -- and
19 I'm going to put it in a colloquial phrase so you may
20 understand -- that essentially from the beginning, you
21 were sprinting to catch up with something that had not
22 been properly organised that morning. Now, do you
23 follow that?

24 A. I follow it, I don't accept it.

25 Q. And that is why you said, and it was noted by your

1 loggist, and the jury saw it last night, I don't ask you
2 to look it up, that's why you said to the handover
3 officer, Mr Armand, "the First hour was appalling";
4 right? You did say that?

5 A. I did say that, I said, "The first hour was appalling,
6 you know, no structure".

7 Q. Yes, no structure?

8 A. As in, as I explained yesterday, every operation --

9 Q. Every operation --

10 A. I am sorry, sir, yes, but every operation which is
11 a large scale bringing together hundreds of people,
12 thousands of people actually in a very short space of
13 time, there is always a time where you have to put the
14 structure onto the operation, and I have been involved
15 in tens and tens and tens of very large scale
16 operations. If they come quickly as opposed to one
17 which you have planned for for six months, there is
18 always a period of lacking structure.

19 Q. You wouldn't need to tell Mr Armand that if it always
20 happened, something like that, you say: oh, well, the
21 normal chaos at the beginning. The word was
22 a particularly strong one, "appalling". Are you telling
23 the British public that the average big operation starts
24 with an appalling structure?

25 A. I am telling this court that when you set up operations

1 like these, there is always a considerable period of
2 time -- I have been involved in one where it was
3 extremely chaotic, that would be the right word, for two
4 or three days, that was when we were trying to respond
5 to the tsunami. We don't have structures and systems
6 and processes in place immediately, we can't magic up
7 all the people immediately, we can't get everything in
8 terms of planning right immediately, so there is always
9 a period of needing to get the structures right.

10 Q. So the jury may understand, I think they have heard some
11 of the dates, planning for something like this, that is
12 the possibility of a suicide bomber on foot in London
13 had in fact been going on since 2001, hadn't it?

14 A. The development of the Kratos policies, if I can call
15 them that, they weren't called that initially but yes,
16 that began very shortly after September the 11th.

17 Q. Yes.

18 A. And that related in the first instance to what the
19 research showed was the likely scenario, sad to say, of
20 what we call a spontaneous call, where someone rings in
21 and says "I'm very concerned about this person".
22 Planning for the challenge that we faced just
23 a fortnight after the previous bombings, four, maybe
24 more, suicide bombers on the run, was not something that
25 we had begun planning for in 2001.

1 Q. You had been planning for the possibility of having to
2 meet one or more footborne suicide bombers in London
3 since 2001, hadn't you?

4 A. Late 2001, yes, sir.

5 Q. Yes, and that involved also making sure that if you are
6 going to have to face a footborne unfortunately
7 terrorist suicide bomber in London, you would have to
8 have structures in place?

9 A. Yes, I don't -- well, I certainly didn't mean to imply
10 that we have no structures, I'm simply saying that,
11 depending on the nature of the challenge, you have to
12 put in place particular structures, and they will vary
13 depending on the challenge. But of course we have, the
14 jury will have heard about Gold, Silver and Bronze, we
15 have control rooms, we have information systems, we have
16 lots of structures, but they do need to be brought
17 together, and in this instance, it was a unique
18 challenge, bringing together parts of the
19 Metropolitan Police that had never worked so closely
20 together before in this sort of environment.

21 Q. Now, I just want to move towards the day itself. Of
22 course, the concept of a DSO also had been discussed in
23 these exercises that are being carried out by the
24 Metropolitan Police before July of 2005?

25 A. Yes, sir.

1 Q. The exercises, one of which in fact took place the
2 Friday before, you knew about it although you didn't
3 attend it?

4 A. That's right, sir.

5 Q. That was bringing together various different strands,
6 wasn't it? That's just an example.

7 A. Yes, sir, I think that was primarily an exercise
8 involving how we work with the military.

9 Q. And other agencies?

10 A. And other agencies, yes.

11 Q. Right, so there was that exercise. I am not going back
12 through all the other exercises, there were other
13 exercises, tabletop exercises, Tavistock and so on?

14 A. Yes.

15 Q. Did that include the possibility of someone who was not
16 carrying a suicide bomb?

17 A. I can't remember, sir, but I do know that we did discuss
18 that possibility at several of the training events,
19 including, I think, the very first one we did. The
20 nature of the challenge of trying to find out within
21 a short space of time what somebody does intend to do or
22 doesn't intend to do, what they are carrying or not, is
23 one of the most challenging parts of the threat that the
24 suicide bomber poses. So of course we discussed, in the
25 early training, that possibility. I can't remember

1 about Tavistock.

2 Q. People went round the world looking at how other
3 countries dealt with it?

4 A. They did.

5 Q. Including Israel?

6 A. They certainly went to Israel and Sri Lanka and America.
7 Russia, I think, Chechnya maybe.

8 Q. Where the threshold for a critical shot is quite
9 different?

10 A. Again, I am outside my area of expertise, sir.

11 Q. I will have to come back to it a little bit when we get
12 towards the end of the day that we are concerned with.
13 Now, I am going to suggest the first problem that arose,
14 and one has to see these cumulatively and I can't deal
15 with the whole picture at once, I am going to deal
16 with -- and I am doing it in stages, chronologically so
17 it's easier for you and the jury to follow.

18 You get a telephone call in the middle of the night,
19 1.30 roughly, asking you to come in to be a DSO, but my
20 understanding of your evidence here is that you thought
21 you were coming in to be an oncall 24-hour spontaneous
22 DSO, didn't you?

23 A. I wasn't sure, but that was certainly what -- again it
24 was Mr Armand -- thought. I think the words he used
25 were: "I am not sure what you will be needed for, Cress,

1 but I think they are thinking of publishing the
2 photographs and when they do, there will be a lot more
3 calls, and we think we will need another DSO anyway".
4 Q. Do you now realise in fact that was in fact wrong, what
5 he told you?
6 A. Well, it's -- I didn't end up dealing with the
7 spontaneous --
8 Q. No, have you now discovered -- this is just the
9 beginning -- there had already been a meeting, the jury
10 have heard about it, with a tactical adviser called
11 "Andrew". Do you happen to know him?
12 A. I do know Andrew, yes.
13 Q. He has given evidence, and others such as Mr Allison and
14 so on, who is another DSO; do you know him?
15 A. Very well, sir, yes.
16 Q. Very well. They had had a meeting because they
17 considered the need, in the context of a firearms
18 authority being granted at 11.50 the night before, just
19 before midnight, that there might be a need for a DSO to
20 oversee a Kratos situation, not on call but a specific
21 reaction to a situation that they are beginning to plan
22 for; did you know that?
23 A. No, I didn't know that, I'm not -- I am not sure I know
24 exactly that now but I certainly didn't know it then.
25 Q. You didn't know it then?

- 1 A. No.
- 2 Q. The problem is on that phone call, you were willing and
3 you did go in early, you were willing to come in early
4 and they changed the time -- somebody said: oh, don't
5 worry, 7 o'clock or something to that effect, do you
6 remember?
- 7 A. Yes, I was originally asked for 5 o'clock and Mr Allison
8 I think was behind Mr Armand's shoulder and he said: no,
9 7 o'clock will be --
- 10 Q. I am going to make it clear to you that the problem here
11 was that the whole model of what was happening was
12 forged around 7 o'clock. So you were asked to come in
13 at 7, and now you know of course so were the black team
14 asked to come in, and the Silvers that were appointed
15 were geared to 7 o'clock, although they came in earlier.
16 So do you follow, I am putting the picture, that
17 picture, to you?
- 18 A. Yes, sir, I follow.
- 19 Q. What actually happens is you get in early and you read
20 up?
- 21 A. Yes, sir.
- 22 Q. Thinking: "I'm going to be or possibly going to be the
23 DSO oncall taking public calls once we go public"?
- 24 A. I think possibly is the word, sir, because again, very
25 early stages of a uniquely demanding operation, I would

1 be a pair of hands, and I wouldn't have been surprised
2 if I had been sent off to do something completely
3 different, not even a DSO role, because that's how we
4 work, get in for 7 o'clock, I'm there, I'm ready,
5 I think that's what I am going to do but they might send
6 me somewhere else. So possibly.

7 Q. Possibly. For all sorts of reasons, I needn't go into
8 them, the briefing of what you are actually going to do
9 has already started, just before 7, 10 to 7, and we all
10 know you get there late because you have gone to the
11 wrong floor, not your fault, and you are there at about
12 7.15 when people have already started to leave?

13 A. Yes, sir, I think I explained, I think it was one of
14 several almost sort of continuous meetings, people are
15 coming and going.

16 Q. I appreciate.

17 A. Yes.

18 Q. I am going to halt at this stage, take you back. You
19 see Mr McDowall, he is the Gold Commander, he has set
20 the firearms strategy?

21 A. Sorry, where are we now in time, sir?

22 Q. 7.15?

23 A. Right, yes.

24 Q. You begin to realise, do you, you are not going to do
25 the 24-hour on call job?

1 A. Yes, sir.

2 Q. Right.

3 A. Mr Carter is at the meeting, and we actually talked
4 about the -- I understood the need for someone in the
5 operations room, I understood the need for somebody in
6 the information room where Mr Carter had been all day
7 and much of the night before, half the day and much of
8 the night before. As I said, we had a debate about
9 whether we needed more than one DSO in the operations
10 room, and we decided not. And we then collectively,
11 I think, decided, Mr McDowall, Mr Carter, Mr Allison,
12 tac advisers, and me, that it made most sense for
13 Mr Carter to remain in DI9, because that's where he had
14 been the day before and I would take on the role
15 upstairs.

16 Q. Right, it's at that point; did you know then that the
17 operation had already begun an hour and a quarter
18 before?

19 A. Well, I had been in to the operations room --

20 Q. So you knew?

21 A. -- when I went to the 16th floor.

22 SIR MICHAEL WRIGHT: Well, you knew that surveillance teams
23 had been sent out?

24 A. Alan had told me that surveillance teams had been sent
25 out, yes, sir.

1 MR MANSFIELD: Well, the surveillance team -- I do not want
2 to spend a lot of time on Portnall Road -- hadn't
3 actually gone, or did you think they had, the blue team,
4 to Portnall Road; is that what you were being led to
5 believe?

6 A. I am not sure about blue, I think I said that yesterday,
7 I am not certain about blue, but red had gone and
8 I remember Alan telling me --

9 Q. The jury will hear that blue hadn't gone at 7.15; in
10 fact they had not even been briefed?

11 SIR MICHAEL WRIGHT: Does it matter, Mr Mansfield?

12 MR MANSFIELD: No, it doesn't.

13 SIR MICHAEL WRIGHT: As I have interrupted, can I just ask
14 this: certainly when you saw Mr McDowall at 7.15 and the
15 discussion, and you have heard what was being talked
16 about, you realised that because of the discussion of
17 whether there should be more than one DSO, you realised,
18 as I understand it, that you were going to be asked to
19 serve as a DSO?

20 A. Absolutely, sir.

21 SIR MICHAEL WRIGHT: For what?

22 A. For the operations being run from the 16th floor
23 operations room, which were intended to find and arrest
24 the suicide bombers as soon as possible.

25 SIR MICHAEL WRIGHT: Right. So if I have interpreted you

1 correctly, that at that point you realised that you were
2 going to be asked to work as a DSO, possibly for
3 a Kratos situation?

4 A. That was the reason why Mr McDowall felt he needed a DSO
5 in there, that a Kratos situation might arise.

6 SIR MICHAEL WRIGHT: Might arise?

7 A. That's right, sir.

8 SIR MICHAEL WRIGHT: Thank you.

9 A. Could I possibly say, I was brought up always to answer
10 towards the learned Coroner. I am finding it very
11 difficult. I don't mean to be disrespectful.

12 SIR MICHAEL WRIGHT: Please don't worry.

13 A. Is it all right if I answer in this direction?

14 SIR MICHAEL WRIGHT: I'll tell you if I can't hear you.

15 A. I do feel awkward.

16 SIR MICHAEL WRIGHT: I shall not be the least offended.

17 Yes.

18 MR MANSFIELD: Now, this is just the first stage. You now
19 become aware you are going to be the DSO, and we will
20 come to what the decision log says about it.

21 You knew there was a red team out. Did Mr McDowall
22 tell you what his strategy had been, set at 4.55, and
23 continued to be at 7.15? Did he tell you?

24 A. Well, he certainly didn't tell me about 4.55. He didn't
25 tell me very much about what had gone on in the night in

1 terms of meetings and decisions, I wouldn't expect that,
2 I would expect to start with: "This is what's now
3 happening, this is what we want to happen, this is the
4 intelligence".

5 Q. So on that basis, did he tell you: "Look, I'm very
6 sorry, we haven't got a firearms team to back up the red
7 team at Scotia Road"?

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

9 Q. Wait a minute. You are wanting -- I don't mean to
10 interrupt -- you are needing to catch up here?

11 A. I am needing to get briefed, certainly, yes.

12 Q. Yes, and you knew firearms were going to be involved?

13 A. Absolutely, sir.

14 Q. That's part of the strategy, isn't it?

15 A. It is, yes.

16 Q. It's not hindsight, I hope, to ask you as a DSO with
17 considerable experience, one of the first four, why you
18 didn't say to Mr McDowall, "Well, that's fine about the
19 red team, I can't remember about the blue team, never
20 mind that for the moment, but where is the firearms
21 team?"

22 A. First small point is, I don't think any of us could have
23 regarded ourselves as experienced DSOs. Yes, I was one
24 of the earliest to be trained, yes, I had exercised
25 a lot, yes, I am an experienced firearms commander, but

1 actually none of us had done very much live DSO work.
2 Many people had done, I had done two plus some
3 Clydesdale planning so that's the first point.
4 Q. All right, second point?
5 A. I think you are going to have to remind me of the
6 question.
7 Q. Yes. I'll put it a different way so you can deal with
8 it. What I am going to suggest to you is you don't have
9 to be a DSO to ask this question, because this was
10 an operation which was a very well known type of
11 operation, MASTS, you do know that acronym?
12 A. I do know the acronym MASTS.
13 Q. It's familiar?
14 A. Yes.
15 Q. Not uncommon, is it?
16 A. It's not a phrase we use all that much in the
17 Metropolitan Police but it's in the manual, it's
18 a national phrase and we know what it means.
19 Q. You know what it means: Mobile Armed Support?
20 A. Yes.
21 Q. So the first thing you would need to know is where is
22 the Mobile Armed Support and the question was: why
23 didn't you ask Mr McDowall, "So where is the Mobile
24 Armed Support for the team that's already out?"
25 A. I did know at that briefing and subsequently with my

1 conversation with him afterwards and again as soon as
2 I spoke to Mr Esposito, that there were two teams at
3 7 o'clock, so that's what I knew. I was not
4 particular -- well, I wasn't at all -- as far as I can
5 remember, I was not surprised that the surveillance team
6 had deployed before the firearms team.

7 Q. Yes.

8 A. This is --

9 SIR MICHAEL WRIGHT: Two teams at 7 o'clock, I suppose
10 technically that's right, but one of them wasn't
11 available, as it would not have had time to have been
12 kitted and briefed.

13 A. Absolutely, sir, when I first heard about it, I wasn't
14 entirely clear who was at what stage, if you like.
15 I now know that orange were at a greater stage of
16 preparedness than black, but I didn't know that right at
17 that stage.

18 MR MANSFIELD: As a DSO in a firearms operation -- I'll
19 leave out DSO, as a senior officer, and you have
20 performed the role of a senior officer in a firearms
21 operation how many times, 100, 200 times?

22 A. Possibly a hundred, maybe more, yes.

23 Q. You are very familiar at least with that. The one thing
24 you need to know, and we are only at the beginning,
25 well: where are the firearms teams? That's pretty

1 basic, isn't it, you would need to know that?

2 A. It's certainly an important thing in the operation and
3 it's an important thing to know.

4 Q. You didn't even ask that question, did you?

5 A. I knew there were two teams coming at 7, very, very
6 early on. Once I have left Mr McDowall, who is
7 incredibly busy, I have a whole series of conversations
8 with Mr Esposito about the various dispositions -- the
9 various states of all the firearms teams because I am
10 immediately thinking two may be not enough, where can we
11 get a third from, when can we get a third, how will we
12 keep back one for threats to life, kidnap, that sort of
13 thing. Can we bring teams in from outside London? Can
14 we use the National Crime Squad?

15 Q. Can we go back to this case for a moment, I appreciate
16 you have lots on your plate and lots of other threats.
17 There was a red team -- sorry to interrupt -- out there
18 on the street uncovered by firearms; what did you do to
19 ensure that a team got down there as fast as possible?

20 A. As I said, it's not unusual for a surveillance team to
21 be deployed quickly, surveillance teams are frequently
22 sent to gain some control to begin to understand the
23 environment, to set themselves up. There are more
24 surveillance teams in the Met than there are firearms
25 teams, and they are often more readily available. So

1 surveillance teams, when deployed in a MASTS operation,
2 will need an SFO team; surveillance teams being sent to
3 a premises to keep control will have various sources of
4 armed support, potentially available to them.

5 I spoke --

6 SIR MICHAEL WRIGHT: It depends what the risk is, doesn't
7 it? Depends what the assessment of risk it.

8 A. There are some teams that are more suitable than others,
9 certainly, sir, depending on the risk.

10 SIR MICHAEL WRIGHT: I didn't mean that. What I meant is
11 there are some situations where firearms cover was more
12 obviously necessary than others.

13 A. Oh, firearms cover, yes, certainly.

14 SIR MICHAEL WRIGHT: Here what Mr McDowall was laying down
15 his strategy for was the control of a premises in which
16 it was suspected that a failed suicide bomber might, as
17 it were, have gone to ground?

18 A. Yes.

19 SIR MICHAEL WRIGHT: In those circumstances, would you
20 quarrel -- and forget the fact that he is your superior
21 officer -- with Mr McDowall's strategy that the premises
22 were to be contained, I am using "premises" loosely, we
23 are not concerned with that point at the moment, that
24 those premises needed to be contained by a surveillance
25 team which should have firearms cover as soon as

1 possible or as soon as practicable?

2 A. I would absolutely agree, surveillance team with SFO
3 cover as soon as practicable. I wouldn't quibble with
4 that, sir, no.

5 MR MANSFIELD: You may have forgotten, and you haven't
6 answered it, the question I asked you was this -- do you
7 remember the question I asked?

8 A. I don't now, sir.

9 Q. I'm not surprised. But you didn't address it, and this
10 is why I will have to ask it again. Please listen
11 carefully to the question: what did you do at sometime
12 after 7.15 to ensure that a firearms team got down to
13 Scotia Road as soon as possible as there had not been
14 one there since 6 o'clock?

15 A. I wanted firearms teams as soon as practicable to both
16 addresses, Portnall and Scotia in the first instance.
17 I talked to Vince about the availability of the teams,
18 I talked to Vince about later on where the teams were,
19 and at the forward intelligence cell meeting we made
20 it -- "we" being me and Mr Boutcher -- very clear that
21 it was a priority to get the firearms teams, the SFO
22 teams deployed as quickly as they could be.

23 But I know that a team that comes on at 7 o'clock
24 fresh, which is the black team, will take some
25 considerable time to be briefed at their base, to get

1 their kit, to get out, go to a suitable briefing point,
2 be properly briefed by the Silver Commander. So
3 I wasn't expecting them to arrive immediately. Orange
4 team are clearly in a slightly different position.

5 Q. Yes, that's what I want to deal with, with you.
6 Esposito, Vince as you call him, very experienced
7 according to you?

8 A. Immensely experienced.

9 Q. Been on duty the day before?

10 A. I am not sure I knew that then, sir, but it became
11 apparent quite quickly, yes.

12 Q. So when you are having these talks to him in the context
13 of getting a firearms team down there as quickly as
14 possible, that's Scotia Road, did he say to you, "Well,
15 it just so happens we planned for this, and we have had
16 an orange team brought to New Scotland Yard overnight
17 and actually they are sitting downstairs in the canteen
18 with ZAJ, the team leader, plus tactical adviser,
19 sitting there"; did you know that?

20 A. I don't remember him telling me that, if he had told me
21 that, I wouldn't have necessarily sent them straight to
22 Scotia Road.

23 Q. Oh, wouldn't you?

24 A. No.

25 Q. Well, the first stage is you didn't know that?

1 A. No.

2 Q. Now, that is a breakdown in communication, isn't it?

3 A. It's something I came to know. I suppose there is one
4 thing I should make clear --

5 Q. Can I just intervene, then you can give your
6 explanation: is it a breakdown in communication or not,
7 yes or no?

8 A. I don't regard it as a breakdown in communication, no.

9 Q. You don't. There is nothing wrong with that. Now give
10 your explanation.

11 A. Thank you. The tactical advisers that we work with, you
12 have already heard from Andrew, you may hear from
13 others, they have a primary role in providing tactical
14 advice to commanders, and they are extraordinarily
15 experienced, and as I have said, Mr Esposito was
16 probably the most experienced, and certainly the one who
17 had done the most work in relation to Kratos, currently
18 serving at that time.

19 But they have a secondary role, which is that they
20 are very knowledgeable about and constantly in touch
21 with the teams, and so as a commander, we quite properly
22 I think, ask them to explain to us what the
23 possibilities are for particular teams if there is
24 a problem, and then in the normal course of business
25 they will organise the teams, they will suggest who

1 should do what. Frankly, quite a lot of that management
2 of which team's going where and why is done by the
3 tactical adviser.

4 Q. Yes. You see, they were asked to go to Scotia Road but
5 there was another breakdown of communication; did you
6 know that?

7 A. I think you might have to tell me a little more before
8 I could answer.

9 Q. I can. Alan, you know Alan, the man you met when you
10 first came in by mistake?

11 A. Yes, sir. I didn't go into that room by mistake, sir,
12 I was directed in there by the --

13 Q. Yes, very well, that gentleman had asked, this is his
14 evidence here, he's asked minutes after the strategy was
15 set for the orange team on standby kitted up at
16 Leman Street to go to Scotia Road. Did you know that?

17 A. I didn't know it at the time. It was put to me I think
18 in the Health and Safety trial, or something very
19 similar.

20 Q. Was that the first time you discovered it?

21 A. Goodness me, I can't remember that, sir.

22 Q. You see, if that's right, I appreciate you are not on
23 duty at that time?

24 A. No.

25 Q. If that's right, and he's seeing you, he doesn't say to

1 you: "Look, I asked for the orange team to go down there
2 and they are not there and I don't understand", so this
3 whole question of what had happened even before you got
4 there of the standby orange team getting to Scotia Road
5 just wasn't raised with you, was it?

6 A. I don't remember it at that stage at all, sir, no.

7 Q. No. I am going to ask you, I am afraid it will be
8 a repeated theme, there were serious breakdowns in
9 communication at the very least on that night, weren't
10 there?

11 A. I don't know that, sir. When what you have just said to
12 me about Alan was put to me in the Health and Safety
13 trial in fairly brief form, I said then: if that's what
14 happened, if that's what happened, then that sounds like
15 a miscommunication, that was my phrase then.

16 Q. Yes.

17 A. But I do think, here we are three years on, examining
18 quite properly in tiny, tiny detail, forensic detail,
19 exactly who said what to who, when, and which bits of
20 that if any were written down.

21 Q. No, I am sorry, Commissioner, it's not that kind of
22 examination. This is the simple question at 7 o'clock,
23 I have just given you a bit of history about what
24 happened before 7 o'clock. You see, Esposito didn't say
25 to you: "Look, we have the orange team downstairs, they

1 are kitted up, we can get them down to Scotia Road where
2 the red team have been waiting for an hour, much quicker
3 than the black team"; any discussion like that?

4 A. No, he didn't say that to me, sir, but the point I was
5 trying to make is, I don't find it particularly
6 surprising that we may not now know precisely who said
7 what to who, and I haven't, you know, watched the
8 evidence so I don't know what's come out, I have seen
9 one bit of it, but it's not surprising to me that there
10 is not a perhaps complete record and a complete
11 recall of what --

12 Q. That's not the question either. Sorry, that's not the
13 question. The question was: what did you know? As far
14 as I can gather from you, there was no discussion with
15 Esposito in whatever terms, now you won't remember the
16 words, to the effect: "We have got an orange team
17 sitting downstairs, we can get them down to Scotia Road
18 within the hour, possibly, with a briefing"?

19 A. There was no discussion, apologies, again, sir, the
20 question that I was trying to answer then was the one
21 about the lack of communication, as you described it.

22 Q. Yes, of course.

23 SIR MICHAEL WRIGHT: There is one thing I would like to ask
24 about the orange team. The orange team was the
25 overnight SFO team?

1 A. Yes, sir.

2 SIR MICHAEL WRIGHT: Suppose nothing had been happening that
3 night at all, it was a perfectly quiet uneventful night.
4 When there is an overnight duty team like that on, are
5 they kitted up ready?

6 A. I think this may be a better question for a later
7 witness, sir.

8 SIR MICHAEL WRIGHT: I readily recognise that.

9 A. I am sure there are circumstances in which they might
10 be. I am not sure there is always, you know, a team on
11 right through the night in those ways. But I think you
12 can tell, it's probably better to ask someone else.

13 SIR MICHAEL WRIGHT: I fully accept that other witnesses may
14 be able to deal with that better than you can. Would
15 you have expected that the on duty standby firearms team
16 that had been there all night, even if they had not had
17 a call, and they had a quiet night, which maybe wasn't
18 very likely, but even if they had, they would hardly be
19 in bed?

20 A. No, sir, it is occasionally the case that teams that
21 have been working extremely late and then are going to
22 start very early, they may be in bed nearby --

23 SIR MICHAEL WRIGHT: They had been stood down.

24 A. They are not on duty but those that are on duty would
25 not be in bed. Certainly in circumstances that are

1 anything like these, if there is a requirement for
2 a duty night time team because of the possible threat
3 which might come from anywhere across London, then
4 I think I would be asking for them to be ready to deploy
5 in that way.

6 SIR MICHAEL WRIGHT: The expression was used, I think by
7 Mr McDowall, "stood up"?

8 A. That's right, yes.

9 SIR MICHAEL WRIGHT: What does it mean?

10 A. To me it means identified, present, briefed as much as
11 they can be about what they might possibly be likely to
12 have to do, but it clearly is going to require some
13 further briefing, probably.

14 SIR MICHAEL WRIGHT: Drawing their weapons, booking out
15 their weapons?

16 A. That -- I'm honestly not sure about that, sir, again
17 I am sure you will hear from people who are better
18 qualified than me, I think --

19 SIR MICHAEL WRIGHT: Thank you.

20 A. I think there are some obvious disadvantages in them
21 booking out their weapons and then sitting around for
22 ages.

23 SIR MICHAEL WRIGHT: On the other hand, if you had been told
24 that orange were then at New Scotland Yard away from
25 Leman Street, they would in effect have been brought

1 forward for deployment?

2 A. Yes, sir.

3 SIR MICHAEL WRIGHT: So that they would, one would expect,

4 be fully kitted out?

5 A. Absolutely, sir.

6 SIR MICHAEL WRIGHT: Query they might have needed

7 a briefing.

8 A. They definitely I think would have needed a briefing and

9 it could be that they didn't necessarily have precisely

10 the kit that they would need for the job, but you would

11 expect them to have, I think if they have come to New

12 Scotland Yard, stood up, ready to be deployed, you would

13 expect them to have --

14 SIR MICHAEL WRIGHT: What they needed.

15 A. -- what they thought they were likely to need, yes.

16 SIR MICHAEL WRIGHT: Thank you. Sorry, Mr Mansfield.

17 MR MANSFIELD: That's perfectly all right.

18 Finally on the orange team with their own, as it

19 were, leader present, you weren't told of any decision,

20 were you, the other way like: we are not sending the

21 orange team anywhere because we are holding them in

22 Central London in case of a need arising from these two

23 addresses, you weren't told that any decision like that

24 had been taken?

25 A. No, sir, I was not.

1 Q. I want to move just a bit further forward. Key
2 question: when did you actually take over command of
3 this operation on this morning?

4 A. After I had been briefed and when I walked into the
5 operations room.

6 Q. At about 7.30?

7 A. Bit later than that, yes.

8 Q. You give us a time, because I am wanting to obviously
9 find out what you were doing and how much real control
10 you had. So when do you say, just roughly? If you
11 think it's later than 7.30 we will run with whatever
12 time you say.

13 A. (Pause). I can only say 7.30 to 7.45. I am not sure
14 when I arrived in the operations room.

15 Q. Is there any record of the time that you took over?
16 Quite important that people know she's in charge now or
17 not now, isn't it?

18 A. Yes, it is, sir.

19 Q. Right, where is the record indicating when you took
20 over?

21 A. I don't think there is a record like that. What there
22 is is my decision logs, as you know, and we had the
23 forward intelligence cell meeting pretty much straight
24 after the first briefing, and at that point, it was made
25 clear to all the senior officers there that I was taking

1 over.

2 Q. We can look at it, I am interested in the time for the

3 moment. The jury have the decision log typed up in

4 divider 48. Just look at the first one. Just on the

5 question of timing, please. It's a decision, this first

6 one, do you have it there?

7 A. I have it on the screen, yes, thank you.

8 Q. Right. You see it on screen, and I am not interested in

9 what's said there for the moment, it's just the time.

10 Decision number 1, made 7.15 to 7.45, or at least the

11 reason given, and then there is another time at the

12 bottom, 7.15. I am sorry to be particular. There is no

13 record of exactly when you took over, is there?

14 A. No, sir, I don't think there is.

15 Q. Why not?

16 A. Because no record was made.

17 Q. A number of people, at least one anyway, wasn't quite

18 sure what your role was. People would need to know

19 "I am now in charge", because the reason is that you are

20 taking over as a DSO for the whole operation and not

21 just any potential Kratos, was slightly unusual, wasn't

22 it?

23 A. The whole operation was very unusual, we had never dealt

24 with anything like this before.

25 Q. Yes.

1 A. Many of the people in the room would perhaps not have
2 worked with a DSO before.

3 Q. Right.

4 A. My decision to, in effect, be in overall command was
5 made known at the forward intelligence cell briefing.

6 Q. That's later?

7 A. It is later, yes.

8 Q. Yes, that's why I said at the beginning you were
9 sprinting to catch up and were preoccupied, I suggest,
10 with structures that were appalling. Now do you see how
11 it's beginning to fit together?

12 A. I understand what you are saying, sir.

13 Q. Yes, all right.

14 SIR MICHAEL WRIGHT: Would there have been an announcement
15 made? You were in the operations room with everybody
16 getting settled into the work they were doing, or they
17 were actually doing it.

18 A. Yes.

19 SIR MICHAEL WRIGHT: Up to the time that you took over, it
20 was, I think I have it right, Mr Noel Baker who was the
21 co-ordinator.

22 A. Yes, sir.

23 SIR MICHAEL WRIGHT: Would there have been an announcement
24 so that everybody could hear "Commander Dick is now
25 taking over"?

1 A. After the forward intelligence cell briefing, sir, there
2 were several senior people there. Their role is to go
3 away -- one of their roles is to go away and make sure
4 other people understand what the structure is that we
5 are now putting in place and who is in charge of what.
6 Mr Johnston called out a number of times during the
7 morning, I remember when he wrote up on the white board
8 he made it clear then.

9 SIR MICHAEL WRIGHT: He wrote the strategy on the white
10 board, we were told.

11 A. Yes, he did, yes, yes, but he pointed out Mr Esposito,
12 Mr Boutcher and me, but I think the more important, you
13 know, the more effective way of getting this information
14 across is by the individual senior people talking to
15 their people. And I also spoke to people around the
16 room myself.

17 SIR MICHAEL WRIGHT: I see.

18 MR MANSFIELD: Because of course by then a number of
19 briefings had already happened, hadn't they?

20 A. In the operations room, sir?

21 Q. No, not in the operations room, I mean there are teams,
22 surveillance teams being briefed and so forth?

23 A. Yes, sir.

24 Q. Can I ask you this: when, roughly speaking, did the
25 forward intelligence meeting, during which the decision

1 "you take over" was made, when did that end?

2 A. Sometime --

3 SIR MICHAEL WRIGHT: Just bring that decision log up again.

4 I rather assumed it was 7.15 to 7.45.

5 A. No, sir, no, the forward intelligence cell briefing

6 I think started at around 8 o'clock.

7 SIR MICHAEL WRIGHT: Forgive me, then, it's my fault, I am

8 misreading it. The decision that's shown in that page

9 is the decision as to whether there is to be one DSO or

10 more than one DSO?

11 A. That's -- oh, I am sorry, at the bottom of the page is

12 the continuation of the reason, and that's one of the

13 issues I am covering there. It's one of the

14 difficulties, if you like, with the decision log is

15 sometimes to know whether to write just one decision per

16 page, I am afraid my practice is sometimes to include

17 a few different things on the page.

18 SIR MICHAEL WRIGHT: Well, I am not sure how I should read

19 it then, in that case. The discussion that is set out

20 in the reason box is whether you have one or more than

21 one DSO.

22 A. At the very bottom, yes, sir, but the discussion in the

23 reason box above that is about me doing the job, who

24 thinks it's a good idea --

25 SIR MICHAEL WRIGHT: Forgive me, forget the top box, that

1 I understand. Indeed the first paragraph of the second
2 box is merely your qualification for the job.

3 A. Yes, sir.

4 SIR MICHAEL WRIGHT: Then we come on to a paragraph that
5 starts off the discussion: one or more DSOs, do you see
6 that in the second paragraph of the second box: "We have
7 discussed whether we should have a DSO briefed".

8 A. Yes, sir, yes, sir.

9 SIR MICHAEL WRIGHT: Then you set out the pros and cons --

10 A. Yes, sir.

11 SIR MICHAEL WRIGHT: -- for that. As I have understood it,
12 the final decision comes down, impractical to have two,
13 and that's agreed by Commanders Allison and Carter.

14 A. Yes.

15 SIR MICHAEL WRIGHT: And DAC McDowall.

16 A. Yes, sir.

17 SIR MICHAEL WRIGHT: That's the decision, one only.

18 A. One only, I am it.

19 SIR MICHAEL WRIGHT: I read that as really the culmination
20 of a discussion that was going on between 7.15 and 7.45.

21 A. Exactly right, sir.

22 MR MANSFIELD: Of course, that's the decision in principle,
23 all right?

24 A. Yes, sir.

25 Q. That you will be the DSO for the whole operation, not

1 just the Kratos; in other words the potential delivery
2 of a critical shot, but the whole operation?

3 A. Yes, sir.

4 Q. Right? Now, at 7.45, at the end of that process, nobody
5 in the outside world would have known that you were
6 appointed as the DSO before that, because you had come
7 in for another reason, would they?

8 A. No, sir.

9 Q. No, 7.45. So an hour and 45 minutes after the red team
10 have got to Scotia Road, a DSO is finally appointed to
11 take decisions that relate to them; correct?

12 A. Potentially, yes, sir.

13 Q. Yes; bit late, isn't it?

14 A. Well, I think before then there is a command structure
15 that supports them, they have communications, and I am
16 not suggesting they have an easy job, I am really not,
17 but they do have the ability to call up and ask for help
18 from local firearms teams, we may come back to that,
19 they have ability to speak to the Silver Commander in
20 the control room, and if the people in the control room,
21 the person in charge, Mr Baker, thought there was a need
22 for a DSO, he would have found a DSO, I am sure.

23 Q. Well, we will come on to it. Derek was the team leader
24 down at Scotia Road and he certainly was phoning back at
25 an early stage. Did you know that?

1 A. Not at the time, sir, I know it now.

2 Q. Another breakdown in communication, isn't it?

3 A. I don't regard that as a breakdown in communication.

4 Q. I see, right.

5 SIR MICHAEL WRIGHT: Was it this, this discussion as to

6 whether you should have one DSO, two DSOs, how it should

7 all be laid out, was this what you were talking about

8 when you made the comment to Mr Armand, that the first

9 hour was appalling, no structure?

10 A. It's the kind of thing that, again I must, if I may,

11 take you back. We have never been anywhere like this

12 before. This is completely unprecedented for the Met.

13 SIR MICHAEL WRIGHT: I understand that.

14 A. So those sorts of conversations are healthy

15 conversations to have. The original suggestion was two.

16 I didn't think that was right. We discussed it, the

17 others agreed with me. But that sort of conversation

18 goes on as you build up your capability.

19 MR MANSFIELD: So just pausing for a moment, is it just

20 possible the Met got it wrong that day because they were

21 catching up and didn't have things in place because it

22 was an unusual situation; is that possible?

23 A. I think that depends on a conclusion that you may have

24 reached, which is that if all these things you are

25 talking about were different, what happened might not

1 have happened. I am not sure, obviously as I said
2 yesterday I have gone over this many, many, many times,
3 I am not at all convinced that if the kind of thing you
4 are talking about there had been different, we would
5 have had any different scenario. Obviously that is
6 a matter for the court to understand.

7 Q. Please understand I am doing it carefully, perhaps not
8 too slowly, but in stages, started at 4.55, you weren't
9 on duty then, and I am working through a cumulative
10 picture.

11 A. Yes, sir.

12 Q. I started with malcommunication, malstructuring is what
13 I suggest at this stage. So 7.15 to 7.45 for that
14 discussion and that, as it were, decision and before you
15 know where you are, 15 minutes later, you are in another
16 meeting, correct, 8 o'clock?

17 A. Yes, sir.

18 Q. Effectively, no-one knows in that period you are the DSO
19 other than the people in the meeting, because that
20 doesn't arise until after the forward intelligence
21 meeting which starts at 8. Just as we are on times, the
22 forward intelligence meeting takes roughly how long, 15,
23 20 minutes?

24 A. I think 15, 20 minutes, quite brisk. It might have been
25 slightly longer but certainly not after 8.30, I think.

1 Q. So far, where has been any discussion with Esposito
2 about what you are going to do?

3 A. In terms of what, sir?

4 Q. The operation. If it's 7.15 to 7.45, a discussion about
5 a single DSO or two or whatever, as you have written it
6 out, where is any discussion with Esposito in this
7 period of time before 8 o'clock, about in principle even
8 having a firearms team, let alone what they are going to
9 do?

10 A. Well, I must have failed to make myself clear, sir. The
11 7.15 to 7.45 is a continuous set of conversations about
12 what we are going to do.

13 Q. Right.

14 A. Then go into -- of all manner of different elements of
15 what we are going to do, of which there are many, and
16 then at 8 o'clock forward intelligence cell, I have got
17 my senior people, we are discussing again what we are
18 going to do. So I wouldn't want you to think that the
19 only conversation in these various meetings, the two
20 meetings, was just what's here.

21 Q. Oh, no, I appreciate that. Was Esposito present at the
22 7.15 to 7.45 meeting?

23 A. Yes, he was, sir.

24 Q. Right, so you are saying in that meeting, although it's
25 not down there and that's not a criticism, there was

1 some discussion with Esposito about what?

2 A. That was Mr -- that was Mr McDowall's meeting, albeit

3 Mr McDowall had to leave and I think -- later on.

4 I think I talked about that meeting yesterday in some
5 detail, so there was quite a number of different things
6 discussed, one of which was -- if this is what you are
7 talking about, was firearms, yes.

8 Q. Well, what about firearms?

9 A. That we had a team available for each of our priority
10 premises, we did not have any further teams available
11 yet, we would do later on in the day, and that black and
12 orange were 7 o'clock teams. I then discussed, as I was
13 in the corridor leaving had an first meeting with
14 Esposito what possibility there was for me to speak to
15 the team and he said "They are not available to you,
16 they are getting kitted and briefed", something like
17 that. So I said: "Fine, I am very used to this".

18 Q. I am concentrating on firearms for the moment,
19 I appreciate there will be other concerns that you would
20 have. You make a decision, can we come to decision
21 number 3, please. I appreciate this is all written up
22 much later in the day, and please understand I am not
23 one of those saying you will necessarily be writing it
24 all down at the time.

25 Of course that was another problem, wasn't it, you

1 had asked for a loggist and there was a considerable
2 delay before you got one?

3 A. That was a problem, it was not in any way a problem
4 which could be regarded as affecting what happened, but
5 it is potentially a source of further information about
6 what happened which might have been useful in this
7 inquiry or other inquiries, but there is no way that
8 could possibly affect what happened.

9 Q. I'm not suggesting that it could have affected what
10 happened, it's just another illustration, I suggest,
11 that the structure was appalling?

12 A. No, sir, it's ... I am hesitating because I want to try
13 to explain what it is like in the thick of setting
14 something like this up. You simply can't magic up all
15 the people to do all the jobs that you want out of thin
16 air immediately, and you do your very best to get the
17 right people in the right seats properly briefed doing
18 the right jobs, but anybody who has run an operation
19 like this will say they are constantly reviewing, it's
20 always being refined, it's never quite right, there are
21 people that, you know, in an ideal world you would have,
22 you don't have sometimes, and a delay in getting the
23 loggist is -- you know, was not surprising to me. There
24 are a limited number of people and most of the people
25 have lots of other very important roles to do.

1 What I would say, sir, is that if I was to be called
2 in for something like this again in the future, I would
3 ask for a loggist to be identified if possible, if
4 possible, when I was asked, when I was asked to come in.
5 I think that would be good practice and I regret that
6 I didn't. As I say, I don't think it had a big impact.

7 Q. I want to turn to now what I suggest does have a big
8 impact on what happened to Jean Charles de Menezes,
9 decision number 3, please.

10 Sir, I don't know whether you are considering
11 a break? I am happy to go on.

12 SIR MICHAEL WRIGHT: I dare say the loggist could do with
13 a break.

14 A question I'm asked, I am not sure whether it gets
15 us anywhere: there were I think three other officers
16 around that morning who were equipped to be DSOs, Carter
17 was one?

18 A. Yes, sir.

19 SIR MICHAEL WRIGHT: Noel Baker.

20 MR MANSFIELD: Andrew Baker.

21 SIR MICHAEL WRIGHT: Andrew Baker, he was commander, and
22 there was one other commander.

23 MR MANSFIELD: Allison.

24 SIR MICHAEL WRIGHT: Quite right. What were their roles at
25 the time?

1 A. I can speak for Mr Allison with some confidence. He was
2 the officer effectively in charge of the
3 Metropolitan Police response to 7/7 in terms of the
4 emergency response and return to normality. He still
5 had some role in that, and he was the assistant to
6 Assistant Commissioner Brown, who was the Gold Commander
7 for London. So he at this stage was helping the
8 Gold Commander, and one of the things he therefore did
9 was come to meetings like ours --

10 SIR MICHAEL WRIGHT: I think the point that lies behind the
11 question was that there were other officers there who
12 could have done a second DSOs job if they had been
13 wanted to.

14 A. Ah, well, yes, sir, I am not sure about Mr Baker, I am
15 really not sure about Mr Baker but --

16 SIR MICHAEL WRIGHT: But it may well be academic because the
17 decision taken after discussion was that you only wanted
18 one.

19 A. Yes, and I am wondering if the jury might be referring
20 to during the night, Mr Carter and Mr Allison I now know
21 were either present in Scotland Yard or less than five
22 minutes away from Scotland Yard throughout the night.

23 SIR MICHAEL WRIGHT: Very well. Quarter to.

24 (11.35 am)

25 (A short break)

1 (11.45 am)

2

3 (In the presence of the jury)

4 SIR MICHAEL WRIGHT: Yes, Mr Mansfield.

5 MR MANSFIELD: Yes, thank you.

6 Can I just, before we get to decision 3, follow
7 through the DSO question. Were you aware that overnight
8 a DSO had been identified to be deployed, I don't mean
9 actually obviously with the orange team but to, as it
10 were, take command should they be deployed during the
11 night; did you know that?

12 A. I don't think I did know specifically that, sir. I did
13 know that Mr Carter and Mr Allison were there until the
14 early hours, and again very early in the morning and at
15 the hotel across the road. But I didn't know that, no.

16 Q. You didn't know that, and the person we just mentioned
17 before the break, Andrew Baker, not Noel, Andrew Baker
18 had been identified. So you didn't know that. Did you
19 know that Silvers had been identified -- at least this
20 much -- as capable of going with the orange team to
21 an address like Scotia Road; did you know that?

22 A. I have heard so much debate on the subject since, and of
23 course it was discussed at the Health and Safety trial
24 as well, so I simply can't remember.

25 Q. You can't remember?

1 A. No.

2 Q. I am going to leave that, that's the orange team and the
3 overnight, and move on in the chronology of matters as
4 they developed. Decision number 3, please, it's in the
5 jury bundle, they have it open already, I have no doubt,
6 tab 48.

7 Now, first question is: is this a decision with
8 reasons that you took during the meeting 8 to 8.20
9 roughly?

10 A. This is the strategy that I had -- that Mr McDowall had
11 discussed with me in a slightly refined version, and
12 this is what I remembered I had agreed with him, but it
13 was, if you like, my decision and ... I have written
14 "8 am" but I suppose in a sense it could be 7.45 or
15 7.30 am. This is what I explained to colleagues at the
16 forward intelligence cell meeting.

17 Q. So the truth is you don't actually know when you made
18 the decision but it was after the discussion with
19 Mr McDowall agreeing his overall strategy?

20 A. Yes, but I don't see any conflict between this and what
21 he had told me.

22 Q. Who mentioned conflict?

23 A. Nobody mentioned conflict, I am just saying.

24 Q. Is that what you are concerned about?

25 A. No, I thought that might be what you were going to say

1 to me next. I am not concerned about that, I don't see
2 any conflict.

3 Q. No, I wasn't going to say that at all. So some time
4 after the meeting with McDowall, whether it's actually
5 in this meeting where you have timed it at 8, we will
6 leave in parentheses to one side for the moment.

7 Can we start at the top, and there is a particular
8 sentence I want to ask you about "safety of all must be
9 paramount", certainly, number 2, do you see in the top
10 box?

11 A. Yes, sir.

12 Q. "We seek to arrest any of the subjects near or at the
13 addresses".

14 A. Yes, sir.

15 Q. You had agreed that with Mr McDowall, had you?

16 A. Yes, sir.

17 Q. I am going to expand on that. As you have agreed it
18 with Mr McDowall and it's now becoming incorporated into
19 your decision, so it's your decision at this point,
20 before you made that decision "at or near", had you
21 familiarised yourself in any way at all with either of
22 the two addresses which you had mentioned in decision
23 number 1 as being part of the object of your appointment
24 as DSO?

25 A. No, sir, I simply knew the address of each, I had been

1 into the control room, I knew that surveillance had been
2 deployed, and at some time around about then I had
3 observed the screen which told me that 21 Scotia Road
4 was a flat in a communal block, but I had not sought to
5 familiarise myself at that stage with either of the
6 addresses. I had some information about them.

7 Q. I'll have to come back to that. Now, the reasons are
8 set out there below. Would it be fair to say that this
9 adoption of policy or strategy is really saying, so far
10 as suspects or subjects are concerned, a number of
11 things: first of all, you want them arrested near the
12 addresses or premises; that's the first point. Not
13 necessarily at, because if it's at the premises, that
14 might compromise the operation. Right? Is that fair,
15 even though you have written that?

16 A. "At the addresses" refers, as I think I said yesterday,
17 to containment and call-out.

18 Q. Yes?

19 A. "Near" refers to can't let them run, can't let them run
20 all over London.

21 Q. No, so the second stage is, if it's not call-out and
22 containment, which is the second part of that, so you
23 have to arrest them near, you have in the reasons box,
24 as it were, in capital letters "We can NOT", it's your
25 point you have just made, allow them to run, here put as

- 1 "travel far even under surveillance", one because you
2 might get a surveillance loss, so that's another aspect
3 of this, but there is a further aspect, isn't there. By
4 the time this decision is made, whenever it is exactly
5 made, you did know of course -- everybody knew -- the
6 day before and the two weeks before, public transport
7 had been attacked in the shape of underground trains and
8 buses?
- 9 A. I knew that, sir.
- 10 Q. You certainly knew that, and given the high risk you are
11 attaching to this, very considerable, again perfectly
12 understandable, what you needed to be doing in this
13 strategy is ensuring that they are stopped near the
14 address so they are not, as it were, allowed to travel
15 on public transport; correct?
- 16 A. No -- no, sir. The "near the address" was a number of
17 different factors of risks that could happen if we
18 allowed people to travel all over London. So I wanted
19 them arrested away from, to keep covert, but not hours
20 and hours and miles and miles.
- 21 Q. Oh, please understand; are you suggesting here in this
22 decision you took at 8 o'clock or thereabouts, 7.30,
23 that you had in mind the possibility that they might get
24 on a bus?
- 25 A. What I am suggesting --

- 1 Q. And be allowed to get on a bus?
- 2 A. What I am suggesting, sir, is that bearing in mind at
3 this stage I don't know anything about any of these
4 premises in detail, but that it is perfectly possible
5 that somebody might leave one of these addresses and
6 they might get into a car, they might get on to
7 a bicycle, they might walk somewhere, they might run,
8 jog, somewhere, they might get on to a bus or some other
9 form of public transport. I did anticipate that that
10 could potentially happen.
- 11 Q. Yes, that's not the question. What you had to prevent,
12 given your concerns, was near the address -- because
13 that's what it says, near the address, miles and miles
14 away -- but the one thing you would not want them to do,
15 would you, if they are the subjects, is get on a bus;
16 correct?
- 17 A. Well, ideally I wouldn't want them to do anything.
18 Mr McDowall could have set a strategy that said "and
19 whatever you do, don't let them on a bus" but that would
20 have been, in a sense, a tactical decision, but he could
21 have done. But the question is -- sorry, the point that
22 I am trying to make is that that might not be
23 practicable. You can set an ideal strategy and it may
24 not be practicable to achieve --
- 25 Q. We will come to what is practicable. Did you work out

1 what was practicable then?

2 A. At this very early stage, I didn't know enough to know,
3 so nor did Mr McDowall I would suggest at that time in
4 the morning, so to set a strategy that says "and don't
5 let them on the public transport system" may simply not
6 be achievable.

7 Q. Oh really? So if you didn't do that exercise of working
8 out what was practicable before this was adopted
9 strategy, how soon after this decision did you work out
10 what was practicable with Mr Esposito, TJ80, very
11 experienced, sitting in New Scotland Yard?

12 A. That's something we began to talk about, and we were
13 still having conversations about in relation to the
14 various addresses much later on in the day.

15 Q. No, Scotia Road. I am going to ask you, I am afraid, in
16 detail, if you had a discussion with Esposito after this
17 decision, because it's plain you didn't before, when did
18 you have the discussion and get the specific tactical
19 advice about what was practicable for Scotia Road
20 because there are only two addresses that were being
21 covered at that moment. When did you get that advice
22 and what was the result of the advice?

23 A. Well, first of all, I got the, if you like, the general
24 advice, so he had created a discussion document with
25 tactical options in it, and I glanced at that. And we

1 discussed possible options, and what we might do in
2 various circumstances, and he gave me advice, and he did
3 that continuously during the day.

4 Q. Where is any of that recorded?

5 A. Well, Mr Esposito was keeping his log.

6 Q. Did you record any of the tactical options presented to
7 you, as I suggest you should have done, even if you
8 couldn't have done it at the time? I want to be
9 specific here. The answer, I think, is this: there is
10 no record of any tactical advice given by Esposito in
11 relation to Scotia Road, is there?

12 A. I don't know, sir. I am certainly not arguing with you.
13 If you say you cannot see any such advice anywhere
14 written down, then I accept that. I haven't got his log
15 here.

16 Q. What's supposed to happen, never mind whether it's DSO
17 situation, never mind whether it's Kratos, this is
18 firearms standard practice, isn't it, the tactical
19 adviser is there to tell you or advise you: look, if you
20 want to do this, if you want to achieve A, you have to
21 do B. That's pretty straightforward, isn't it?

22 A. Tactical adviser saying that to me is certainly
23 straightforward, yes.

24 Q. Straightforward?

25 A. Yes.

1 Q. Doesn't require hindsight, does it?

2 A. It is, as I say, a regular conversation, it's a constant
3 conversation.

4 Q. All I am asking is: as a corollary to that, the standard
5 practice is that when the tactical adviser is asked by
6 you or volunteers to you: "Look, if this is what you
7 want to do, arrest near but not too far away", in other
8 words near to the premises "don't compromise the covert
9 operation, but we don't want this suspect getting on
10 a bus, this is what we can do, these are the options we
11 can do".

12 Now, when was that discussion?

13 A. SFOs supporting surveillance teams work to a number of,
14 if you like, standard tactical options. They also, on
15 this occasion, had some further worked up options in the
16 document. We discussed a variety of possibilities. But
17 I must make it clear, I did not ask for an option which
18 made -- I can't remember quite the way you put it -- but
19 made absolutely sure nobody got on a bus.

20 Q. Why not?

21 A. Because I was recognising that, as I said to you, there
22 were a variety of different things that could happen.

23 Q. Of course, I really want to be specific, a man's life
24 has been lost here and I want to be specific -- since
25 you say nothing went wrong -- about whether you had

1 a discussion with Esposito in which he said to you, "Oh,
2 that's a crazy strategy, we can't stop someone getting
3 on a bus, it's impossible" or in fact did he ever say
4 anything like that, that it was impossible to stop near
5 the address before they got on a bus?

6 A. No, sir, he did not.

7 Q. Thank you. Because I'm going to, therefore, go through
8 the stage which this was not asked of you at the trial
9 in this sort of detail.

10 What I want to put to you is that had you done that,
11 had you worked out with Esposito, and I have already
12 asked Andrew this, that in fact he has gone through
13 options of what was possible, in fact it would have been
14 entirely possible to stop somebody before they got on
15 a bus, and Mr de Menezes might have been alive today had
16 you worked it out properly.

17 Could we have -- that's the context of the questions
18 I am now going to ask -- plan number 7, please, in the
19 maps brochure. It's going to be scanned for you there.
20 You can have a hard copy as well, if you please. That's
21 a map of the area.

22 As the learned Coroner pointed out yesterday, I have
23 been going on a bit about maps, but it's a fairly
24 fundamental resource in an ops room if you are not on
25 the street in control to at least have a visual aid to

1 show you the road. You may know them, but others may
2 not. Do you follow?

3 A. Certainly it's helpful to have a map which shows, you
4 know, where the premises are. Of course, in
5 an operation like this, you don't actually know where
6 you are going to end up doing an interception, so you
7 may need several maps.

8 Q. May do.

9 A. Yes.

10 Q. So did you get a map? Doesn't matter whether it's
11 exactly like this. Did you get a map of the
12 Scotia Road, leaving Portnall out of it for the moment,
13 did you get a map right at the beginning stuck up on the
14 wall so everybody knew at least where somebody might
15 emerge and might be intercepted?

16 A. No, sir, as far as I can remember, as far as I can
17 remember, we had the Geographia in front of one of the
18 surveillance monitors, we didn't have a map like this.

19 Q. That's the big one. (Handed).

20 A. Thank you.

21 Q. The answer to the question is you didn't have a map up
22 on the many screens of the area of Scotia Road, so you
23 could see where it was.

24 A. No.

25 Q. Did you have a map up on the screens which would have

1 demonstrated at a glance that you were dealing with
2 a block, not a house?

3 A. No, sir, I didn't, but we did know that at a fairly
4 early stage after I arrived.

5 Q. You only learned it by accident, didn't you?

6 A. I wouldn't call that an accident, sir.

7 Q. Well, you certainly hadn't bothered to find out, and you
8 happened to look at a screen, we will come to that in
9 a moment, and --

10 A. This is just as I walk into the -- sorry to interrupt --
11 shortly after I have arrived in the control room I look
12 up and see two separate people have come out of the
13 block, why have they come out of the block --

14 Q. What sort of time are we dealing with?

15 A. Sometime before 8 o'clock they had come out, so then
16 I know that this is a communal block. I don't at that
17 stage know precisely how many flats.

18 Q. Even at that stage, did you say, dealing with
19 Scotia Road, to anyone, and of course there would be
20 a record of that, if you had taken that decision, we
21 know about profiles, I will come to that later, do you
22 say to anybody: look, just get me everything you know
23 about Scotia Road, please, I want it up there on screen,
24 I can't do it, I haven't got the time, too busy, just
25 get me it all up there. I want to know -- now I have

1 seen it is a block, I want to know who else lives in the
2 block, I want the local commander contacted immediately
3 about who's in the block and I want a detailed map of
4 the block if we can have one and there is a different
5 map to this. All these kind of questions. Did you ask
6 anybody to do any of that?

7 A. There is an awful lot that you have put to me there,
8 sir. Can I just sort of take it as a whole, but there
9 is one part that I must take some exception to,
10 I wouldn't necessarily contact the local commander at
11 this stage.

12 Q. Right.

13 A. But you do know, I think, that there is a decision about
14 requiring further information, about the premises and
15 the people. I would need to --

16 Q. It's decision number 11.

17 A. -- check. Thank you.

18 Q. It's a decision you take at 8.30 asking for profiles of
19 each of the premises, and as you know, rather like
20 getting a loggist, and this is rather more important
21 than getting a loggist, you don't get anything back for
22 three hours, do you?

23 A. I don't -- I do get some information, but I still want
24 more three hours later, certainly.

25 Q. That's a bit of a breakdown too, isn't it? Or are you

1 not going to accept that?

2 A. What I can say, sir, is there is an enormous amount
3 going on.

4 Q. An enormous number of breakdowns, please understand,
5 everybody's human, mistakes can be made. It's pleasant
6 when people say "I have made a mistake", but you are
7 really not prepared to say that any mistake is here, are
8 you?

9 A. No, what I am trying to portray, sir, is in any
10 operation, some things that in an ideal world would
11 happen don't happen. Even the very, very best run of
12 operations --

13 SIR MICHAEL WRIGHT: I do not want to ask you for too much
14 detail, but where do you have to go for the information
15 that you are after?

16 A. I think it's important to remember, first of all, that
17 we are in 2005, sir, so some of the technology and some
18 of the information sources are probably easier than they
19 were then. The kind of work that I was expecting to be
20 done, and it was probably much of it more relevant to
21 the teams on the ground than it was to me, but the kind
22 of work that I would be looking for is to know as much
23 as all our intelligence systems could tell us about the
24 subjects, by which I mean suspects. And of course that
25 was a picture that's building all the time and there are

1 bits and pieces of information coming in throughout the
2 day. So there is a whole set of databases to be
3 searched that belong to the Metropolitan Police, to
4 a variety of different agencies, local authority,
5 banking, there is a whole set of tens and tens and tens
6 of intelligence searches that --

7 SIR MICHAEL WRIGHT: Mostly on computer banks?

8 A. Yes, a variety of different databases and --

9 MR MANSFIELD: You had brought in your own intelligence
10 unit, SCD.

11 A. Yes.

12 Q. What were they doing?

13 A. They most definitely were working on providing maximum
14 information on the subjects and the places that they
15 lived.

16 Q. So one of the maximum bits of information you would need
17 to know because of the bus and public transport problem,
18 was where is the nearest bus stop; correct?

19 A. I would regard that as one of thousands of bits of
20 information that would be helpful to know.

21 Q. Sorry, this is a priority. Public transport has been
22 attacked the day before, July 7th, a bus blown up with
23 people killed, you are not telling this jury, are you,
24 that you had not prioritised where is the nearest access
25 to public transport?

- 1 A. I think what I am telling the jury, and it's what I said
2 at the Health and Safety trial, is that this is an area
3 of South London that I know relatively well, I know
4 there will be a very large number of bus stops.
- 5 Q. You are not going to operate on that basis, are you?
6 There are a large number of bus stops and we don't know
7 where they are?
- 8 A. What I am not going to do is ask as a high priority
9 action for a map with all the bus stops plotted on it in
10 this way, I am afraid I am not.
- 11 Q. I see. Did you know that the red team had already
12 phoned in with the result of that? I can give you
13 a time if you want. Did you know the red team had
14 phoned in with a lot of concerns, one of them being
15 a nearby bus stop? Did you know that?
- 16 A. I would have to check my notes, but I certainly knew at
17 a later stage that --
- 18 Q. Did you know at this stage, we are dealing with round
19 about 8 o'clock in the morning?
- 20 A. No. No, sir.
- 21 Q. When did you find out where the nearest bus stop was?
- 22 A. I did not find out precisely where it was until much,
23 much later on in the day. I knew --
- 24 Q. Just give us a clue, just give the jury a clue, when you
25 discovered where the nearest bus stop was?

1 A. Well, during the operation, and certainly before
2 Mr de Menezes got on the bus, I did not know precisely
3 where the bus stop was --

4 Q. When did you discover where the nearest bus stop was?

5 A. I cannot remember that, sir. I --

6 Q. Did you ever?

7 A. I know I asked. I cannot remember when I found out.

8 Q. You see, I am suggesting that the Met is not so
9 incapable that they can't find out where the nearest bus
10 stop, even if they have to contact the red team who are
11 sitting there -- did you know how many red team members
12 were down on the plot, as they say?

13 A. No, sir, I didn't, I wouldn't expect to either.

14 Q. No, I'm not saying you would, but you would know there
15 would be more than one?

16 A. Oh, yes.

17 Q. And there would be a team leader?

18 A. Yes, sir.

19 Q. Even if you don't want to ring up the team leader on
20 a mobile or a dedicated line, or whatever it is, it's
21 not difficult to find out, if you can't find out in New
22 Scotland Yard where the nearest bus stop is, just ring
23 him up and say: "Can you tell us where it is", that's
24 not difficult, is it?

25 A. I did speak to my Silver Commander about the bus stop,

- 1 as you may remember.
- 2 Q. So the Silver Commander, that's for Scotia Road Purser?
- 3 A. Yes.
- 4 Q. Of course he is not going to tell you because he is not
- 5 there at that point?
- 6 A. No, but it's one of a number of things that I am
- 7 discussing with him that I am interested in, and
- 8 including the exact layout of the block, there is
- 9 a hundred, many, many, many, many things that I am
- 10 interested in and I was talking with him.
- 11 Q. This has to be fast-track, people are leaving, you knew
- 12 that, by 8 o'clock people are beginning to leave that
- 13 block if they have not left before.
- 14 A. Sir, I made a decision in principle that I was not
- 15 intending to close the bus stop --
- 16 Q. We will come to that.
- 17 A. Now, the location of the bus stop, therefore, if it was
- 18 a bus stop that somebody might go to and get on, is
- 19 relevant as one of a whole -- as I said, whole gamut the
- 20 different things a person might do.
- 21 Q. Of course, but the most important consideration
- 22 I suggest for members of the London public is getting on
- 23 public transport the very next day, we have heard a lot
- 24 about it from members of the public and I am sure you
- 25 were aware of it, people were afraid to get on buses,

1 people were afraid about people looking suspicious on
2 the underground. So the public understood public
3 transport was at risk.

4 A. Yes, sir.

5 Q. Right? So these are not idle questions. It's directed
6 to you in charge at 8 o'clock, or at least from about
7 8 o'clock --

8 A. Sorry, sir, they are hugely detailed questions.
9 A person, as I said, could come out of there and could
10 head in all sorts of different directions. They might
11 get on a bus in a variety of different places. I do not
12 expect at this stage in an operation to know precisely
13 where all the public transport is around here.

14 Q. You didn't know where any of it was, did you?

15 A. All I knew is there were a lot of bus stops, I know
16 that, I travel on those buses.

17 Q. Did you know this actual route?

18 A. The 201?

19 Q. Yes.

20 A. No, sir, I didn't. I anticipated that, you know, I know
21 Upper Tulse Hill Road but I don't travel on the 201.

22 Q. As you do know there are a lot of bus stops, you really
23 do need to start planning how you are going to do
24 an interception according to the strategy near the
25 address without compromising the covert operation and

1 preventing this person, if he happens to not be on
2 a bicycle or in a car but on foot and determined, deadly
3 and determined to, as it were, put right what he didn't
4 get right the day before, you don't want to let him get
5 on a bus, do you?

6 A. I do not want him to explode a device anywhere. I want
7 to arrest him safely. I want to prevent any compromise
8 of the operation. There is all kinds of things I want
9 to do. I don't accept that stopping any person from
10 getting on at the first bus stop was my highest
11 priority --

12 Q. You can't stop him once he is on the bus, you would
13 accept that it's really difficult to get on the bus and
14 stop him exploding it, that's the last thing you want to
15 do, isn't it?

16 A. It's very difficult to carry out any firearms operation
17 on a bus.

18 Q. Right.

19 A. I think the implication of what you are saying is that
20 there may be, and we may come to this, some safe easy
21 way of stopping someone before they get on a bus. This
22 may be where we disagree.

23 Q. Excuse me, Commissioner, I am not going to tell you,
24 that's not my job, I can suggest it's your job,
25 difficult though it is, and we all appreciate that, in

1 very difficult times, it's your job, and I think you
2 have always said you were fresh that day, you were
3 feeling okay, you had been away?

4 A. I was very fresh.

5 Q. Not saying you were too tired?

6 A. Certainly not.

7 Q. Not panic-stricken?

8 A. No, sir.

9 Q. So all I am saying is for the benefit of the London
10 travelling public, you had a prime obligation to
11 immediately discover where the nearest access points
12 were, and the answer is that you certainly didn't by the
13 time that Jean Charles de Menezes left the premises, and
14 you have agreed that.

15 Would you now look at decision 32, please.

16 SIR MICHAEL WRIGHT: Before you come to that, Mr Mansfield,
17 are we leaving buses?

18 MR MANSFIELD: No, I am coming back to it.

19 SIR MICHAEL WRIGHT: Even so: bearing all this in mind, the
20 fact that as you say you appreciated that public
21 transport would be likely to be within a fairly short
22 distance of these premises.

23 A. Yes, sir.

24 SIR MICHAEL WRIGHT: When you appreciated, as you did not
25 long after 8 o'clock, because you heard about people

1 leaving the premises, that this was a communal block and
2 not a single property, did you consider whether the
3 surveillance techniques that were being used needed
4 modification -- sorry, not the surveillance techniques,
5 the interception techniques that would have to be used
6 required revisiting or modifying? And if so, how?

7 A. I am sorry, sir, could you repeat the question. I don't
8 quite understand.

9 SIR MICHAEL WRIGHT: Yes. First of all, there were people
10 coming out of the property which the surveillance
11 officers couldn't know whether they were coming from 21
12 or any of the other flats?

13 A. Yes, sir.

14 SIR MICHAEL WRIGHT: I am modifying the question now, and
15 I apologise. Whether first of all the surveillance
16 techniques or strategies that you were expecting your
17 team to use required modification? Let us stop there
18 for a moment.

19 A. To the extent that I agreed that we would not stop
20 everybody coming out of the block, I am therefore
21 expecting them to highlight to us anybody they think may
22 be --

23 SIR MICHAEL WRIGHT: Likely candidates.

24 A. -- a suspect.

25 SIR MICHAEL WRIGHT: Likely candidates?

1 A. Yes.

2 SIR MICHAEL WRIGHT: So there was a modification of the
3 technique, of the strategy, to that extent?

4 A. I regard that as a sort of tactical refinement, yes.

5 SIR MICHAEL WRIGHT: What about the interception strategy,
6 would that have been in any way affected by the fact
7 that you were dealing with a communal block?

8 A. No, I don't think so, sir. One thing I should say is
9 that the specialist firearms officers are immensely
10 experienced, professional, and I could go on, I won't,
11 they are a extraordinary bunch of people, and they are
12 immensely flexible. They spend their days chasing
13 around London behind surveillance teams, and on occasion
14 intercepting and arresting people. They sometimes
15 intercept people who pose a very great threat, and they
16 sometimes intercept and arrest people who actually pose,
17 you know, a very low threat.

18 So knowing that the SFOs and indeed other firearms
19 officers are extremely flexible, unless I am missing
20 your point, sir, I don't think I would have amended the
21 interception --

22 SIR MICHAEL WRIGHT: No, you are dealing precisely with my
23 point.

24 A. -- strategy.

25 SIR MICHAEL WRIGHT: Can I summarise it back to you,

1 essentially what you are saying to me, I think, is that
2 because they are such experienced and highly trained
3 officers, it's really for them to decide how they are
4 going to carry out their interception?

5 A. It's absolutely for the team leader to decide where is
6 the best place and how an interception is to be carried
7 out. Of course, there is a command decision to be made
8 that we are going to carry out an interception.

9 SIR MICHAEL WRIGHT: That's the decision to do it.

10 A. Yes, but it's absolutely for them.

11 SIR MICHAEL WRIGHT: How it is to be done, as I understand
12 you are saying, is really that the men on the ground,
13 the team leader, the team and the experienced firearms
14 officers, are in a better position to know how to do it
15 than you back in the control room?

16 A. Absolutely, sir, I think the how is entirely for them.

17 SIR MICHAEL WRIGHT: Thank you, that's what I wanted to
18 know. Sorry, Mr Mansfield.

19 MR MANSFIELD: No, no, that's fine.

20 Decision 32, which the jury will see is now on the
21 screen, I think. We had a brief look at this yesterday.
22 First of all the decision is 11.10, I appreciate you are
23 saying it refers back to an earlier time:

24 "The issue was raised as the premises at Scotia Road
25 were identified early on to be near a bus stop. I have

1 been unable to ascertain how far away", and that's 11.10
2 in the morning?

3 A. Mm.

4 Q. The Met really isn't quite as incompetent as not telling
5 you where the nearest bus stop is, are they?

6 A. I think by this stage the people on the ground who need
7 to know exactly where things are in the locality are
8 fully aware, probably, but I was not aware at the time.

9 Q. They were aware, I have already put it to you, you
10 didn't know anything about it, Derek knew shortly after
11 6 o'clock where the nearest bus stop was, and had been
12 phoning in, and you didn't know anything about that,
13 wondering if the buses could be suspended, diverted or
14 whatever. All right? But you didn't know he was doing
15 that, did you?

16 A. No. I know that I think it was Ms Scott early on
17 suggested the option of closing that bus stop, and
18 I then thought about closing that bus stop and as
19 another possibility closing other bus stops nearby and
20 I rejected that as an option and I rejected it as
21 an option later on.

22 Q. I'll come to suspending and diverting in a moment. But
23 you say in a sense you are getting involved in tactics,
24 you have to if you are considering stopping someone near
25 but not too far away.

1 Now, in relation to that overall strategy, did
2 Mr Esposito at any time say: "We certainly can't do it
3 in these roads", because he has spoken to TJ84, who is
4 the tactical adviser with the black team. Did you ever
5 get any advice to suggest an intervention -- that
6 follows on from the learned Coroner's
7 question --intervention can't be done here?

8 A. No, sir, I don't think I did, but the point is slightly
9 related to the learned Coroner's point, which is that
10 the precise place for an intervention which is not going
11 to compromise the operation or the premises will end up
12 having to be chosen by the team leader.

13 Q. But you are the one who gives the command; yes?

14 A. Yes, I give the command that I want an interception --

15 Q. There is no point back in Scotland Yard you ordering
16 a firearms team on the street to intervene if in fact
17 there is a brick wall between them and the suspect, is
18 there?

19 A. I think you are slightly misunderstanding how we work,
20 sir.

21 Q. I don't think so, I'll come to that.

22 A. I think you are.

23 Q. No. If you are going to take a decision about
24 an interception being necessary near but not too far
25 away, you have to know that that's possible?

1 A. Maybe where we are misunderstanding each other is the
2 "not too far away". I do not have a distance in my
3 head. I don't have: this must be done in 100 metres --
4 Q. Before the first bus stop?
5 A. Well, I did not have that in my head either.
6 Q. No, I know you didn't.
7 SIR MICHAEL WRIGHT: Isn't this a bit theoretical,
8 Mr Mansfield, because in the circumstances that obtained
9 that morning, Commissioner Dick could not have directed
10 an intervention before the first bus stop or the nearest
11 bus stop because there was no firearms team there.
12 MR MANSFIELD: I am coming to that.
13 SIR MICHAEL WRIGHT: All right. It is just I am wondering
14 why we are taking time up --
15 MR MANSFIELD: Because the point is, Commissioner, I want to
16 suggest to you that if you had thought this through and
17 it's not so difficult, doesn't require a case to do
18 this, thought this through at the time and got the
19 orange team down there because they were kitted up but
20 you didn't know about that, got them down there before
21 9.34 for a controlled containment of somebody thought to
22 be a suspect, he might not have been shot in chaotic
23 conditions on the tube train in Stockwell; now do you
24 understand?
25 A. I understand what you are saying, sir, I don't accept

1 that there was such a possibility.

2 Q. Ah, that's what I thought you would say. How do you

3 know that there was not such a possibility? Esposito

4 tell you there wasn't?

5 A. No, I know it now. That's what I am saying.

6 Q. I see, you know it now, what, that it wasn't possible

7 because there wasn't a team there?

8 A. No, it wasn't possible because there isn't a suitable

9 place to do an intervention --

10 Q. When did you discover all this, that you now know it

11 isn't possible?

12 A. Obviously I have thought about it a great deal since,

13 but in my view, now, there is no sensible place to do

14 an intervention --

15 Q. Have you walked round the roads?

16 A. Yes, I have, sir.

17 Q. Right.

18 A. And I mean sensible in two points. Firstly in terms of

19 potentially safety and practicability, and secondly in

20 terms of the ability of the firearms team to do this

21 without blowing the cover.

22 Q. Have you asked a firearms adviser, since you have walked

23 round the roads and you are saying to this jury:

24 I didn't know at the time, but I am saying now it

25 wouldn't have been possible, I am going to suggest to

1 you this was the main prime window of time between the
2 communal door of Scotia Road and a bus stop. Have you
3 spoken to Andrew, Esposito in particular, saying, "Look,
4 I have walked round the roads since, and do you know, it
5 wouldn't have been possible anyway"? Have you?

6 A. I mean, you make a good point, sir, which is that I am
7 not the best person to say whether or not it's possible,
8 Mr Esposito is.

9 Q. So have you asked him?

10 A. I have talked to Mr Esposito.

11 Q. Does he agree with you?

12 A. I think broadly he does, sir, yes.

13 Q. Probably he does?

14 A. No, broadly.

15 Q. He does or he doesn't? He is coming to give evidence
16 very soon.

17 A. Let me make sure I am talking about the same thing as
18 you. Is there an opportunity, given all the other
19 decisions we have made, an opportunity between
20 21 Scotia Road and the bus stop for a safe practicable
21 covert -- keeping the premises covert -- intervention to
22 be made? No, I don't think there is.

23 Q. Really? Right.

24 A. I don't.

25 Q. Keeping these two bus stops, the 201. First of all, can

1 I just ask you, the 201 is a relatively local route, as
2 it's seen on here, Morden, as it were, off to the left
3 and Herne Hill off to the right. It's a South London
4 route, isn't it?

5 A. Yes, sir.

6 Q. You know that, do you?

7 A. I do now, sir, yes.

8 Q. You didn't know that at the time?

9 A. It depends what you mean by South London route. I knew
10 that Upper Tulse Hill was a road that was likely to have
11 a bus route. I didn't know it was the 201 and I didn't
12 know where it ran --

13 Q. It's not one that trickles all the way through Central
14 London, the 201, is is it?

15 A. I don't think it is, sir, no.

16 SIR MICHAEL WRIGHT: Apparently according to this map it
17 trades between Herne Hill and Morden, which is local.

18 A. Yes. South London.

19 MR MANSFIELD: It's a South London bus route.

20 A. Yes.

21 Q. Of course, unlike the number 2 which you were familiar
22 with, which has a much longer route, and of course the
23 bus stop serves other buses as well.

24 Before we come to where you could or couldn't, you
25 could have just suspended -- because you have agreed you

1 had the power to do this -- the 201 bus stops that are
2 marked there in the middle of the road, they could have
3 just been taken out of action because there is another
4 one to the right; do you see that?

5 A. Yes, sir.

6 Q. And another one just round the corner in Tulse Hill
7 itself, so all right, it's a five minute walk for
8 somebody who comes out of Scotia Road and sees they are
9 out of action or for one reason or another, and they
10 walk to other stops. That you could have done, couldn't
11 you?

12 A. I could have done, I said yesterday I am not quite sure
13 how quickly, but relatively quickly, within an hour
14 perhaps.

15 Q. Right.

16 A. And it was my decision not to do that, because I did not
17 want to disturb the environment.

18 Q. Well, I am going to suggest to you closing as it were or
19 suspending one set of stops is actually hardly in the
20 context of what was going on generally in London every
21 day of the week; whether it's roadworks or bus stops,
22 Londoners are pretty used to finding that something is
23 closed, a tube station or bus stop is out of action?

24 A. Yes, I wasn't particularly concerned with what you might
25 think of as Londoners, I was concerned with the people

1 here and specifically suicide bombers.

2 Q. Yes?

3 A. Who are very alert to changes in their environment, one
4 would think, just like other criminals, very alert, and
5 sometimes very well networked.

6 Q. This is what Derek in particular telephoned in and spoke
7 to somebody called "Nick". Did you know Nick? He is
8 called Nick for the purposes of these proceedings.

9 A. Yes, sir.

10 Q. You know who we are talking about?

11 A. Yes, sir.

12 Q. He has a very important position or did have then,
13 Silver liaison?

14 A. Yes, sir.

15 Q. In other words he is in the central room liaising
16 between the Silvers?

17 A. Between the room and the Silvers and the room and the
18 tac advisers to the Silvers.

19 Q. I am going to do it in broad terms now to save keep
20 coming back to it. He has indicated that he spoke to
21 the red team leader, and if you would just let me put,
22 so you can deal with it in stages, it deals with buses
23 in part but it deals with other ...

24 A number of concerns, now, certainly one of the
25 calls, as he says it was made more than once, comes in

1 the 8 o'clock, 8.15 period. Firstly, that the S019
2 firearms team were too far away, and would not be able
3 to react in time if there were any movement at the
4 address, and he suggested -- so this particular concern
5 must be even later because they don't get to
6 Nightingale Lane -- suggested, did Derek, that the S019
7 team move from Nightingale Lane to a TA Centre round the
8 corner, which in fact he had identified just after
9 6 o'clock.

10 Did you know any of that?

11 A. I -- no, I didn't know about his concerns, I knew about
12 the TA Centre being identified as a possible location,
13 but I didn't know anything about concerns.

14 Q. So we can deal with it, because it links to the learned
15 Coroner's question about contingencies, did you know
16 that he was considering having to stop people himself if
17 there was no firearms back-up?

18 A. I certainly did not know that, sir, no.

19 Q. Would you agree it's beginning again to look like
20 a serious breakdown in communication, at least that,
21 isn't it?

22 A. A surveillance team leader, as I said earlier on, is
23 frequently deployed with a team without an SFO team.
24 They know what other firearms resources may be available
25 to them, and they are as well of course armed so they

1 are, if you like, the armed capability of last resort,
2 but as I said yesterday, they very, very rarely
3 intervene even with somebody who poses a much less, much
4 lower level of threat.

5 If he was concerned in this way, I would have
6 expected him to call into the control room --

7 Q. He did.

8 A. -- and I would have expected to know about that at some
9 stage, although there is an enormous amount going on.

10 Q. So the question was: breakdown in communication, isn't
11 there, here, if that is what has happened?

12 A. It's certainly something I did not know about.

13 Q. It goes a little bit further, and these are his
14 concerns, I'll deal with them as a package. He was
15 thinking that SO19 were going to take about half an hour
16 to an hour to come as back-up, and that they were going
17 to be in a road behind where he was. I don't know
18 exactly where Derek was at any one time but obviously
19 close enough to do an intervention.

20 Now, that's what he thought, all right, I am putting
21 to you what he thought was going to be the situation.
22 That's why he was ringing in, because they weren't there
23 and he was concerned he would have to do the job and he
24 didn't want to. You really should have known about
25 that, shouldn't you?

- 1 A. If Derek -- Derek, was it?
- 2 Q. Yes.
- 3 A. -- was very concerned about lack of support to him,
4 I would expect to know about it, yes. If.
- 5 Q. Are you prepared even now, even with hindsight, even
6 with retrospect, to accept there are some serious
7 elements of malcommunication on this operation?
- 8 A. I accept that if he was ringing in and if he was
9 expressing those concerns, I should have known about it
10 at some stage, and that I didn't, and yes, that is
11 a miscommunication.
- 12 Q. The second concern, it's not in a particular order but
13 it's the order they are reported, that he was concerned
14 that there was easy access to buses outside the address
15 or near the address, and that he could come straight out
16 and get onto a bus, and the bus itself could be the
17 target of a bomb attack, very precise point we have just
18 been on. You didn't know, because you have already
19 answered this one, that he was ringing in with that
20 concern?
- 21 A. No, I didn't, sir.
- 22 Q. I want to just stop for a moment, I'll come back, he has
23 one more concern. Did you suspend the bus stop or not?
- 24 A. I did not suspend any bus stops at all.
- 25 Q. Where is there a decision not to suspend a bus stop?

1 A. I don't think there is a written down decision about
2 suspension of bus stops, the decision 32 is about
3 diverting bus stops, but for me exactly the same things
4 would apply.

5 Q. No, there is one thing terribly disruptive to divert
6 a whole bus route and set up a whole different phalanx
7 of bus stops on a different road, that's a bit of a
8 business, isn't it?

9 A. That's more complicated than just suspension, yes.

10 Q. It's different entirely to just suspending one set of
11 bus stops?

12 SIR MICHAEL WRIGHT: You actually mean stopping the buses,
13 don't you?

14 MR MANSFIELD: No, suspending the bus stop.

15 SIR MICHAEL WRIGHT: You mean telling the bus drivers not to
16 stop?

17 MR MANSFIELD: Yes, at that particular stop.

18 And obviously ringfencing it in the way they
19 sometimes do when bus shelters get broken and so forth.

20 A. I would like to make one point, sir, that I have sort of
21 tried to get out earlier on but failed miserably to get
22 beyond a couple of words.

23 The issue seems to me to be here firstly where you
24 and I may disagree, I contend that it is extremely
25 difficult to do a safe challenge on anybody who may be

1 armed with a device, I have said this before and I said
2 it in the Health and Safety trial, anywhere in London.
3 It's extremely difficult.

4 The second thing is I wouldn't do an intervention or
5 an interception until the person was identified. And
6 that particularly in the early stages of an operation is
7 likely to take a considerable period of time.

8 Q. You have made that clear, we will come back to
9 identification as a separate issue, but connected
10 obviously. I am just dealing with, you have no record
11 of taking a decision that -- first of all you didn't
12 know where the bus stops were, and secondly there is
13 certainly no decision recorded that you were not going
14 to suspend the nearest bus stops wherever they were, is
15 there?

16 A. There is no decision recorded not to suspend bus stops,
17 no.

18 Q. No. Do you know what TJ820, Esposito, the experienced
19 adviser you had, was telling people? I think you do
20 now.

21 A. I can't remember precisely now, but at the time I don't
22 remember having this conversation -- I don't remember
23 having a conversation with him about this.

24 Q. You see, he, it is said -- Esposito -- told Nick, who
25 was reporting these concerns into the operations room in

1 relation to the bus stand, or buses or bus stops, in
2 fact the bus stand outside the address, so the very one
3 we are talking about at the moment, Derek was told by,
4 as it were, Nick who had been told by TJ80, that the bus
5 stand had been suspended.

6 Now, can you explain that?

7 A. No, sir, I can't, how could I?

8 Q. You have had time to reflect. This really once again
9 could be rather serious if the people on the ground
10 think the buses have been suspended. Or do you think
11 it's just a minor detail?

12 A. I think it is important that they-- all sorts of people
13 on the ground should know if the bus stops have been
14 suspended, which they hadn't.

15 Q. I'll go slowly because I may have the wrong reference,
16 could I just check. You may or may not have seen this
17 document before. 349 on screen, please. I think there
18 is no sensitive material on the page. This is the S019
19 or C019 log by a gentleman called pseudonym "Callum".

20 Have you seen this before?

21 A. Yes. I think -- I think, sir, but I can't be certain,
22 that Callum's log was introduced at the Health and
23 Safety trial, and I have seen it since.

24 Q. You have seen it since?

25 A. Yes.

1 Q. If you go to 8.56 -- sorry, can it go down to the bottom
2 third, I am only interested in the time 8.56, 8.54.
3 "TJ80 deployed" and so on. It's the next entry:
4 "Bus stop at Scotia Road suspended."
5 Do you see that?
6 A. Yes, sir.
7 Q. So it's not just Derek being told by the ops room the
8 bus stand is suspended, but firearms team are being told
9 the same, aren't they?
10 SIR MICHAEL WRIGHT: Bit vague, Mr Mansfield.
11 MR MANSFIELD: It is a bit vague, but the whole log is a bit
12 vague.
13 SIR MICHAEL WRIGHT: We don't know which bus stop that
14 refers to, or do we?
15 MR MANSFIELD: We don't. It does say: "Bus stop at
16 Scotia Road", it could mean, since I'm going to ask that
17 a reasonable inference, not the only one, is the bus
18 stand just outside the exit from Scotia Road as opposed
19 to the one up the Tulse Hill end.
20 SIR MICHAEL WRIGHT: You mean the 201?
21 MR MANSFIELD: Yes.
22 A. The two stops or the one stop?
23 Q. The two stops right opposite each other, because you
24 don't know if someone comes out of Scotia Road they are
25 going to go west to Morden or east to Herne Hill, so

1 what I am suggesting as being the obvious thing to have
2 discussed, sorted out clearly, is that the bus stand
3 there is suspended for the duration. Just that bus
4 stand, the two bus stands opposite each other, 201.

5 Do I make myself clear?

6 A. You do make yourself clear and with hindsight, that was
7 certainly a possibility of something to be done.

8 SIR MICHAEL WRIGHT: It looks as though it was done, or it
9 may have been done.

10 A. It looks as though Callum thought it had been done.

11 SIR MICHAEL WRIGHT: Forgive me, Mr Mansfield, I am not sure
12 what it matters because it isn't the 201 that we are
13 worried about, it is the 2.

14 MR MANSFIELD: No, it relates to the possibility of
15 intervention, which I have raised with Andrew, I'll
16 raise it with Esposito, that the best place for
17 an intervention would have been that bus stand stopped,
18 if the individual walked off -- so it's clear where I am
19 going, walked up towards Tulse Hill -- certainly I have
20 walked these roads. There are places where I would
21 submit an ARV, covert, not all three but one could be
22 parked up without being overlooked, causing suspicion,
23 in the direction of Tulse Hill and obviously you want
24 the other one further away towards the west up Upper
25 Tulse Hill and you have a third car, and I can suggest

1 all the places where they will not arouse suspicion and
2 an intervention could have taken place without a person
3 getting on a bus.

4 SIR MICHAEL WRIGHT: You did all that with Andrew.

5 MR MANSFIELD: Yes, I did.

6 What appears to have happened here, I am sorry, I am
7 short-circuiting it, is that none of this was examined
8 with Esposito before Jean Charles de Menezes left; is
9 that right?

10 A. I made a decision about bus stops, which I discussed
11 with Ms Scott, Mr Boutcher and Silver. I am not sure
12 whether I discussed it with Mr Esposito. Callum clearly
13 believed at that time and wrote it in the log that a bus
14 stop had been suspended. I don't know who he told that
15 to, and I don't know either where he got that
16 information from. I don't think it happened, and of
17 course even if the bus stops --

18 SIR MICHAEL WRIGHT: All you can really say is it didn't
19 happen on your instructions?

20 A. It certainly didn't happen on my instructions, sir, and
21 if those bus stops were suspended, there is still
22 a number of different ways that a person might go,
23 including the route that you have described, there are
24 several others of course.

25 MR MANSFIELD: Of course, but if they have been suspended,

1 that's a bit of a compromise of the plan you had worked
2 out in your mind because you thought any interference
3 with a bus stop might compromise?

4 A. It is, it's a bit of a compromise, as you put it. It's
5 not something I wanted to happen, it's a finely balanced
6 decision, I can see advantages and disadvantages in
7 closing the bus stop, my view was we are not going to,
8 for the reasons articulated, I can entirely understand
9 why someone else like Derek might have a different view.

10 Q. Is it possible that one hand didn't know what the other
11 hand was doing in this operations room?

12 A. It's certainly possible that things are happening at
13 a huge pace and not everybody knows what everybody else
14 is doing all the time, yes, that's the way an operation
15 like this works, and you have people who have huge
16 expertise and experience in delegated authority, and if,
17 hypothetically, somebody had come back to me, because we
18 are dealing in lots of hypotheticals, if somebody had
19 come back to me hypothetically and said: actually,
20 I have suspended that bus stop, I would have said: well,
21 that's not what I wanted to happen, now it's happened we
22 will live with it and it may not be disastrous, and
23 I wouldn't have said, you know: what were you thinking
24 of, you don't have delegated authority to make that sort
25 of decision. I felt it was my decision, I felt it was

- 1 an important issue, but we work in a way where people
2 are able to make different decisions.
- 3 Q. I want to deal in the few moments --
- 4 A. And then bring them to one's attention.
- 5 Q. I understand that. I want to deal in the ten minutes
6 before lunch with the learned Coroner's point about the
7 fact there was no team down there. So I have indicated
8 to you what I suggest would have been possible for
9 intervention. I now want to deal with the fact there
10 was no team down there to do an intervention at the time
11 we are talking about, in fact from 6 o'clock all the way
12 through to 9 o'clock, and I am being, as it were,
13 over-generous to the police, there was no team down
14 there to do any intervention of whatever kind, was
15 there?
- 16 A. There was no specialist firearms officers team.
- 17 Q. No?
- 18 A. There were armed officers in the area.
- 19 Q. I'll come to the armed officers in the area. No
20 specialist firearms team and you were aware,
21 particularly in relation to black, which was a new team
22 coming on, that they were going to take, well, the time
23 they took, in fact, 8.45 before they get to
24 Nightingale Lane, right?
- 25 A. Yes, I think I thought -- well, I would guess, depending

1 on what's going on for them, an hour and a half, an hour
2 and three-quarters.

3 Q. So this is quite important: what have you done to
4 provide armed cover to do an intervention at Scotia Road
5 should someone come out, as Jean Charles de Menezes did
6 at 9.34?

7 A. Something I did just before I was briefed was speak to
8 Mr Carter, I spoke to him again after I was briefed, and
9 we talked about our relative resources. I had available
10 to me initially two SFO teams, one I allocated to
11 Portnall Road, and one to Scotia Road. As you have
12 said, the Scotia Road one was not available until later
13 on. He had tactical support teams available to him.
14 I knew about them. I mean, I am familiar with their
15 working, I know something of their capability, and there
16 was a team coming on at 7 o'clock at Lambeth.

17 There was also ARV cover, and forgive me if you have
18 discussed this elsewhere, TSTs, not as highly trained,
19 not as -- not quite as highly trained as the SFOs, ARVs,
20 slightly different sort of role because they are overt,
21 and again not trained in some of the things that the
22 SFOs are trained in, including extensive awareness of
23 Kratos.

24 Nevertheless, I said earlier on, surveillance teams
25 get deployed by themselves very often. When they ring

1 in, and say "there is somebody coming out of an address
2 or I have seen somebody, I think they pose a threat"
3 then they ring into the control room and the control
4 room get the nearest available practical resource to
5 deal with the issue, an armed resource to deal with the
6 issue. That is what would have happened if anybody had
7 come out before black were available.

8 Q. The answer is you had no contingency plan in place to
9 deal with somebody who left Scotia Road to intercept
10 near but not too far away, did you?

11 A. I don't agree, sir. We have contingencies. They are
12 standard contingencies, that's how we work.

13 Q. Let's deal with the TST first. What happens if at
14 9.34 -- well, I'll take an earlier time. If somebody at
15 8.34, an hour before, had come out and Frank had said
16 "worth another look" and all the rest of it, so that
17 sequence of events, I'll come to identity later, but you
18 had decided you did want an interception near but not
19 too far away but you didn't have a team down there, what
20 would you have had to do given it only takes four
21 minutes to get to the number 2, and two minutes to the
22 nearest bus stand you have not suspended? What do you
23 have to do to get a TST down there?

24 A. Well, what I would have done is I would have turned to
25 Mr Esposito, who is at my side and said: "This is the

1 issue, what do you advise?" It may well be that black
2 were not far away at that stage and he might say I think
3 the best thing is to get black. If black were too far
4 away, and I don't know whether they were or they weren't
5 at that stage, then I would ask for a TST.

6 Q. How do you do that?

7 A. I would speak to Mr Carter straightaway.

8 SIR MICHAEL WRIGHT: Speak to?

9 A. Mr Carter, they were under his command.

10 MR MANSFIELD: And Mr Carter says: sorry, the TST is already
11 engaged on another assignment.

12 A. The picture you are painting, sir, is what I deal with
13 on a daily basis. I don't mean the threats --

14 Q. You do not deal with suicide threats on a daily basis.

15 A. I just said that, sir, I don't deal with suicide threats
16 on a daily basis.

17 Q. Did you put a TST on standby?

18 A. No, I didn't put a TST on standby but again the scenario
19 you are painting is exactly the same as if black have
20 got to the area, they then go with the surveillance team
21 to follow somebody -- this is the parallel. So again
22 a bit of hypothetical, but if -- I can give you
23 a concrete example, but the hypothetical is if black are
24 there, they can very quickly get used up, they can get
25 taken away from the premises. I do not have an SFO team

1 there. That can happen utterly properly. As, and of
2 course you are aware, I did not have an SFO team there
3 immediately after Mr de Menezes is shot.

4 This is what happens, we don't have limited
5 resources, so --

6 Q. I am sorry --

7 A. -- we can call on contingencies.

8 Q. I have asked Andrew about this so we know what's
9 possible. You didn't put a TST on standby, did you?

10 A. Mr Carter --

11 Q. What's the answer to the question?

12 A. The TST team knew that they might be there to support my
13 operations.

14 Q. Did they? When were they told that?

15 A. When I spoke to Mr Carter, that was what we discussed,
16 that I might have to lend him my SFO team from wherever,
17 because he had a higher priority. Remember we are
18 having calls coming in from the public every few
19 minutes, most of them will end up being nothing, one of
20 them could be a suicide bomber. Mr Carter was to ring
21 me and we would talk about the relative priority,
22 I might well have said to him: I will bring black away
23 from this address, you can have black, your priority is
24 higher than mine --

25 Q. I'm there is no black team available, it is not done

1 there, it has not even got to the briefing, it is 8.34.

2 So it's an hour before.

3 A. Yes.

4 Q. Even if you had made the call to get a TST to this
5 address, it's a 10 to 13 minute response time, isn't it?

6 A. It depends where they are. You are assuming they are
7 sitting in at Lambeth, they might not have been, they
8 may have been deployed to something else. That's
9 again -- the whole picture of where all the firearms
10 resources are is something that changes all the time and
11 we have to manage within that. Mr Carter, I don't know
12 what he said to the TST but Mr Carter had the TSTs
13 available for me and I was prepared to make my SFO teams
14 available to him, wherever the highest priority
15 operation was.

16 Q. You see, you need a TST within a few minutes of
17 Scotia Road?

18 A. Well, in an ideal world, you have all the resource you
19 want, but I could have had a call which said
20 "Hussain Osman is absolutely definitely walking out of
21 a flat right now on Victoria Street". I would have
22 immediately moved if I had been asked -- well, I would
23 have immediately moved my team over to Victoria Street
24 and I would have had no cover at Scotia Road. I might
25 have moved orange because it might be slightly closer to

1 Victoria Street, I would have had no cover at Portland.

2 This is what we manage.

3 SIR MICHAEL WRIGHT: It seems to me that what emerges from
4 this interchange is that because you can't wave a magic
5 wand and a TST will simply drop out of the sky all ready
6 to go, and the kind of delay that Mr Mansfield has
7 mentioned, which we have heard about, 10 to 13 minutes,
8 given that the nearest bus stop or even the number 2 bus
9 stop is only a few minutes' walk away from Scotia Road
10 black hadn't got there because they had not had time.

11 A. Yes.

12 SIR MICHAEL WRIGHT: It seems to me that you were in
13 a position, it may be inevitable, that you could never
14 be sure of setting a firearms resource into position and
15 ready to operate, ready to act, between the time that
16 Mr de Menezes left his front door and the time he got on
17 the bus, you just couldn't do it.

18 A. I don't entirely accept that, sir. I think again we
19 have to think of a scenario, as you are, the most likely
20 scenario is that someone would come out of the address
21 and not be identified for a long time and I am not going
22 to do an intervention then, while they are unidentified.

23 SIR MICHAEL WRIGHT: That's a different point, you haven't
24 got the factual material. No, I am talking about a much
25 narrower point, simply -- this may be a fact of life, as

1 far as the Metropolitan Police are concerned, and the
2 limitations on your resources. The black team aren't
3 there and we know they didn't get there until about
4 9 o'clock.

5 A. Yes.

6 SIR MICHAEL WRIGHT: And they certainly weren't deployed at
7 that stage.

8 A. No.

9 SIR MICHAEL WRIGHT: Mr de Menezes appears from the front
10 door, he walks round to the number 2 bus stop and it
11 takes him five, maybe ten minutes. Because you don't
12 have, and because there isn't a TST within let us say
13 a 13 minute time to deploy, they won't necessarily get
14 there in time to stop him getting on a bus; right?

15 A. Yes.

16 SIR MICHAEL WRIGHT: It follows; maths.

17 A. It does --

18 SIR MICHAEL WRIGHT: The other alternative is an ARV,
19 an armed response vehicle.

20 A. Yes.

21 SIR MICHAEL WRIGHT: How near would they be?

22 A. Well, one can never be sure, they are circling around
23 all the time. At --

24 SIR MICHAEL WRIGHT: At 9 o'clock in London traffic.

25 A. Yes, but they do make progress rather quickly, sir, they

1 have a fantastic service level, they are with us in
2 a matter of a very few minutes, they are never, you
3 know -- they never fail in terms of turning up very,
4 very quickly. And they could be --

5 MR MANSFIELD: What is the average response time? May
6 I just intervene on that? 11 minutes.

7 A. I know it, I think it may be a sensitive point but --

8 SIR MICHAEL WRIGHT: I think Mr Mansfield knows it.

9 MR MANSFIELD: 11 minutes.

10 A. No, I don't think that's the average.

11 Q. What do you say?

12 A. I think that's the -- I would need to double check but
13 I think it's the expected, the time that they intend to
14 be there.

15 SIR MICHAEL WRIGHT: Doesn't it really come to this: because
16 for the reasons we have been into at length, the black
17 team which had been allocated to Scotia Road wasn't
18 going to be there and wasn't by the time Mr de Menezes
19 came out of his house, there simply weren't the
20 resources to stop him before he -- I say him, the
21 notional suicide bomber -- got on a bus?

22 A. There may have been sufficient, there may have been,
23 I can't guarantee it, of course.

24 SIR MICHAEL WRIGHT: That's the point, you can't guarantee
25 it.

1 A. I can't guarantee it, and that of course is life. But
2 sir, I do think at this stage in an operation, it's
3 extremely unlikely that I would be in a position where
4 I had the information and the understanding of who this
5 person was and what they are intending to do,
6 identification, sufficient to do an interception.

7 SIR MICHAEL WRIGHT: Even if you had had the resources you
8 would not have directed an intervention at that point?

9 A. I think it's unlikely unless for some unusual reason
10 I have got very specific identification which is clear
11 at the time.

12 SIR MICHAEL WRIGHT: Thank you very much. We have taken
13 a little longer than I wanted on that. Five past 2.

14 (1.05 pm)

15 (The short adjournment)

16 (2.05 pm)

17 (In the presence of the jury)

18 SIR MICHAEL WRIGHT: Yes, Mr Mansfield.

19 MR MANSFIELD: Sir, I am going to endeavour to finish this
20 afternoon. There may be one small matter that has to be
21 left over for tomorrow morning, but I don't think it
22 will delay matters long.

23 Can I move on to, still keeping the chronology, from
24 bus stands and all the rest of it, to a situation I will
25 deal with quite quickly, and that's the communal door

1 point. You have been asked a lot about that.

2 It comes to this, does it not: you are saying that
3 you spotted that two people, before the 8 o'clock
4 meeting, had come out, and people on the ground, that's
5 the red team, must have decided, you say quite sensibly,
6 they couldn't tell therefore they were only going to, as
7 it were, stop suspects, and if they had further
8 information that it was somebody else but they come from
9 21, then maybe that. That's what it comes to?

10 A. Yes, sir, I can't be certain about the last part of that
11 in terms of what their thinking was, but that's the
12 essence of it, yes.

13 Q. The reason I ask you is this and it goes back to Nick
14 and it is the final bit of the Nick scenario, and I'm
15 going to put it to you because he suggests you were
16 present when this was said.

17 The context is: Nick is reporting to TJ80,
18 Mr Esposito, about the concerns to do with the distance
19 away that the firearms team is, the easy access to the
20 buses, and lastly -- this is as reported to Nick by
21 Derek, the red team -- as the team could only view the
22 communal door to the block and the block contained nine
23 flats, what was the procedure to be regarding stopping
24 people coming out of the address that were not suspects,
25 for example, women and children?

1 That was as reported to Nick. I am not suggesting
2 you were present for that. He then goes to Esposito,
3 and then he suggests that the reply he gets from
4 Esposito is in your presence on this issue and that you
5 agreed it.

6 He's got different codenames (inaudible).

7 TJ80 told Nick in your presence that S019 would
8 intercept and stop all persons coming out of the
9 premises. The tac adviser, that's him of course, will
10 determine how each stop was to be conducted based on the
11 individual. You were present and agreed with it.

12 Now, have you any recollection of that?

13 A. No, sir, I don't of that conversation at all, but there
14 are elements of it which of course resonate with other
15 things I do remember.

16 Q. Yes, it's not so much the detail that I just want to
17 make the point, it's hardly likely that Derek would be
18 asking what to do if he has already decided; do you
19 follow? Because your point is: red have decided not to
20 stop, I agree with that, sensible decision, on we go?

21 A. No, I think the sequence for me was: saw it, was told
22 why it was happening, thought it was a good decision,
23 said so, expected that to go back to the ground. If
24 Derek still felt he didn't have clarity for whatever
25 reason, of course he might call up again. I do see

1 that.

2 Q. Yes, it's not only he calls up again, but he is told not
3 it's okay, you carry on doing what you have been doing
4 and really only looking out for people who might be
5 suspects, it's: stop everyone and TJ80 will advise how
6 it's to be done?

7 A. Well, I don't remember the conversation, I do recognise
8 the TJ80 will advise how it's to be done because I think
9 this relates to armed stops in premises in general --
10 coming from premises in general, of people who have come
11 from the flat, and we had quite a conversation, you may
12 remember I said yesterday that Merrick Rose was not very
13 comfortable with stopping anybody from 61A who was not
14 clearly a suspect. And he said you know, do you mean
15 women and children? I had decided that such people
16 would be stopped in an armed manner and I therefore
17 said: well of course we may use some discretion, and
18 TJ80 was saying the manner of the stop he would be
19 involved in.

20 So the last half of that, I think, is a confusion by
21 Nick, but I certainly don't remember that conversation.

22 Q. I am going to move on. I am not going to take more time
23 on who thought what over that.

24 Do you accept this: there really was confusion
25 between surveillance, firearms, and control room about

1 policy matters?

2 A. I certainly accept that, having given evidence at the
3 Health and Safety trial and now having read a number of
4 statements, there appear to be some different
5 understandings in the statements about policy matters,
6 I absolutely accept that.

7 Q. Thank you, because either the last thing today or first
8 thing tomorrow I want to run through some of the things
9 you accept, some of course you don't.

10 I want to move on from the communal door, as it
11 were, I really want to come to a fairly vital part of
12 the day as far as Jean Charles de Menezes is concerned.
13 I am going to ask you some careful questions in this
14 particular context.

15 The first question is this, and I can take that map
16 back so you are not cluttered there, because you may
17 need access to documents.

18 The first question is this: when were you first made
19 aware that Jean Charles de Menezes, or, it doesn't
20 matter, Nettle Tip, however he was referred to, had left
21 the communal door?

22 A. I can't tell you exactly when, and indeed I struggle to
23 tell you exactly when in relation to much of the
24 sequence of events after that. What I can tell you is
25 the sequence of events from my point of view --

- 1 Q. I want to know the time if you can give it, please?
- 2 A. I can't give you a time, sir.
- 3 Q. Why is that?
- 4 A. Because I am not sure -- I can say that it was clearly
5 after he left and before the bus arrived at Brixton,
6 because he was on a bus.
- 7 Q. The question really is, there are lots of reasons that
8 I want to go into here, just putting it generally first
9 of all: were you on the ball that day, were you really
10 paying attention to what was going on or were you rushed
11 off your feet or what was the position?
- 12 A. I was very, very focused. I would say I was extremely
13 on the ball. I have already told you I was very fresh,
14 I felt very well prepared for the role I had to do, and
15 it was busy, I didn't leave the room until 11.30 for the
16 first time, and there was a great deal going on, and
17 during that time I was continuously talking to people
18 and making decisions. I would not describe myself as
19 rushed off my feet, certainly not.
- 20 Q. All right. Before we get to it, there is a reason for
21 the time, I am not trying to pick things out of the air,
22 first of all just dealing with the control room first of
23 all, do you agree it was hectic?
- 24 A. Some of what was going on was hectic, certainly.
- 25 Q. Was it noisy?

1 A. That's a relative term, I did not regard it -- I do not
2 regard it as noisy.

3 Q. So you know where it's coming from, the surveillance
4 officer Pat himself may say when he comes here, he has
5 said in the past, that he had to shout to make himself
6 heard. Do you agree with that?

7 A. No, sir, I don't agree that anybody had to shout. I do
8 agree that if somebody wanted to urgently catch the
9 attention of somebody across the other side of the room,
10 they might call out. That was a relatively rare
11 occurrence. I don't think they were shouting.
12 Certainly people might have raised their voice to get
13 somebody else's attention.

14 Q. He further goes on that apparently the surveillance
15 commentary coming from surveillance officers can be
16 heard on speakers; is that right? Could be heard at
17 that time on speakers?

18 A. Certainly in many control rooms you can, and I think
19 including this one, you can put the commentary onto
20 a speaker.

21 Q. Yes, did you ever do that?

22 A. No, sir.

23 Q. Why not?

24 A. Because it was a busy room with a lot going on, and
25 I had two, at least two, maybe even three, channels

1 operating at once, and to put the speaker on would be
2 more noise, potentially distracting, and which speaker
3 to put on, both speakers, I didn't think it was a good
4 idea.

5 Q. No, I will come to the point where I suggest to you it
6 would have been a very good idea to hear exactly what
7 was being said and I'll come to that position in
8 a minute.

9 So you agree that facility was there. There was
10 also a facility for any, as it were, semi transcript of
11 what was being said being as it were recorded by the
12 surveillance monitors, it would be put up on the screen?

13 A. Yes, sir, I had seen the surveillance monitor log and,
14 as I pointed out on the diagram of the control room,
15 they have a keyboard in front of them, it goes I believe
16 straight up there.

17 Q. The log is quite important, isn't it?

18 A. It's important for, as I said particularly helpful for
19 people to, when it's being projected up, if they walk
20 into the room without having to ask lots of people
21 questions they can generally see where we have got to.
22 It's a useful tool in the -- certainly I can see in the
23 sort of longer term lifestyle surveillance mode,
24 absolutely you come in, you get a pen picture of what is
25 going on.

- 1 Q. Useful for you?
- 2 A. Well, it was of use when I spotted the communal door,
3 certainly.
- 4 Q. Yes.
- 5 A. And it's a record.
- 6 Q. So there are lots of ways of keeping an eye on premises,
7 and there were the two that you were having to keep
8 an eye on particularly, I appreciate there are others
9 coming onstream, but the two that you were covering,
10 Scotia and Portnall, you could have had very clear
11 access once you realised either of the two addresses
12 might be of particular interest, in other words not
13 either nothing happening or people of no interest
14 happening, you could then focus on that premise,
15 couldn't you, if there was something of interest?
- 16 A. In what sense, sir?
- 17 Q. Well, somebody coming out that might be of interest.
- 18 A. No, I meant focus. I'm sorry, what do you mean by
19 focus?
- 20 Q. Say to the whole room: right, enough, I want silence for
21 a minute, while we just listen to what is being said
22 about this person, or if you don't want to do it like
23 that, it's coming up on screen, I want to be able to see
24 exactly what's being said about the person that is
25 coming up. That is not a problem, is it?

1 A. It's perfectly possible, of course, to tell everybody in
2 the room to be quiet. I find it hard to think of
3 circumstances in which I would want everybody to not
4 speak, because people do need to speak.

5 Q. Of course. Well, we will come to a circumstance in just
6 one second. So all of that was possible. He's come out
7 at 9.34 and Frank in the van says something to the
8 effect: "He's worth a second look". You didn't know
9 that at 9.34?

10 A. No, sir.

11 Q. How come?

12 A. Because I can't hear Frank speaking and because nobody
13 told me.

14 Q. Well, there are two parts to this. All right, if in
15 fact the speakers aren't turned on at that point --

16 A. I do think would be good practice, I have to say that,
17 it would be good practice not to switch the speakers on
18 when you have several channels running.

19 Q. We will get to what is good practice, when we do get to
20 somebody who is interesting. You can't have all the
21 channels up loud with things in parallel and tandem
22 going on at the same time, that would be confusing.

23 Here we have, and we know from Mr Rose, if you need to
24 know, that there is nothing at Portnall Road at this
25 precise moment. So if you had chosen at 9.34 to turn

1 the channel up and listen to the follow, it would have
2 been very instructive, wouldn't it, since you don't want
3 to order an intervention on a non-positive
4 identification? That's your position, isn't it?

5 A. I don't want to order an intervention on an uncertain
6 identification. I do want to give my teams time to
7 identify people if they can, certainly. But I couldn't
8 have done, and I don't think it would be logical for me
9 to have done something at 9.34, given that I didn't know
10 about --

11 Q. Oh, well, that's the second part. The second part is
12 you didn't know. Well, you are standing in the room,
13 and everybody knows you are the DSO in charge by now,
14 9.34, don't they, and they know that the whole object of
15 the exercise set out in decision number 3 is to arrest
16 any suspect/subject not too close and not too far away;
17 they all know that, don't they?

18 A. I certainly hope they do know that, yes.

19 Q. You are pretty sure they all know that, right? Are you
20 in doubt that somebody didn't even know what you were
21 doing?

22 A. No, all I am saying, sir, is I had my meeting, I rely on
23 my people to cascade, I understand that as you go over
24 the following minutes, hours of any operation, firstly
25 some people do not completely understand, sometimes;

1 secondly, things develop and change. So you have to
2 constantly, constantly brief people. I hope that
3 everybody knew what was intended, but I can't be sure,
4 and I have agreed with you that there were some elements
5 of policy that it now appears, from statements, not
6 everybody did understand.

7 Q. Please understand I am not talking about a perfect or
8 ideal world, it's just dealing with the reality of
9 a situation. Have you ever found out from Pat in fact
10 why he didn't tell you, because you don't know and you
11 didn't hear it, so what's the explanation?

12 A. I haven't spoken to Pat about these issues.

13 Q. On the day; say, "Hey, Pat, why didn't you tell me he
14 has just come out"?

15 A. No, I didn't say that. I have got a Silver on the
16 ground who understands what I want, I have got an SIO
17 standing next to me who understands what I want. Either
18 of those people can deal with issues initially. There
19 is always in any command structure a recognition that
20 somebody like me or any one of them could get called out
21 of the room and therefore a decision might have to be
22 made, you know, in the absence of the SIO or the DSO or
23 whoever, so they know what to do if I am not aware.

24 Q. I appreciate, but you are there for that express
25 purpose. The thing is Pat apparently doesn't tell you;

1 TJ80 apparently doesn't tell you, and he is in the room,
2 yes, he doesn't tell you?

3 A. No --

4 Q. And the Silver on the ground who is apparently listening
5 to the surveillance channel, he doesn't tell you either
6 and you have an open line to him; is that right? You
7 have an open line to Silver?

8 A. Not all the time, no, and not at this stage.

9 Q. Not at this stage?

10 A. No. What I have is a dedicated phone link so that it
11 won't be being used by other people for other purposes.
12 When I need to speak to him quickly, Nick phones that
13 number for me and of course that is exactly what
14 happened as soon as --

15 Q. It will take longer if you develop later stages. I am
16 dealing with this stage: Silver ring in on the dedicated
17 line, to Nick, passed to you: I have just heard on the
18 surveillance channel, I hope you have heard it, that
19 a possible has just left?

20 A. No, sir, I don't think he did, he may have rung into the
21 control room, I wasn't told if he did. The first time
22 I spoke to Silver or heard of Silver's views on this was
23 when the person was on the bus.

24 Q. I just want to pause for a moment and ask you whether in
25 fact there are a number of problems that arise at this

1 time in your thinking about the whole of this exercise.
2 Were you saying to yourself: well, not going to be
3 anybody emerging at this stage of any consequence? Did
4 you think that?

5 A. No, sir, what I thought was that a failed suicide bomber
6 might respond in a variety of different ways, they might
7 flee London or the country if they could, they might go
8 to ground somewhere, an address they had not been at
9 before perhaps, go and stay with somebody; they might go
10 back to a bomb factory, they might go back to a premises
11 that they had lived at before, and it appeared that
12 61A Portnall and 21 Scotia were linked with failed
13 suicide bombers, but I underline appeared because there
14 is lots of ifs in that.

15 So I thought it was a possibility, there might be
16 a failed suicide bomber inside the flat. I thought it
17 was therefore also a possibility but less likely that
18 they would, having been in there, come out in the -- you
19 know, shortly after we arrived. So there is a lot of --
20 I think --

21 Q. Did you think it was not likely that a suicide bomber
22 with a rucksack would emerge from number 21 or the
23 block? Did you think that was not likely and
24 therefore -- I'll go on to a second question. Did you
25 think that?

1 A. I certainly don't think that was a likely scenario.

2 Q. No, it's a very easy question: did you think it was not
3 likely?

4 A. I thought it was possible.

5 Q. I am going to cut to the chase, as they say --

6 A. I remember being asked a lot of questions about this in
7 the Health and Safety trial.

8 Q. Yes.

9 A. And we went all over in terms of different words,
10 degrees of possibility and likelihood and that sort of
11 thing, several things --

12 Q. No, this was put very specifically by counsel
13 representing the Office of the Commissioner,
14 Mr Thwaites, who called you as a witness?

15 A. Yes, sir.

16 Q. Could we have, please, page 121, 18 October. In the
17 middle of the page, that question, this is Mr Thwaites
18 asking you the question. In the context, this was, so
19 you know, we can go back a page or two if you wish, of
20 the availability of TSTs and ARVs and all the rest of
21 it, and what your thoughts were on those subjects leads
22 to this question:

23 "Question: So taking the position overall and the
24 information available to you, and based on your
25 experience, how great did you think the risk was that

1 such an event would occur, that a suicide bomber ran out
2 of a house with a rucksack in front of the S012 officers
3 who had surveillance containment?"

4 Your answer, unqualified, not like the one you have
5 just given:

6 "Answer: That was not likely."

7 First of all, you agree that's what you said?

8 A. I agree that's what I said.

9 Q. And that was your thinking that morning, wasn't it?

10 A. And I still think, as I have said, it was a possibility
11 there was somebody in there, it's a less likely
12 possibility that they come out at any particular time,
13 I didn't actually say this, it's even less likely, very
14 much less likely, I think, that all those other things
15 going ahead, they will come out with a rucksack in front
16 of the S012 officers at that time in the morning.

17 So I stand actually by what I said there. I think
18 that particular scenario was not a likely scenario. It
19 was a possibility. An unlikely possibility.

20 Q. What I want to suggest to you, actually, one of the
21 factors reducing your concentration levels were you just
22 weren't expecting to be having to deal with somebody at
23 this stage, were you?

24 A. No, sir, I think that's wrong. I was absolutely
25 expecting to have to make lots of decisions and deal

1 with people in a variety of different places. I was
2 very focused, something could have happened anywhere,
3 and I believe that I was ready for it. But of course
4 this scenario is one of hundreds that I had to consider
5 that morning.

6 Q. I want to return, if I may, to the question of when you
7 first knew. There is another problem in this period of
8 time, I suggest, besides that kind of thinking. You had
9 been waiting for a loggist, as we have heard?

10 A. Yes, sir.

11 Q. Mr Cremin?

12 A. Yes, sir.

13 Q. He turned up right smack bang in the middle of this
14 period, didn't he?

15 A. I think he arrived sometime after 9.30.

16 SIR MICHAEL WRIGHT: 9.50 he arrived.

17 MR MANSFIELD: Sir, I think it's a bit before that.

18 SIR MICHAEL WRIGHT: Sorry, quite right, that's his first
19 note.

20 MR MANSFIELD: Just to follow up the learned Coroner's
21 point --

22 A. Sorry, sir, could I just interrupt there, I haven't got
23 it in front of me. I think his first note is before
24 9.52 but we don't quite know when.

25 SIR MICHAEL WRIGHT: His first narrative note is I think

1 9.52.

2 A. 9.52, exactly, sir, but he makes some entries before.

3 MR MANSFIELD: The documents you will need and the jury,
4 please, for these purposes is your decision log again,
5 it's decision number 15 the log is behind 48 and the
6 Cremin log is behind 47. It will come up on screen, the
7 decision log. I don't mind which it is.

8 He turned up, presumably unannounced, you didn't
9 know he was about to come, you had been asking for him
10 and then he arrives; is that right? Is that how it
11 works?

12 A. That's exactly how it works, sir, he is someone I know,
13 I didn't know he was assigned to be my loggist until he
14 arrived in the room. I think he stood quite quietly for
15 a little while, because I was dealing with lots of
16 things, and then he made himself known to me.

17 Q. So if he arrives sometime after 9.30, he stands to one
18 side. Is this fair: it looks as though he is coming
19 across to you to be briefed almost at the time that
20 Jean Charles de Menezes is leaving the block at number
21 21, the block that contains number 21; is that fair?

22 A. It's certainly possible, sir, I can't be sure what time.
23 But it's certainly possible.

24 Q. This just might explain, you are doing something else,
25 which actually should have been done -- and this is why

1 it matters -- hours before but you are having to do it
2 then, you are having to brief him what's going on so he
3 can keep a record. That's the first notes he puts on
4 his log at the top of the page, very briefly, got some
5 trigger notes there.

6 The reason I'm asking you about this is that, is it
7 right that you didn't actually know about Jean Charles
8 de Menezes until 9.52?

9 A. No, sir, I did know before then.

10 Q. Did you? Well, when?

11 SIR MICHAEL WRIGHT: May I interrupt?

12 MR MANSFIELD: Yes.

13 SIR MICHAEL WRIGHT: You did say, and I can understand why,
14 that you can't put a firm time on the moment that you
15 were first aware that a man had left the block at
16 Scotia Road. Can you help us about this: 9.52, of
17 course "guy outside tube station", that's Brixton?

18 A. That is Brixton, sir, yes.

19 SIR MICHAEL WRIGHT: When you first heard that a man had
20 left Scotia Road, it doesn't matter about the time, what
21 did you understand him to be doing and where did you
22 understand him to be?

23 A. He was on a bus when I first heard.

24 SIR MICHAEL WRIGHT: That fits in, of course, with
25 decision 15. So your first knowledge that the man had

1 left Scotia Road was when he was already on the bus?

2 A. Yes, sir.

3 SIR MICHAEL WRIGHT: Thank you.

4 MR MANSFIELD: Could we have 7853 on the screen, please. If

5 the two logs can go off just for a second. Thank you

6 very much. 7853. (Pause). May I just have one moment

7 to inquire what's happened here. (Pause). Sir, can I do

8 it another way? I thought it had been --

9 SIR MICHAEL WRIGHT: Has it not been scanned in?

10 MR MANSFIELD: No, I have the right page number but it has

11 not been scanned in.

12 SIR MICHAEL WRIGHT: In that case it can go on the screen.

13 MR MANSFIELD: Yes. May I make clear as its going up what

14 it is?

15 SIR MICHAEL WRIGHT: Yes.

16 MR MANSFIELD: It is a transcript from a tape recording that

17 this witness made two or three days later.

18 SIR MICHAEL WRIGHT: Hang on, we have that in the jury

19 bundle, haven't we?

20 MR MANSFIELD: No, I don't think so.

21 SIR MICHAEL WRIGHT: I think we have. That's not the one?

22 Oh, I see.

23 MR MANSFIELD: This is a document, may I deal with it

24 through the witness for a moment.

25 You didn't have it with you yesterday; is that

1 right?

2 A. No, I didn't, sir, no.

3 Q. Do you have it with you today?

4 A. I am not sure whether I do.

5 Q. If you don't, we can deal with it on screen. Do you

6 agree that you did record an account of what happened up

7 to the morning of the 22nd? You recorded it a couple of

8 days later, and then some months later somebody

9 obviously sat down and transcribed it, and then we have

10 been given copies of the transcript as typed up. I'm

11 going to come in, as you will see, on tape 4, CD, that's

12 your initials, T4, and under that there is a sentence,

13 perhaps we can read it together.

14 A. Could I just stop you there, sir, and say -- of course

15 I'm sure this won't be necessary -- if you want to have

16 the actual CD, you are very welcome to have that. I can

17 assure you this is an accurate transcript.

18 Q. I am relying on that.

19 A. Thank you.

20 Q. "The first I knew of the man from Scotia Road", do you

21 see that?

22 A. Yes, sir.

23 Q. "... being on a bus was shortly after 9.45."

24 A. Yes, sir.

25 Q. Where did you get that time from?

- 1 A. I don't know, sir. I don't know. I may have been
2 working back from the loggist's log 9.52.
- 3 Q. Well, it says "shortly after 9.45" so it's actually
4 specifying a time and then adding on a bit, I am not
5 going to quibble about 30 seconds, a minute or whatever.
6 Quite an important time. You see, by this stage, the
7 time you dictated this, had you had access to all sorts
8 of other documents?
- 9 A. No, no, sir, just my own.
- 10 Q. Just your own?
- 11 A. And the CLIO log which I -- my own but I regard my
12 loggist's log as my own because that was locked in my
13 safe. I don't think I had had access to anything else.
- 14 Q. Then "I had been told" presumably you mean shortly after
15 9.45, according to this version "that a man had left
16 Scotia Road, had briefly been identified as Nettle Tip
17 but it was now realised that it was not him"?
- 18 A. Yes, sir, I think that's what I said yesterday.
- 19 Q. I appreciate you did, but I have some questions. Is
20 there anything recorded in your decision log to this
21 effect?
- 22 A. No, sir.
- 23 Q. Why not?
- 24 A. Because I didn't and don't, certainly did not regard it
25 as a significant issue at the time, at the time of

1 making the log. If I thought it was a big significant
2 issue, I would have recorded --

3 Q. It is a big significant issue, because here it is, you,
4 for the first time, having not been told by anyone up to
5 then that a possible had come out, and even more
6 important, not only had come out but for 11 minutes had
7 been followed by surveillance and you didn't know?

8 A. Well, I think, sir, I did concede yesterday that I felt
9 that log 15, decision log 15, was slightly hard to
10 understand, I said something like this, because I hadn't
11 put in any commentary or any decision earlier than that.
12 I said, you know, it's quite difficult to understand
13 what's gone on here. So I understand what you are
14 saying, it would be easier to understand what had gone
15 on if I had made a decision log entry but when I was
16 writing up my decision log, I did not see this as
17 a significant issue, and I covered the issue that you
18 have highlighted briefly in decision log 15.

19 Q. No, you didn't. Decision number 15 does not indicate
20 what you have put in this statement:

21 "Silver's intention was to stop him discreetly, gain
22 intelligence" and so on. You had agreed with that,
23 hadn't you?

24 A. Yes, we had a conversation about it.

25 Q. That's what you are saying?

1 A. I did agree, I did not have a strong view.

2 Q. That's a decision, isn't it, by you?

3 A. It is a decision --

4 Q. Why isn't it in the decision log then?

5 A. Because as I said when I was writing it up, I didn't see

6 it as a significant decision. The log is only for

7 significant decisions. I have a limited number, as you

8 know, between arriving and Mr de Menezes' death, and

9 I didn't see it as significant in a way that required me

10 to write a decision log.

11 I probably made, I don't know, between 7 o'clock and

12 9.30, I probably made couple of hundred decisions, 500

13 decisions, I don't know, but most of them would not be

14 written down because they are not things I thought were

15 significant decisions.

16 Q. I'm only dealing with decisions that relate to the two

17 premises at the moment that you are covering and the

18 possibility of a suicide bomber, that's pretty

19 significant, isn't it?

20 A. As I say, I thought I had covered it adequately in 15.

21 I accept that that sentence is not shown in 15.

22 Q. Unless of course the first time you actually caught up

23 with this scenario was at 9.52, even later?

24 A. No, sir, I did become involved before 9.52. I can't say

25 what time --

1 SIR MICHAEL WRIGHT: Well, shortly after 9.45.

2 A. Well, no, my evidence here is I can't say what time.

3 SIR MICHAEL WRIGHT: I see.

4 A. And I think it's only right, sir, that I say in my

5 interview with the IPCC I was asked a question which led

6 me, I think would be the right way of putting it into

7 agreeing that it may have been not long after 9.35. So

8 recognising that here I have said shortly after 9.45 and

9 there I said may not have been that long after 9.35, in

10 all honesty I have to say to you I don't know when it

11 was. All I can tell you is that he was on the bus, and

12 that's what I am certain of, and it was sometime before

13 Brixton.

14 MR MANSFIELD: What is quite important is where the

15 information is coming from. Because I think you now

16 know, on anybody's view, nobody was saying between

17 Scotia Road and getting on the bus that it wasn't,

18 definitely wasn't Osman; you know that now, don't you?

19 A. I don't know that, no, sir, I do not have that grasp.

20 Q. Well, then, I want to know where did this information

21 come from that it wasn't him?

22 A. I am not sure I understand the question.

23 Q. Who told you that he had been briefly identified but

24 actually now realised it wasn't, as you have it in your

25 taped recording?

1 A. I think it was Pat. It may have been Silver or
2 Mr Boutcher, because those were the people that
3 I discussed it with immediately I became aware. I think
4 it was Pat.

5 Q. Pat? Well, we are going to hear from him as to whether
6 he ever said, before he got on the bus "it's not him".
7 I want to go into the --

8 A. Sorry, I wasn't suggesting he did say that. I'm
9 suggesting -- I don't know where the "worth a look"
10 became "not him", I don't know.

11 Q. Within 15 minutes, this man is dead. It is quite
12 important for you to be able, at the helm of this
13 operation, to know where information is coming from,
14 because you are not on the street.

15 A. It's very important to know. Of course, you know, you
16 are looking at this with the benefit of hindsight.

17 Q. No. I am looking at this -- I am trying not to do that,
18 I am trying to do it as you are in the control room, you
19 are suddenly alerted to the fact that there was
20 a possible, now not, and then of course it goes on:
21 "Shortly after that I was told that the person on
22 the bus had been identified".
23 That's what's in the tape; do you see that?

24 A. Mm.

25 Q. I want to deal with that. "Had been identified". Who

1 by?

2 A. By, well, I was told this by Pat.

3 Q. Are you sure?

4 A. He wouldn't have done the identification.

5 Q. Are you sure Pat told you this?

6 A. I am fairly sure Pat told me this, yes.

7 Q. No, sorry, fairly won't do in these circumstances. This

8 is life and death, you don't send them in unless you

9 are, as it were, sure of an identification.

10 Who is telling you --

11 A. Sorry, sir, I am not completely sure now, I am not

12 100 per cent sure, I can't swear that it was Pat that

13 told me. But we are three years on, and I have been, as

14 you know, again quite properly, I have made my records,

15 I have given a statement, I have been interviewed quite

16 properly by the IPCC. I have been to the Health and

17 Safety trial where I have been asked the same questions

18 in my evidence-in-chief and then in cross-examination

19 and re-examination. It's three years on. I think you

20 must understand that I wouldn't necessarily be

21 absolutely sure now but that's not the same as what you

22 said. At the time, I would have known who exactly it

23 was had just said that to me.

24 Q. Of course we know there are no records and that's one of

25 the difficulties about this, isn't it?

1 A. One of the difficulties may be that there are lots of
2 records.

3 Q. Certainly.

4 A. And lots of people were writing lots of things down at
5 various different times. I think ... obviously there
6 are things that you are now interested in about this
7 half an hour period, which is not written down. Or
8 three hour period, which is not written down.

9 Q. No, I am now interested in the most important period of
10 Jean Charles de Menezes' life, the last 15 minutes,
11 that's what I am interested in. Follow this
12 identification through, right? You now know, I think,
13 is this fair, that no surveillance officer is going to
14 come forward and say that there was ever a positive
15 identification of Jean Charles de Menezes as Osman; do
16 you know that now?

17 A. Well, I don't know what the surveillance officers are
18 going to come forward and say --

19 Q. May I just put it to you: if the surveillance evidence
20 before this jury is that no surveillance officer says
21 there was a positive identification -- and we have had
22 Mr Johnston in charge of the room already, and he said
23 it never went beyond possible, but I am sticking to
24 surveillance officers -- no surveillance officer comes
25 and says it ever went beyond possible, does that come as

1 a shock?

2 A. I have of course read the statement, sir, I am aware of
3 the statement. I know what I was being told, and I know
4 what that made me think. I really can't account for
5 what the various surveillance officers said or thought
6 or are going to say now.

7 Q. Were they saying things you misunderstood?

8 A. I wasn't listening to the surveillance officers, sir.

9 Q. I'm suggesting to you now is the moment, just for 15
10 minutes although you didn't know it would be 15, it
11 could have been slightly longer, of course I appreciate
12 that, to say to the room, the control room, "Keep it
13 down, I want listen to this", what are they saying:
14 first he might be, then he's not, now he is, all within
15 the space 11, 15 minutes.

16 That's what you should have done, isn't it?

17 A. No, I don't agree with that. And you make it sound as
18 though -- I think you make it sound, anyway, as though
19 that sequence "worth a look, not, is" is extraordinary
20 or unusual. It's not. In a surveillance operation,
21 that in the very early stages is not that unusual. What
22 happened after that for me was increasing certainty in
23 the terms of the briefing I was getting about the
24 identification.

25 Q. I am going to suggest to you not that, it's quite the

1 reverse what I am suggesting, nothing unusual, I am
2 going to suggest to you, as I have suggested to others,
3 firstly identification is notoriously difficult?

4 A. It's a very difficult thing to do sir. Surveillance
5 officers are particularly good at it but it is a very
6 difficult thing to do.

7 Q. You said just before lunch, didn't you, that you thought
8 the most likely thing in the light of identification
9 would be that it would take a long time before there
10 would be an identification. I have the exact transcript
11 if you need it?

12 A. Yes, I think that's right, you are starting cold, no
13 other information beyond the CCTV photograph, and the
14 gym card. It's going to be potentially something which
15 could take a while.

16 Q. You see, you have a number of factors here. You, as the
17 jury have just seen, thinking to yourself: it's not
18 likely there will be a suicide bomber with a rucksack
19 coming out; number 2, it's likely it will take a long
20 time to establish identity, this is a cold case, we
21 don't know much about this individual, we had seen --
22 well, I will come back to what you had seen. This is
23 the one case where you say to yourself: I am not taking
24 any risks here, this is far too risky to start getting
25 SO19 involved where we have got only a matter of minutes

- 1 and officers going from "it isn't" to "it is", hopeless,
2 don't do it. Did that occur to you?
- 3 A. You said a number of different things there, sir,
4 I think broadly my answer to that is I don't accept --
5 maybe I do not understand what you are saying, but
6 I don't accept what you are saying. Of course minimise
7 the risks was absolutely in the top of my mind
8 throughout all the operations we did that day --
- 9 Q. Minimise the risk to an innocent individual?
- 10 A. Absolutely, as well as to members of the -- to any
11 individual, the subject being followed and members of
12 the public and my officers.
- 13 Q. As a firearms officer you are aware, I am not suggesting
14 they are made every day or every week, but there are
15 some notorious mistakes have been made in the recent
16 past, haven't they?
- 17 A. I would possibly like to have been a firearms officer in
18 my career, but I have not. I am a firearms commander.
- 19 Q. That's what I mean.
- 20 A. I am very well aware of the police shootings, if that's
21 what you are talking about, over several years, I am
22 familiar with the UK cases, I think, in general. And
23 I understand, I think, relatively well, some of the
24 issues that some of those issue cases have revealed.
- 25 Q. Right, which are?

1 A. The importance of briefing, how difficult it can be in
2 an incredibly fast-moving situation for people to make
3 split second decisions and --

4 Q. Was that in any of the briefings, as far as you are
5 aware?

6 A. What, how difficult it is to make --

7 Q. Yes, to firearms particularly: look, this is a very
8 difficult situation, might be, it might not, but
9 mistaken identification is a serious risk?

10 A. I am sorry, sir, you have lost me again. Are you
11 talking about at the Silver briefing?

12 Q. Yes.

13 A. I don't know. Again I come back to the fact that Silver
14 was briefing specialist firearms team, they go out every
15 day of the week on operations where somebody could get
16 shot, they are absolutely used to dealing with life and
17 death situations, and because they are so incredibly
18 professional in my view and incredibly restrained,
19 shootings by the SFO teams are extraordinarily rare.

20 Q. Yes, I am accepting that. Really I want to come back to
21 your position in these minutes between 9.52 and 10.04.
22 So again, just 15 minutes. Did it occur to you in that
23 time that the identification -- never mind anything
24 else -- basis was too unreliable given the way the
25 pendulum has swung, to base any order for

1 an intervention?

2 A. No, sir.

3 Q. You didn't?

4 A. No.

5 Q. Why not?

6 A. Because, as I say, it's not unusual for a surveillance

7 team to be uncertain to start with and then become more

8 certain. That is in fact the process often. Either

9 more certain that it is not an identified individual;

10 good, we can withdraw, or more certain that it is. That

11 is their job, to --

12 Q. And five minutes later, another one says: "Oh, well,

13 it's not". You are not dealing with any kind of

14 consistency in this case, are you?

15 A. Sir, I think you are working from -- I think you may

16 anyway be working from what the statements now say was

17 being said. I am talking, I am trying to talk anyway,

18 and as I say it is quite difficult because I have had

19 three years of thinking about this case and I have to be

20 very careful not to muddle up what I now know with what

21 I knew then. If we talk about what I knew then, I did

22 not have your -- I did not have that position, I had the

23 position of: he is on a bus, he was briefly thought to

24 be, he is not now, right, we will go and do X, okay, if

25 you want to, fine --

1 Q. We know the narrative, it's alright, you don't have to
2 run through it again.

3 A. That's my position, and that's different. I don't know
4 what they were saying on the ground.

5 Q. There was a document right in front of you on the
6 screen, I am not going to ask for it up again, everybody
7 knows it now, 447, there was a document sitting in the
8 ops room saying all the way through consistently
9 "unidentified", wasn't there?

10 A. I can't say that that document was up on the screen
11 then. I can't. I didn't look at it then. But it
12 certainly does say, we have been through this yesterday
13 afternoon, "U/I male" throughout with one exception.

14 Q. I am just wondering, maybe the jury is, what the point
15 of this log is. Is it for Pat's benefit?

16 A. No, it is for the benefit of the record and for people
17 in the room. I don't think it is for the benefit of
18 people in the room trying to make decisions in a very
19 fast-moving situation, because it will be very slim, and
20 it may not in fact be typed at exactly the time. So
21 I did not look at it, and if you put me in an operations
22 room again tomorrow, I don't think I would be looking up
23 there for my information.

24 Q. No, I see. Has it occurred to anybody that really
25 running an operation like this at arm's-length with

1 information coming through people who aren't on the
2 ground, so from a surveillance officer to a team leader,
3 through to a Silver, through to the operations room,
4 really is a hopeless situation? Has that occurred to
5 anyone?

6 A. That's not the flow of information necessarily, sir, so
7 I wouldn't agree that. Secondly, yes, of course we have
8 constantly debated where decision-makers are best
9 placed. There is absolutely no debate, and we have been
10 thinking about this even harder for the last three years
11 I would suggest because of what happened, there is
12 absolutely no debate that the designated senior officer
13 in an operation like this will be in the control room,
14 because they have access to the best sources of
15 information and the most information there, in general.

16 Now, there will be times when the Silver on the
17 ground may have better information. In my case, and as
18 we run these operations now, the best sources of
19 intelligence frequently come from the other agencies
20 that we are working with, and it's a complicated, whole
21 enormous series of information coming in. You can't
22 handle that sort of information on the ground.

23 So your question was: has anybody thought should the
24 decision-maker be in the control room? Yes, we have
25 asked that question, we continue to ask that question,

1 but there is an absolutely clear policy the
2 decision-maker should be in the control room both to
3 co-ordinate all the different operations that may be
4 going on and in order to have the best source of
5 information overall.

6 Q. No, I have taken you through the various things that
7 have been malcommunicated, if they have. One of the
8 things that, the biggest rift, if it exists, is between
9 what you say you understood the identification level to
10 be, and what the surveillance officers say the
11 identification level was. You understand there is a big
12 rift?

13 A. I do, sir. I believed that they believed it was him by
14 the time -- we are skipping ahead now -- by the time
15 he's beginning to get off the bus, and I myself was sure
16 that it was, on the basis of what I had been told --

17 SIR MICHAEL WRIGHT: Sure about what?

18 A. I was sure that this was Nettle Tip on the basis of what
19 I had been told, but I always knew, always knew, that
20 a surveillance team can be wrong. So that was my
21 uncertainty around identification.

22 SIR MICHAEL WRIGHT: Putting the two most contemporaneous
23 documents together, your decision log, which was made up
24 that night.

25 A. Yes, sir.

1 SIR MICHAEL WRIGHT: That contains the information that
2 initially it was not thought to be Nettle Tip and then
3 it was thought to be Nettle Tip, or thought to be, so
4 your tape which you made a few days later actually takes
5 it a bit further back and you have the information
6 originally was thought to be Nettle Tip and then was
7 not. Right? In other words you have a flip/flop
8 situation, initially thought and then not and then
9 thought again.

10 A. Yes, sir.

11 SIR MICHAEL WRIGHT: What I would like your help about is by
12 the time you had received that third piece of
13 information, what was your state of mind about the level
14 of identification?

15 A. The fact that it had gone back and forth made me say at
16 Brixton -- was one of the factors that made me say at
17 Brixton: I do not want any intervention at the moment,
18 I want to continue surveillance, and intelligence
19 gathering, in order to firm up or otherwise this
20 identification.

21 SIR MICHAEL WRIGHT: Well, by the time he was back on the
22 bus again and going towards Stockwell, by the time he
23 got off the bus at Stockwell, what was your view or
24 belief about the identification then? Positive,
25 possible or just a statement of belief?

1 A. So we have gone forward to Stockwell?

2 SIR MICHAEL WRIGHT: You gained no more intelligence between
3 Brixton and Stockwell?

4 A. Well, I thought I did, sir.

5 SIR MICHAEL WRIGHT: What?

6 A. In terms of my checking with Pat, with Silver, and you
7 will remember they told me further information.

8 SIR MICHAEL WRIGHT: Yes.

9 A. So I did have an increasing level of confidence in the
10 identification between Brixton and Stockwell.

11 SIR MICHAEL WRIGHT: Let us get to the point when he got off
12 the bus.

13 A. Yes, sir.

14 SIR MICHAEL WRIGHT: What was your view, your state of mind,
15 about the level of identification then?

16 A. Well, I regarded it -- if you had asked me then, is this
17 a positive identification, as I would use that word,
18 then, I would have said yes, I think this is a positive
19 identification.

20 SIR MICHAEL WRIGHT: Thank you.

21 MR MANSFIELD: Just on the question, and the learned Coroner
22 has used a couple of terms, are you really saying as you
23 did yesterday that you now have a very, very new system,
24 do you remember?

25 A. Yes, I don't personally, sir, but the

1 Metropolitan Police has a --

2 Q. Brand new system?

3 A. That they are trialling, yes, sir.

4 Q. And the system is?

5 SIR MICHAEL WRIGHT: I think you told us positive, possible

6 and negative, those are the three levels.

7 A. Those are the three levels.

8 MR MANSFIELD: I do not want to be rude, but it's a little

9 bit of a joke if it's taken this long to work out

10 positive, possible, negative. Do you follow?

11 A. I do, sir. I didn't mean to suggest that that's the

12 whole of the system. Underneath those categories is

13 a great deal of guidance, I suppose is the word, to

14 officers about what goes into an identification and what

15 might lead you into any one of those categories.

16 Q. When did that come in? This year?

17 A. You would be able to have evidence of this, I am sure,

18 but sometime this year, very recently, sometime in 2008

19 most definitely.

20 Q. So decades of observations, surveillance, different

21 teams, it's only in 2008 that somebody has managed to

22 work out we do need categorisation of positive, possible

23 and negative?

24 SIR MICHAEL WRIGHT: Perhaps more to the point is: what was

25 the graduation or what was the system that was in

1 operation in 2005?

2 MR MANSFIELD: Yes, absolutely.

3 Was there a system?

4 A. I don't think there was -- there wasn't a three grade or
5 a two grade or a five grade, as I can remember it. It
6 was simply that people would tell you what they thought,
7 and then the system --

8 SIR MICHAEL WRIGHT: In whatever words they happened to use.

9 A. Yes. Exactly. If you have time. It's all very easy
10 when you have time. You say: do you think this is
11 Cressida Dick? Why do you think it's Cressida Dick?
12 They tell you everything they have seen, they have
13 thought, they have understood, they have heard and you
14 might say that doesn't seem good enough to me and since
15 we have days to worry about it, I don't think we will do
16 anything today, I would like you to try and go and see
17 that person again and see if it really is Cressida Dick.

18 When you don't have time, it's more difficult, and
19 hence "system" is putting it a bit grandly but in my
20 world, in a kidnap world, we had a way of working which
21 was we would frequently say: can you give me
22 a percentage of your confidence?

23 MR MANSFIELD: It is for all those reasons you have just
24 given that by four minutes past 10, whatever you may
25 have thought or believed, the break had to be: I cannot

1 rely on this, surveillance teams can be wrong, whatever
2 they are saying, whatever words they use, we don't have
3 the possible, positive, negative, I am not sending
4 a firearms team in on this, I have only been listening
5 for 15 minutes.

6 A. No, sir, I was absolutely clear that I needed to send
7 a firearms team in, and I would stand by that decision
8 on the basis of the information I had, and to do
9 otherwise would have been reckless in my view and
10 negligent.

11 Q. I will suggest what you did, what you ordered in the
12 end, particularly the firearms element of it, was
13 reckless.

14 A. I don't agree.

15 Q. I put it this way: if you are going to have officers
16 doing a notoriously difficult job of trying to identify
17 cold, they plainly need all the best materials they can
18 have in terms of photographs?

19 A. They need the best materials they can have, often of
20 course there is a balance between getting them out there
21 with limited information and keeping them back to get
22 them the best possible information. Yes, they need the
23 best you can give them in the time available.

24 Q. Were you aware that there were photographs available
25 which could have gone with the surveillance team found

- 1 in the rucksack?
- 2 A. I was not aware of that, sir, until maybe three weeks
- 3 ago when I saw some correspondence.
- 4 SIR MICHAEL WRIGHT: These are the wedding photographs.
- 5 A. I saw some correspondence about that about three to four
- 6 weeks ago.
- 7 MR MANSFIELD: Up until this inquest, nobody had told you
- 8 about wedding photographs?
- 9 A. No, sir.
- 10 Q. Up until this inquest, did anybody indicate to you that
- 11 photographs had been taken on a surveillance operation
- 12 in the Lake District which included photographs of
- 13 Osman?
- 14 A. No, sir, I knew that the Operation Ragstone, which is
- 15 referred to in the briefing note handed to me at
- 16 9 o'clock, was a Special Branch SO12 operation, and
- 17 I think I did know that that was in Cumbria at the time,
- 18 in the Lake District, but I didn't know that -- I didn't
- 19 know what material was available from that operation.
- 20 Q. Just as an example, if it needs to be illustrated, the
- 21 risks of misidentification I suggest are extremely
- 22 serious, did you look at the CCTV reproductions in this
- 23 case?
- 24 A. Yes, I did.
- 25 Q. Did you think that the likenesses of Osman and Omar to

1 the CCTV, in one case Shepherd's Bush, in the other case
2 Warren Street, were good?

3 A. I can't -- I ... I remember thinking that some at least
4 of the CCTV was very good, and I made a note of that,
5 I thought it was a good image --

6 Q. Of which person?

7 A. I can't remember now, sir, I can't remember.

8 Q. Pause we have heard that in fact it related to both; did
9 you know that? Somebody thought that the images grabbed
10 off the CCTV were actually a good likeness in one case
11 of Osman and in the other case of Omar?

12 A. Yes, I think I remember that Mr McDowall had looked and
13 told me that he had looked at the gym card and the CCTV
14 and he thought they were good likeness --

15 Q. I appreciate now you may not remember doing the
16 comparison yourself but --

17 A. I am not sure I actually did do that comparison but
18 I saw the CCTV, sir.

19 Q. I want to follow through with you. If Omar had come out
20 of the block of number 21 that morning, and people had
21 said he was a good likeness for the Warren Street, we
22 now know he wasn't involved?

23 A. We know he was totally innocent.

24 Q. Right. If he had come out the same block and had been
25 carrying something, he would have been seriously at risk

1 of being shot, wouldn't he?

2 A. He would be ... if he came out and he was identified as

3 Omar, he was Omar and he was identified as Omar, and it

4 was a strong identification, he would certainly have

5 been challenged.

6 Q. At risk of being shot dead?

7 A. It would be a -- likely to be, depending on all the

8 other circumstances, it would be likely to be a high

9 risk challenge, yes.

10 Q. I want to move on a bit, because we have only this

11 limited time span of 15 minutes.

12 A. Could I just say, I am sure you are not suggesting to me

13 that we should have done nothing that morning in terms

14 of mounting operations at Scotia Road or Portnall,

15 because the image wasn't good enough or --

16 Q. No. My suggestion to you is, I don't want to go back

17 over the ground, just so it is clear, quite the reverse,

18 there should have been an interception of either of

19 these two even if they were possible, I hope that the

20 British police are not going to let possible suicide

21 bombers on to public transport, do you follow, that's

22 what I am suggesting to you, that if it had been done in

23 controlled circumstances, then the risks would have been

24 minimised.

25 Do you follow what I am putting?

- 1 A. I do, but taking you back to your example before, if
2 Omar had come out with a rucksack, however good or ill
3 the positivity of the identification, he was at risk.
4 It's a risky thing to do to challenge somebody who you
5 think is a suicide bomber, there is no easy way to do
6 that, there may be a picture of some kind of very low
7 level challenge, but that is not how we train, it's not
8 a safe thing to do for anybody, if you think that person
9 is a suicide bomber it is a very, very forceful
10 challenge that will be made.
- 11 Q. That is why you and others, Kratos trained or otherwise,
12 have to be extraordinary -- because it's so high risk,
13 it has to be done in controlled circumstances as far as
14 you can humanly engage in that way, and secondly you
15 have to have very clear indicators if you are going to
16 deliver a critical shot that it is the right person at
17 the critical shot stage, and that that person presents
18 an immediate threat?
- 19 A. Yes --
- 20 Q. You agree that?
- 21 A. In the circumstances you are in, you must have sought to
22 achieve to get the best information, it's only right
23 that you should try to get the best information before
24 a challenge is asked for from the firearms officers,
25 because it's very risky for them and the individual.

1 Q. Let us be clear. You are not suggesting that you
2 communicated to the firearms officers that there was any
3 intelligence to suggest that he was an immediate threat?

4 A. No, there was no other -- there was no other
5 intelligence beyond what we had observed.

6 Q. Just dealing with that, observations about -- I know
7 nobody said he was sweating -- sweating, mumbling, being
8 a bit twitchy or whatever, they are equivocal, they may
9 be innocent, they may not, as was brought up by someone
10 else the other day you can have a CCTV of the bombers of
11 the previous day who look perfectly normal?

12 A. Yes, sir.

13 Q. It's really a very tenuous basis for a firearms officer
14 to be communicating to you and convincing you that he is
15 a terrorist; very tenuous, isn't it?

16 A. I don't quite understand that, sir, the firearms
17 officer -- what firearms officer --

18 Q. Sorry. If surveillance officers are saying to you: oh,
19 he is jumpy, he is twitchy and firearms officers are
20 going to say they took this on board, that's a very
21 tenuous basis, isn't it?

22 A. Well, it's not as though this is somebody who is walking
23 down the street on whatever day it is today and is jumpy
24 and twitchy and nervous; this is somebody who has also
25 been identified as somebody who yesterday had the

1 motivation, the capability, the intent to cause dreadful
2 murders. So that adds to the -- that's part of the
3 picture of what threat this person might pose. Then
4 added on to that are these behaviours which I agree
5 under normal circumstances could be entirely innocent,
6 and are just indicators. You are never going to -- it
7 would be fantastic, if that's the right word, if we
8 could have some way of knowing that somebody is
9 a suicide bomber intent on doing a bombing now, but we
10 don't, and all the policy work that we have done has
11 been recognising that this is an incredibly difficult
12 thing to do.

13 Q. So no intelligence, you agree that the, if you like,
14 behavioural characteristics are equivocal, I want to
15 come to the stage where you are aware that he is getting
16 off the bus?

17 A. Yes, sir.

18 Q. All right. You know the area very well?

19 A. Yes, sir.

20 Q. It's accepted, at least I am accepting on the family's
21 behalf you would hardly want to go on to the bus to do
22 it. Just for a moment, I am going to accept that you
23 have had a positive identification, that seems to be
24 your level of belief, but he is not a terrorist in the
25 sense that he's providing an imminent threat; you are

1 not asking for a critical shot?

2 A. I am not asking for a critical shot, that's a different
3 thing. He is, as far as I am concerned, a suspect for
4 a terrorist attack yesterday, so he is --

5 Q. From the day before?

6 A. Yes, sorry, from the day before, he is a terrorist, but
7 I am not asking for a critical shot because I cannot be
8 certain of what threat he poses.

9 Q. Did it ever occur to you to say "I am not asking for
10 a critical shot", since you are having these
11 conversations?

12 A. No, sir, because I asked for a challenge, I asked for
13 a stop, and one of the dangers of saying apart from the
14 fact that you don't have very much time to have these
15 kinds of conversations, as I am sure you can imagine,
16 there is literally seconds that somebody is coming down
17 off a bus, one of the dangers of saying "I am not",
18 particularly if it goes out over the radio, is people
19 tend to hear just the word "critical shot". That is
20 something we are taught not to do --

21 Q. That's understandable.

22 A. -- to say: "I am not asking for X or Y".

23 Q. That's why you have code words, isn't it, so that it's
24 clear?

25 A. That's one reason why we have code words, yes, it's to

1 help the clarity, certainly.

2 Q. Certainly, and you are very clear, no code words were
3 used on this occasion?

4 A. No, and nor were there any available to me to use.

5 Q. But the problem here again is malcommunication and
6 misperception. A firearms officer might think with
7 a DSO involved and a stop, plenty of room for
8 misunderstanding, isn't there?

9 A. Well, this is clearly something -- if you are going to
10 hear evidence from the firearms officers, this is
11 something you will have to ask them about what they
12 thought, but no, DSOs have all the tactics available to
13 them from unarmed stop through all the other tactics,
14 conventional and otherwise, up to critical shot.
15 I have, as a DSO, given commands which don't -- which
16 were not, let me assure you, "I want a critical shot".
17 That's open to me. So my officers on the ground will
18 know that they could be asked to do several different
19 things.

20 Q. You have described it in the past as you were expecting
21 at this point and we are right at the end,
22 a conventional stop by armed officers; is that right?

23 A. Yes, I have. Conventional challenge or conventional
24 stop. I know we touched on this yesterday, sir, and
25 I said I tended to use them interchangeably, they are

1 slightly different, well, they are different in the
2 dictionary but lots of people do use them
3 interchangeably. I think it would be for the person on
4 the ground to decide whether they are going to say stop
5 or -- sorry, whether they are going to do a stop or do
6 a challenge. The firearms team leader will decide what
7 is practical in these very fast-moving circumstances.

8 Q. What did Esposito say should be done?

9 A. At what stage, sir?

10 Q. The critical stage, the bus, he stood up on the top,
11 it's obvious he is getting off, he could go in any
12 direction, one appreciates that, but you are thinking
13 Stockwell because of the day before?

14 A. Yes.

15 Q. I mean the tube station?

16 A. Yes, sir.

17 Q. What is Esposito saying should happen at this point?

18 A. Well, he has been -- we were having this sort of
19 three-way conversation, me, Silver on the phone,
20 Esposito and I suppose four-way conversation, him to the
21 Trojan 84, the person sitting alongside Silver. So one
22 of the things he is doing is encouraging the firearms
23 team to come as quickly as possible. He is also, like
24 I am, listening to what is going on. I can't now
25 remember the precise words he used, I think when he was

1 talking to the team he used the word "stop".

2 Q. Then I do want you to look at a document, the jury have

3 it, tab 42, please.

4 SIR MICHAEL WRIGHT: Forgive me. I am just worrying about

5 the loggist.

6 MR MANSFIELD: I am happy to have a break at this point.

7 SIR MICHAEL WRIGHT: I thought it was a reasonable point.

8 MR MANSFIELD: Yes, certainly.

9 SIR MICHAEL WRIGHT: Half past, please.

10 (3.22 pm)

11 (A short break)

12 (3.33 pm)

13 (In the presence of the jury)

14 SIR MICHAEL WRIGHT: Yes.

15 MR MANSFIELD: Yes, tab 42, please, you have the exhibits

16 there, and it's coming up on screen.

17 In the context of no code words and all the rest of

18 it, and communicating with others what is desired, you

19 made it very clear you never used the word "shoot" and

20 so forth, so it's not that so much.

21 You will see on this document, which you glanced at,

22 that's your evidence, that night or that morning?

23 A. In the morning I glanced at it and discussed it with

24 Mr Esposito.

25 Q. There are options here which you will see at the bottom

1 of this first page:

2 "Stop by dedicated plain clothes and TST", and we go
3 on to the next page, please, two more stops and then we
4 get a range of: contain and challenge, contain and
5 challenge, contain and challenge?

6 A. Yes, sir.

7 Q. What's the difference?

8 A. "Stop" is where the officers are close to the subject,
9 "contain and challenge" is where you have some
10 possibility of distance and you create a containment
11 before you challenge. But "stop" also includes
12 an element of challenge under normal circumstances.

13 Q. What's, as you understand it, the element of challenge
14 and stop, because that's a word you certainly do use, so
15 what's the element of challenge that a firearms officer
16 in a conventional stop would use?

17 A. Well, it's not different, the only difference is,
18 I think, the distance, and the principle is the same,
19 the challenge is verbal and also by the show of force by
20 the officers, the very visible show of force with
21 firearms.

22 Q. So, well, what is it? Because you are ordering, in the
23 end, it's only a second or two away, you are ordering
24 CO19 to take over effectively --

25 A. Yes.

1 Q. -- in the underground?

2 A. Yes, I am, sir.

3 SIR MICHAEL WRIGHT: In or at?

4 A. Well, it became in, but I intended it to be at.

5 SIR MICHAEL WRIGHT: At?

6 A. Yes, sir.

7 MR MANSFIELD: I want to come to that particular answer that
8 you gave yesterday, and I am afraid I will have to look
9 carefully at what you thought you were doing.

10 What is the armed officer going to do in
11 a conventional show of weapons, he is going to say
12 something, is he, out loud?

13 A. Yes, usually, as soon as they have gone to red, in any
14 firearms situation, the officers will know what they
15 have been asked to do, and they will then be reading
16 what is happening around them and they will respond to
17 what happens around them, and, as I say, they are
18 immensely highly trained and that's what they are tested
19 on all the time, how they respond to a changing picture
20 in front of them. But if they are able to, in either of
21 these cases, if it is -- if it continues to be
22 appropriate for them to challenge the person, which in
23 almost all circumstances it will be, then they will
24 shout and, again, there are many people much better
25 qualified to explain this to you than I, but they will

1 shout something like "stop, armed police", and it will
2 be extremely obvious to the person that they have
3 a weapon and they have a great deal of force. The idea
4 is that the person should be in no doubt of the presence
5 of the armed officer.

6 Q. Right.

7 SIR MICHAEL WRIGHT: Now, you are describing, I think, what
8 Mr Esposito described to you as a conventional
9 intervention?

10 A. Yes, I think that's right, sir.

11 SIR MICHAEL WRIGHT: These nine options, the ones on the
12 other page, are they all variants of a conventional
13 intervention?

14 A. These ones are specific to dealing with terrorists, as
15 we saw on the previous page, but yes, they are very
16 familiar --

17 SIR MICHAEL WRIGHT: These are all conventional in police
18 terms.

19 A. Stopping and containing and challenging, very, very
20 conventional, yes.

21 SIR MICHAEL WRIGHT: Thank you.

22 MR MANSFIELD: Just to remind the jury, on the previous page
23 it says:

24 "In all these options it is presumed that a suspect
25 has been identified ..."

1 That's the precursor, you see that, in the first
2 sentence, do you see that?

3 A. Yes, sir.

4 Q. That sort of conventional stop isn't really going to
5 work in a carriage on a tube train, is it?

6 A. Well, by "work", I assume you mean that the person
7 understands the challenge.

8 Q. That's right?

9 A. And if they are an innocent person, respond in such
10 a way the officers interpret that as an innocent
11 response.

12 Q. It is, if I may say so, the worst possible scenario for
13 carrying out a conventional stop, isn't it, a tube train
14 carriage?

15 A. It's certainly not an easy place for a firearms officer
16 to operate. I take you back to my point, which is that
17 where you think somebody may be a suicide bomber, there
18 really is no safe or easy place in London to do that
19 challenge; it is always very high risk.

20 Q. I am going to suggest to you here there was an option,
21 crime in action, fast time, whatever, here was an option
22 open to you to prevent a conventional challenge, however
23 you describe it, an armed challenge in a tube train
24 carriage by minimising the risk and getting the armed
25 surveillance to do it either before he enters the

1 concourse, while he is in the concourse or at the very
2 latest at the top of the escalator. That's what you
3 should have ordered and that's what you should have
4 stuck to. Now, do you agree?

5 A. No, sir.

6 Q. Why not?

7 A. I think I explained the sequence yesterday of my
8 decision-making, I still regard it as absolutely
9 rational. I would hate to think what you would be
10 putting to me now, had an S012 officer shot this person.
11 I would hate to think what you would be putting to me
12 now if an S012 officer had not been able to deal with
13 somebody who turned out to be a suicide bomber and dealt
14 with it ineffectively. I thought that S019 were a very,
15 very much more appropriate group of people to be doing
16 the stop, and as you know, I thought they were there to
17 do it.

18 Q. You thought they were there?

19 A. Yes, sir.

20 Q. I want to deal with this very carefully. You can look
21 at your decision log if you wish or any other document:
22 when was it that you actually ordered them to take over?

23 A. Can I take a couple of minutes to just --

24 Q. Yes, if it helps, decision 18 appears to be the one.

25 A. Thank you.

- 1 Q. Decision 18 at 10.05. You may have to work backwards in
2 a moment. This appears to be the one taking over; do
3 you see? Do you have it there?
- 4 A. This is when the words are just out of my mouth "I want
5 12 to arrest", I am told he is there by Mr Esposito and
6 I say: 19 to do it. That's at decision 18.
- 7 Q. Now, where did you think he was when you did
8 decision 18?
- 9 A. As I said, it's a very, very fast-moving scenario, we
10 are talking split seconds here.
- 11 Q. Where did you think he was?
- 12 A. When I ordered 12 to do it, I thought he had just
13 entered the tube station and was in the concourse area
14 somewhere. I thought he was still there as I was asking
15 for 19 to do it. It became apparent quite quickly that
16 he had gone down the escalator. I didn't say this
17 yesterday because it didn't occur to me, but I do
18 remember in my interview saying once I realised that
19 they were going down the escalator after him, for
20 a very, very split second I wondered whether I should
21 ask them not to do the intervention and I decided very
22 clearly --
- 23 SIR MICHAEL WRIGHT: Sorry? Asked whom not to do the
24 intervention?
- 25 A. 19. But I decided very clearly that they should carry

1 on and it would be negligent to do otherwise.

2 SIR MICHAEL WRIGHT: Can I ask you something arising out of
3 that?

4 A. Yes.

5 SIR MICHAEL WRIGHT: If you had realised that 19 were not as
6 close as you thought they were, whatever the 70 seconds
7 or a minute as the case may be, you would have said
8 I would almost have certainly have had to let CO12 do
9 it.

10 A. I think we had this conversation yesterday. If it was
11 as precise as that, which it wasn't, and probably never
12 would be --

13 SIR MICHAEL WRIGHT: What I wanted to ask you was this:
14 would it ever have been within your contemplation as
15 feasible to allow the follow to continue? In other
16 words, with CO12 keeping him under surveillance on to
17 the train to wherever he wanted to go.

18 A. It certainly went through my head as a genuine option,
19 sir. It of course would have meant that I would lose
20 communications with them, I would not know where they
21 would end up if they managed to stay with him, so
22 I wouldn't have any SFO support for them when they
23 eventually came above ground. I probably wouldn't have
24 had any indication really where they were going to come
25 up above ground, so that was one reason in my mind why

1 not.

2 Secondly, of course, there could have been
3 a surveillance loss on the tube, not likely if they had
4 got on to the carriage with him, but possible.

5 Thirdly and most importantly, although I was not
6 certain that he was a suicide bomber intent, I thought
7 he very well might have been and I did not think it
8 was -- I did not think it was right at all to allow him
9 to go unhindered without any challenge on to a tube
10 train.

11 MR MANSFIELD: I want to go carefully over this, because
12 I have a transcript from yesterday, it is in fact
13 page 183, line 22, this precise question, perhaps we
14 could have it up on screen so you can follow what you
15 said yesterday and then I --

16 SIR MICHAEL WRIGHT: You are asking a bit too much,
17 Mr Mansfield, not yesterday's transcript. We don't have
18 it on the screen. Unless you can ...

19 MR MANSFIELD: Sorry. May I just read it, in fact it's only
20 a question and an answer, and then I want to look at
21 decision 18 and I want to suggest to you, when you
22 ordered SO19 to take over, you knew perfectly well he
23 had gone past the barriers and he was going down the
24 escalators, didn't you?

25 A. No, I didn't, sir, I know what decision 18 says here,

1 and I have told you, it's very, very fast-moving. When
2 I made the decision, I thought that they were there and
3 that they would be able to intervene before he got -- he
4 got down. As soon as I made the decision, I was told he
5 is going down the escalator and very soon after that
6 I was told that they were as well.

7 Q. Yesterday Mr Hilliard asked you this:

8 "Question: Does it come to this: if you had known
9 in fact that S019 couldn't stop him before he went down
10 the tube, you would have stuck with S012 doing the above
11 ground challenge?"

12 Which is of course what I am putting to you.

13 You said:

14 "Answer: Yes, sir, I think I would. But you must
15 understand this, this is a flowing, moving situation,
16 and as soon as I had asked for 19, I was fully aware
17 that he was headed down the escalators."

18 Would you like me to repeat that?

19 "Answer: Yes, sir, I think I would. But you must
20 understand this, this is a flowing, moving situation,
21 and as soon as I had asked for 19, I was fully aware
22 that he was headed down the escalators. But at the time
23 I asked for 12, he was in the concourse, as soon as
24 I said that, words out of my mouth, I am told that 19
25 are in a position, I said 19 to do it, I thought he was

1 still upstairs, and obviously I didn't know precisely
2 where 19 were."

3 Leaving 19 out of it, that's your answer from
4 yesterday. Now look at decision 18.

5 "CO19 to arrest subject if possible in Underground
6 station before he enters the tube train."

7 That decision is predicated, I suggest, on the fact
8 that you knew by then it was too late to do it upstairs,
9 they would have to do it if they could before he got on
10 the train. Is that fair?

11 A. No, sir. I thought when 19 are there, I thought he was
12 still upstairs. I was very quickly told "he's gone down
13 the escalator" I very briefly thought shall I pull 19
14 off and I decided no I won't, I knew I was asking them
15 to do a difficult, difficult thing.

16 SIR MICHAEL WRIGHT: That would have been countermanding
17 your order the second time.

18 A. It would. What I am trying to explain, sir, is that
19 when you are making decisions like this, it's important
20 to think of all the options, you just asked me: did
21 I think about letting him go. Well, yes, I did, but
22 I regarded it as a dereliction of my duty.

23 SIR MICHAEL WRIGHT: The point I was after is that if
24 Mr Mansfield is right that you had realised by this time
25 he had gone down the escalator, if you had said CO19 do

1 it, you would then have had to back down on that one and
2 gone back to 12 and countermand your order not once but
3 twice.

4 A. Exactly, which I would not have wanted to do --

5 MR MANSFIELD: Sir, I am only saying once here.

6 If you look at the log, which is your order to send
7 in S019 to take over from 12?

8 A. Its's earlier than that -- to take over from 12, that's
9 log 18.

10 Q. Exactly. So you are having to countermand 12?

11 A. Yes, sir.

12 Q. What's happening here in a matter of minutes, first you
13 are saying -- we can go back and see the sequence --
14 first 19 is to do it. If we flick back we can see how
15 it pans out. I'm suggesting it's no way, if I may say
16 so, to run an operation of this kind with these
17 decisions.

18 Decision 16, at 10.01, he must be arrested before he
19 is entering the tube system by S019. Do you have that?

20 A. Yes, sir. But I don't -- I took the times from my
21 loggist's log, I don't stand by them to the very minute
22 of course.

23 Q. Leave out the times.

24 A. That's --

25 Q. If it's right, 10.01, that's nine minutes in which it's

1 been confirmed as far as you are concerned that it's
2 him, and in that nine minutes you are prepared to say to
3 SO19 "arrest before entering the tube"?

4 A. Yes, sir.

5 Q. Had you conveyed that command; yes?

6 A. Yes, sir.

7 Q. I'll take it slowly so you understand what I am saying
8 here. When you gave that command, I think you have
9 accepted, you had absolutely no idea where SO19 were?

10 A. I knew that they were making their way as quickly as
11 they could. I knew they were behind, clearly. I didn't
12 know where the individual covert vehicles were, no.

13 Q. You do appreciate that if you are going to have a stop,
14 however defined, of this individual, really the best
15 position is as soon as he gets off the bus, before he
16 gets to the tube station, that's your evidence; yes?

17 A. That was what I thought at the time, that that would be
18 not an easy place, not a good place, not a particularly
19 safe place, either for the members of the public or for
20 him or the officers, but a better place than in the
21 confined space of the tube.

22 Q. Everything I am dealing with is in that context. You
23 took the decision in your mind that the best place --
24 and there is no good place, it's the best place,
25 minimising the risks -- is between the bus stop,

1 preferably very near the time he gets off the bus but
2 before he gets to the tube station; right?

3 A. Assuming he is going to the tube station, which I didn't
4 know when he is coming down the stairs of the bus, and
5 I wouldn't have known.

6 Q. Therefore, because you didn't know which direction he is
7 going to go in, if you are going to do an intercept by
8 SO19 there, SO19 have to be right behind the bus,
9 haven't they?

10 A. They need to be, at that stage, the ideal is that they
11 are moving up through and they are as close as possible,
12 yes. I didn't know either that he is going to go down
13 the tube or how long he is going to take to get there,
14 what route he might take, he could go into a newsagent,
15 come out --

16 Q. You were assuming because of the day before that
17 Stockwell tube might be his designation?

18 A. No, sir.

19 Q. Or Dorset Road?

20 A. I thought Stockwell tube could be a destination.
21 I didn't think early on: oh dear, I hope he is not going
22 to Stockwell. I thought: he could be going to
23 Dorset Road, he could be going to Stockwell tube and
24 then I thought: Stockwell tube is the same place as
25 yesterday.

1 Q. Right, we will get there, it would help a little bit --
2 A. Sorry.
3 Q. On that basis, and let us make it broad as possible, you
4 don't know whether he is going to Stockwell tube but
5 maybe, same as yesterday, you don't know whether he is
6 going north up the road, if you are going to do
7 an intervention, you need to know that the S019 vehicle,
8 even one of them, is right behind the bus when he gets
9 off. Anything short of that, you have got problems.
10 Now, you do follow what I am saying?
11 A. Yes, I follow, sir.
12 Q. Right. Did you establish from Esposito: is there a S019
13 right behind the bus now, because you knew when he was
14 getting off because you were getting a commentary?
15 A. I was being encouraged by what I was hearing from
16 Esposito that they were making good ground and --
17 Q. Please answer the question. Did you ask Esposito: is
18 there one covert ARV right behind the bus now at 10.03
19 as he gets off?
20 A. No, I don't think I did ask that, sir, and I think
21 I probably explained some of the reasons for that
22 yesterday.
23 SIR MICHAEL WRIGHT: Because from what you told me
24 yesterday, for C019 to be in a position to make a stop,
25 they would have to be sufficiently close, and

1 Mr Mansfield suggests right behind the bus, to be able
2 to get out of their cars or at least enough of them to
3 get out of their cars to be able to get round him on the
4 pavement?

5 A. Ideally, sir, for a containment and challenge, yes. But
6 they might end up with a smaller number of officers
7 doing a stop.

8 SIR MICHAEL WRIGHT: As many as were needed to do it, but
9 they have to be in a position to get round it, in
10 effect.

11 A. That would certainly be the ideal but you would be
12 familiar with occasions on which there are not a circle
13 of officers, so it could be a stop by two officers
14 that's not what I think they would want to do.

15 SIR MICHAEL WRIGHT: You couldn't do it if they were still
16 in their cars.

17 A. No, sir, I entirely agree with that.

18 MR MANSFIELD: And the point about all of this is that as
19 a decision-maker removed, apparently this is going to
20 continue in this way, with decision-makers removed and
21 they are at New Scotland Yard, you absolutely need to
22 know and have the best information about where the
23 people are who you are ordering to do the stop, don't
24 you?

25 A. I do need to have the best information about that and

1 a lot of other things, yes, and we seek to achieve that
2 all the time.

3 Q. Do you in retrospect accept that you were misled?

4 A. No, sir, no, I don't.

5 Q. You don't even accept that. There was no firearms team
6 there in a position, whatever Esposito may have
7 encouragingly said. May I just ask you this: did you
8 see him standing by a window saying rather loudly: "What
9 do you mean you can't get there?", did you ever hear him
10 say that?

11 A. He certainly earlier on in the follow was talking quite
12 animatedly to encourage the people to go quickly.

13 I don't remember that phrase, but he was quite animated
14 and he and I at that stage were standing by the window.

15 Q. Silver who was supposed to be in charge, he had got
16 stuck in traffic?

17 A. Yes, and that can happen.

18 If I can just take you back a little bit, we have
19 been debating this one point for two or three or four
20 times the amount of time that these decisions were being
21 made in. They are being made incredibly quickly.

22 Q. But you are used to doing that.

23 A. I am absolutely used to doing it, but the point I want
24 to make is that when you are in charge of something like
25 this, and if you are part of something like this, you

1 have to be very fluid, you have to be able to respond,
2 you don't know what the person is going to do, where
3 they are going to go, they will be unpredictable and you
4 need to be able to respond to whatever happens.

5 You cannot ever, when you don't know the subject and
6 you don't have intelligence about their behaviour,
7 actually plan ahead minutes and minutes and hours and
8 hours, you know, ages before where they are going to
9 do -- where they are going to be in a position when you
10 might be able to stop them.

11 Q. Commissioner, I think you are misunderstanding, I am not
12 talking about you being able to plan and plot his route.
13 I am merely asking that the commander, as she then was,
14 has her finger on the pulse and knows where the
15 resources are in case he goes one way or another way,
16 that's all. Where were the firearms? You were misled,
17 they were not in a position to deal with him when he got
18 off the bus, because you thought they were.

19 Now, do you accept even now you have been misled?

20 A. No, sir, I don't, I accept that with the benefit of
21 hindsight it is clear that they did not arrive, we have
22 seen it on the video, until a minute behind him.
23 I don't accept that I was misled.

24 Q. Well, what's gone wrong here, then?

25 A. In what sense?

- 1 Q. Well, how is it you thought they were there when they
2 weren't?
- 3 A. Well, I was told they were there, which gave me a sense
4 that they would be able to intervene.
- 5 Q. So what's gone wrong?
- 6 A. And they did not intervene where I hoped they would be
7 able to, they did make an intervention.
- 8 Q. What has gone wrong?
- 9 A. Well, I don't -- I don't think, if I had been speaking
10 directly to the team leader or directly to people in the
11 cars, I would have got any different information.
12 Mr Esposito and the team thought that they were in
13 a position to deal, and he told me they are in
14 a position to deal and I trust him and I take his word
15 for --
- 16 Q. And he is wrong?
- 17 A. They were a minute behind --
- 18 Q. That's a long time in a fast-moving -- isn't it? It's
19 a long time?
- 20 A. I think you could turn that on its head and say they did
21 incredibly well to get there in that time, given what
22 was going on, a minute of course can be a very long time
23 but I actually think they did extremely well to get
24 there.
- 25 Q. I'm not saying they didn't do extremely well to catch

1 up, which I say you had been doing since 6 o'clock
2 almost in the morning, 7 certainly, extremely well to
3 catch up. That's not the point I am asking you. You
4 had control and I suggest at the very least you were
5 misinformed in a life-threatening situation, you decided
6 to send in S019 on the wrong information. You do follow
7 what I am putting to you?

8 A. I do follow.

9 Q. Yes. Do you regret that?

10 A. I regret tremendously that Mr de Menezes died. I don't
11 look back and think I made irrational decisions,
12 unreasonable decisions, and nor do I think anybody else
13 did.

14 Q. You see, I think, and I want to put to you, it's not
15 what I think, S012 offered to do the stop, they were in
16 a prime position. They offered to do it, didn't they?

17 A. Yes, they did.

18 Q. You should have let them do it, above ground?

19 A. Well, sir, that is your view, and I respect that.
20 I don't agree. I think the consequences of that could
21 have been dreadful. For me, it was -- when I did ask
22 them to do it, it was the very, very last resort, and
23 once 19 were there, they are the people I want to do
24 this job, they are the people to do the job.

25 MR MANSFIELD: Sir, I wonder at this juncture, it's the only

1 time I am going to do it, I have set it up -- the jury
2 might like to just see that clip or compilation of him
3 getting off the bus.

4 SIR MICHAEL WRIGHT: Yes.

5 MR MANSFIELD: I have warned the family who are here today,
6 if they have not seen it before they don't have to
7 remain in court. It won't take very long. I think you
8 said you've seen it before, I'm not sure.

9 A. Yes, I have.

10 Q. I would like you to see it this time, please.

11 Video footage shown

12 SIR MICHAEL WRIGHT: Do you want to talk us through it,
13 Mr Mansfield?

14 MR MANSFIELD: Yes.

15 You are familiar with this, I don't know whether it
16 can be put on a larger screen at the same time so
17 that -- it doesn't matter, it can stay as it is. You
18 see the blue triangle on the left, that's the camera
19 that's actually taking a shot. Then you will see
20 helpfully they are marking certain -- in yellow there
21 will be surveillance officers.

22 This is a view from a camera right opposite the
23 entrance, and Ivor is another surveillance officer, and
24 if I am permitted to interpose, all the surveillance
25 officers we see are in fact armed. I don't know whether

1 you --

2 A. I didn't know that at the time.

3 Q. Right. Ivor is right opposite. So as the purple
4 triangle shifts, you see a different view.

5 A. I should perhaps say for the record, sir, if I may,
6 I haven't actually seen this. I have seen something
7 very similar but it didn't work like this, if I can put
8 it that way.

9 Q. You will see there is another camera and this time it's
10 alongside the bank and now we are shooting across the
11 road again. Ivor is still there in the bottom frame.
12 He was opposite the entrance to the tube. So you can
13 correlate it with the map on the left. So there are two
14 shots, two cameras, blue and purple, and the frames are
15 in blue and purple, as you will see, to marry up with
16 the camera shots.

17 There is still Ivor there, in the purple. You will
18 see on the map that there are two, Ken and Lawrence are
19 approaching the blue triangle, here comes Ken in the top
20 blue, again from the bank area. I am sorry, is it going
21 too quickly?

22 A. I am sorry, sir, is this for me or for the jury?

23 Q. No, it is for you, and also the jury may like to see it
24 again, we have only seen it once. On the bottom, you
25 will see Jean Charles, JC is on the map, in the frame of

1 the purple camera and there in the bottom frame you will
2 see he is just coming into view?

3 A. Yes, sir.

4 Q. Towards the station. You will see JC, JC. And then
5 that's the traffic in the road opposite, you see the
6 larger longer purple camera shot down the
7 Stockwell Road?

8 A. Yes, sir.

9 Q. As you will see, it's pretty busy?

10 A. Yes, sir.

11 Q. On the map you will see Lawrence is getting closer to
12 the blue frame where the camera is. Still traffic
13 opposite the station.

14 SIR MICHAEL WRIGHT: Do you see a car pulling out?

15 MR MANSFIELD: Yes, there will be on the centre line, there
16 is a car that pulls out in a moment.

17 There it is. Just halt it one second. Can you see
18 that's one ARV coming in there trying to get round the
19 traffic. You can see, if I pause it there for a moment,
20 the point I was putting to you, he is well off the
21 pulse, the CARV is really nowhere near enough to make
22 the stop, is it? If I pause these two frames.

23 A. Sorry --

24 SIR MICHAEL WRIGHT: These are all in sequence, and the
25 timeline is running along the bottom. By the time we

1 see that car, coming, pulling out and pushing
2 effectively forcing its way through the traffic, by this
3 time Jean Charles de Menezes has left the bus, walked
4 past the bank where we saw the people using the cash
5 machines, crossed Binfield Road and has reached for
6 practical, or almost reached the entrance to the
7 station.

8 A. Yes, sir.

9 SIR MICHAEL WRIGHT: Got it?

10 A. Yes, sir. You asked me whether he was in any position
11 to do a stop?

12 MR MANSFIELD: Yes, the armed officers, do you follow,
13 that's why I was putting to you --

14 A. I think knowing what we know now with hindsight, clearly
15 not. Then, we don't know what Mr de Menezes was going
16 to do next.

17 Q. No, no, that's not the point, it's whether you had the
18 right information to make the sensible decisions,
19 reasonable decisions, you obviously did not know that
20 the car was stuck in traffic and still trying to get to
21 the junction when Jean Charles was virtually outside if
22 not entered the tube?

23 A. No, I didn't know that, but what I am saying is of
24 course we now know that those officers did not have time
25 to intervene in the concourse area, but put yourself in

1 my shoes, in the control room, or indeed in those
2 officers' shoes, we don't know what Mr de Menezes is
3 going to do. He could be stuck in the concourse for
4 15 minutes, lots of time to do a stop from that vehicle.

5 Q. Are you really saying that that was a factor that night,
6 he might have got stuck in the concourse for 15 minutes?

7 A. No, I am saying it's moving extremely quickly and you
8 never know, whoever the subject is that you are
9 following, what they are going to do precisely next.

10 Q. Can we just move on, please, there is Lawrence coming
11 into the blue frame, past the cash machines and then
12 again down the road where the CARV has got stuck, and
13 then there is Lawrence approaching the front of the tube
14 station. He is coming into the purple frame. There he
15 is, he is marked, and another one, so we are still
16 dealing with Malcolm, all of these armed, I make it
17 clear. Here is another one, Geoff, he is armed as well.
18 (Pause). Here is Graham. Another surveillance officer.
19 We can see on the map on the left he is moving along
20 towards the station. There he is in the picture. If we
21 may stop there, this is the first appearance of the
22 firearms officers, and they are in this pink/mauve
23 colour with C identification, C2 and so forth, you see
24 there?

25 A. Yes.

- 1 Q. If we can just go on, please. Another firearms officer.
2 (Pause). Firearms officers in slightly different
3 colour, Ds. (Pause). Go on to -- does the concourse
4 follow on from the shots we saw at the beginning?
5 So that's the outside scene. CCTV memory at the
6 top. Thank you very much. Sorry. It's not the actual
7 layout, it's the CCTV shots that were taken on the
8 inside. Thank you very much. These are shots from the
9 inside. JC is marked there. Gone to get a paper, the
10 Metro or whatever it is. Ivor, as you saw very quickly,
11 is very close by and so is Ken. (Pause). So if we can
12 pause it for a moment, nowhere is ideal in London, we
13 have been through that many times. Wherever you do
14 a stop there is a risk. It's minimising the risk. But
15 in one sense the concourse, if you can't do it on the
16 street before he gets there, this is another ideal area
17 to do it?
- 18 A. I wouldn't use the word "ideal", sir, but it's almost
19 certainly easier and better than on the tube train,
20 certainly.
- 21 Q. Right. If we just carry on.
- 22 A. Sorry, as we can see it there. If it was incredibly
23 busy, it might be a very difficult place for the
24 firearms officers to do the stop.
- 25 Q. I appreciate that, but Mr Boucher thought also this

1 would be a better place than most. (Pause). So you will
2 appreciate it's gone back in time a bit, because this is
3 the arrival of the surveillance and Jean Charles
4 themselves, the firearms officers are not yet there.
5 (Pause). First arrival of the firearms, three together
6 grouped?

7 SIR MICHAEL WRIGHT: Can you just stop there for a moment?
8 Can you go back to the last moment that we saw
9 Jean Charles de Menezes, which is when he was getting
10 his paper, I think.

11 MR MANSFIELD: Yes, he went off to the right.

12 SIR MICHAEL WRIGHT: That's right. I want to look at the
13 timeline. We don't actually see him go down the
14 escalators, do we, Mr Mansfield?

15 MR MANSFIELD: We do, it's different cameras over the
16 barriers.

17 SIR MICHAEL WRIGHT: You mean there is another set of
18 cameras?

19 MR MANSFIELD: Yes.

20 SIR MICHAEL WRIGHT: If you look beneath the gentleman in
21 the dark suit, that's the timeline, isn't it?

22 MR MANSFIELD: Yes.

23 SIR MICHAEL WRIGHT: I think it's 10.01.34.

24 MR MANSFIELD: Yes.

25 SIR MICHAEL WRIGHT: Now run forward until the first

1 firearms officer appears. 10.03.00, is it?

2 MR MANSFIELD: Looks like it, yes. I gather it may be

3 a minute from real time.

4 SIR MICHAEL WRIGHT: No, it's merely the time lapse I am

5 looking for. The time lapse would appear to be just

6 over a minute.

7 MR MANSFIELD: Yes.

8 SIR MICHAEL WRIGHT: Yes, thank you. (Pause).

9 MR MANSFIELD: So what you are getting, so you can

10 appreciate, this is all the material coming off this

11 camera, of course people have gone beyond barriers and

12 we have other cameras picking it up the other side.

13 (Pause). Can we have the next camera? Ticket barriers.

14 (Pause). Could you kindly stop it as he goes through

15 the barriers, that's JC, we pick up the time on the

16 monitors, it's 10.01.47. (Pause). So we have seen

17 surveillance go through. More surveillance. (Pause).

18 Could we just --

19 SIR MICHAEL WRIGHT: Let them get to the barrier.

20 MR MANSFIELD: Yes, and as they come through, C2 has gone.

21 To be accurate, could we go back? I am sorry. C2,

22 there he is. He is on to the far right-hand side.

23 SIR MICHAEL WRIGHT: 10.03.03.

24 MR MANSFIELD: If you could roll on, please. (Pause).

25 MR HOUGH: Sir, if it helps, the difference of 76 seconds

1 actually appears in the timeline on page 3 in tab 1 of
2 the jury bundle. That is accurate according to the
3 exercise we have just performed.

4 SIR MICHAEL WRIGHT: Yes, all right. (Pause). Well, it's
5 approximate, Mr Hough.

6 MR MANSFIELD: There is another camera showing them going
7 down the escalator, if I could just have that one as
8 well, please. So left-hand escalator, there is is
9 Jean Charles, I would like you to see how close the
10 surveillance are to this.

11 SIR MICHAEL WRIGHT: Now, that's 10.02.03. So that is 16
12 seconds after he had come through the barrier, which he
13 did at 10.01.47. Carry on. (Pause). There, stop.
14 10.03.13 or 10.03.12. (Pause). Thank you.

15 MR MANSFIELD: Yes, thank you, I don't need any other film
16 unless anybody else wants to show any other sections?
17 No.

18 Now, had you seen this compilation before or not?

19 A. Sir, I had certainly tried to view a compilation, but
20 the first animated --

21 SIR MICHAEL WRIGHT: Do you mean the external one?

22 A. The external one on my computer for some reason did not
23 work like that. But I have seen the rest.

24 SIR MICHAEL WRIGHT: You have seen the interior shots?

25 I don't know whether you did the calculation we have

1 just been doing by looking at the timeline?

2 A. No, sir, I don't believe I did.

3 MR MANSFIELD: Having watched that now and seen the
4 interval, I appreciate everything moves very fast, we
5 are only dealing with 9.52, that's the time when you are
6 first asking for clarification, nine minutes later
7 according to certainly one log you are asking C019 to do
8 the arrest before the tube, and then can we go back to
9 your decision log so you can follow the sequence from
10 then on.

11 So the jury have already seen the actual decisions.
12 16, before the tube, and then 17 at 10.05 according to
13 this "subject has entered the tube". I am leaving the
14 exact times because obviously when you put that 10.05,
15 where did you get that time?

16 A. I think I must have got it from my loggist's log.

17 Q. Very well, I understand that. You put 10.05 he has
18 entered the tube, we can correlate it with obviously
19 that. S012 still with him, we have seen, but C019 not
20 there yet?

21 A. Yes, sir.

22 Q. Can I just pause. Is there anywhere now within the
23 operations room if a similar thing were happening
24 whereby you have provision to plot the movements of
25 three cars of armed officers? Is that possible?

1 A. I don't think it is in that operations room at the
2 moment. In fact, I am not -- I don't think it actually
3 is in any of our sort of fast-moving operations rooms.
4 Clearly you could, returning to our conversation
5 yesterday, try to plot the positions of each of your
6 vehicles and each of your people, surveillance might be
7 in or out of a car, likewise with the firearms officers,
8 you could try to do that, but in any busy operation, you
9 are going to get a very, very confused picture, I think,
10 and one which will always have a time lag in it, always,
11 and hence I am not certain that it would actually be
12 a very useful tool, I think it might be a confusing
13 tool. But we don't have what you are describing at the
14 moment.

15 Q. You don't have that provision now and you didn't have it
16 then?

17 A. No, sir.

18 Q. So on decision number 17, the fact that they are not
19 there yet doesn't actually tell you where they are?

20 A. No, sir.

21 Q. And that's the S012 position. Then we get into the next
22 one, which is 18, which we have already looked at, then
23 it goes to 19. Now, having looked at the compilation
24 alongside your decision log, would you have done
25 anything differently, now you have seen what the reality

1 is?

2 A. Knowing what I knew then, on the information that I had
3 then, I would not change the decisions at all. Clearly
4 now I know Mr de Menezes was an innocent man --

5 Q. No, I don't mean that, the compilation video.

6 A. And secondly -- sir, I know you don't mean that but
7 I must say it, clearly now I know Mr de Menezes is
8 an innocent man, I would not have done that.

9 But secondly, if, and this is a completely
10 impossible to me scenario, but if somebody had said "the
11 19 team will be going through the barriers a minute
12 after the subject that we are following" I would have
13 thought, as I said yesterday, that quite possibly that
14 subject would be on the train and there might not be
15 an opportunity for 19 to intervene at all.

16 But no, I look back and I remember what happened,
17 and I think my decisions were rational, I had sought
18 proper advice, I had a good team around me, they were
19 reasonable decisions on the information that I had.

20 Q. Yes, I am not talking about what the information you say
21 you had, I am talking about the information that is now
22 available as to what was actually happening. Would you
23 have done anything differently?

24 SIR MICHAEL WRIGHT: If you had known what we have just
25 seen.

- 1 A. If I had that crystal ball.
- 2 SIR MICHAEL WRIGHT: Please don't misunderstand the
- 3 question, we understand what you thought the position to
- 4 be.
- 5 A. Yes.
- 6 SIR MICHAEL WRIGHT: The question really is, having seen
- 7 that compilation and having seen now accurately where
- 8 the nearest C019 car was, the one that was forcing its
- 9 way through traffic was, at the moment that
- 10 Mr de Menezes entered the station, having seen that when
- 11 he went through the barriers the nearest firearms
- 12 officer was just over a minute behind, would you have
- 13 persisted with the view that C019 should make the stop?
- 14 A. Sir, if I had had a picture that suggested that
- 15 Mr de Menezes, as we now know he was, might have been on
- 16 a tube train that had left before the firearms officers
- 17 got anywhere near him, then I would have stuck with my
- 18 original decision.
- 19 SIR MICHAEL WRIGHT: Stuck with C012?
- 20 A. If I had known that, yes.
- 21 MR MANSFIELD: I just want to work backwards --
- 22 A. But I think that's slightly different from what actually
- 23 happened.
- 24 Q. Well, they had to stop the train to let the C019
- 25 officers get on, did you know that, keep the doors open?

1 A. Yes, I remember that, sir.

2 Q. You do, and really what I have been putting to you is --

3 SIR MICHAEL WRIGHT: I have often wondered about this, was

4 the train actually being held in the station?

5 MR MANSFIELD: It appears that somebody put their -- it may

6 have been one of the surveillance officers.

7 SIR MICHAEL WRIGHT: That was Ivor, Ivor put his foot in the

8 train to stop the train leaving. I wasn't clear, was

9 the train in fact being held?

10 MR MANSFIELD: I see.

11 SIR MICHAEL WRIGHT: Do you know?

12 MR MANSFIELD: I don't think it was being held other than

13 Ivor's foot, so I think that was the thing.

14 Officer, what I want to just put to you now is that

15 you are really saying, well, if I had known all that,

16 and had a crystal ball; what I am suggesting to you that

17 much of this information should have been available to

18 you if you had been paying sufficient attention before

19 9.52 and had proper control after 9.52; do you follow?

20 A. I understand what you are saying, sir, I don't accept

21 it.

22 Q. You don't accept that?

23 A. No.

24 Q. Do you accept, therefore, I come back to the question

25 that you were asked yesterday, and the question just to

1 remind you was: what do you think went wrong, I know
2 it's a very general question, but you remember being
3 asked the question yesterday?

4 A. I do, sir, and --

5 Q. Do you remember how you answered it?

6 A. I think I do, sir.

7 Q. Because I want to deal with that at this moment. You
8 see, the reasons you gave for what happened here, what
9 went wrong, except for Frank being indisposed, had
10 everything to do with Jean Charles de Menezes and
11 absolutely nothing to do with the police. Do you really
12 want that to be how it's left?

13 A. No. I don't accept that. I certainly did not intend
14 that. What I intended to say was: these were
15 extraordinary times, extraordinary circumstances, and
16 there were a whole series of things that happened which
17 meant that we ended up with this tragedy.

18 Q. I am sorry, this is the note I took at the time:
19 "He was unfortunate to live in the same block."
20 That's the first reason you gave; yes?

21 A. Yes.

22 Q. Second reason -- you may not have used the word
23 unfortunate but he looked like Osman, second reason?

24 A. Very like.

25 Q. Very like. You thought that, did you?

1 A. No, I think that now.

2 Q. You think that now?

3 A. Well, I think that on the basis of photographs I have
4 seen.

5 Q. All right. Third reason, you didn't know his name
6 perhaps then, but the first surveillance officer, you
7 mean Frank, was indisposed?

8 A. Yes, sir.

9 Q. And that he only waited a short time at a bus stop so it
10 wasn't possible to get a good look?

11 A. That's about how quickly the bus comes, really, it's
12 nothing to do with Mr de Menezes himself.

13 Q. Nothing to do with the police.

14 Finally it was his behaviour contributing to your
15 assessment, and we have dealt with the sort of features
16 of the behaviour; do you follow? These were the reasons
17 that you spelt out. I want to give you an opportunity
18 tonight, would you like to amend that and reconsider
19 whether you think, even at this very late stage, there
20 was one little thing that the police got wrong, even one
21 thing that contributed to this?

22 A. Well, the question was asked of me early on yesterday,
23 I did not want to go on and on, there are many things
24 that I could describe as going wrong in the generality
25 of course, but one thing I do accept is that, and should

1 have said perhaps, he clearly we know was misidentified,
2 I didn't say that specifically, I think it was inherent
3 in some sense in what I said about my assessment, and
4 I am taking responsibility for this, it was my
5 assessment on the basis of the information I had. He
6 was misidentified, and that's a human police error.

7 Q. Yes, well, just taking you up on that one, if I may,
8 have you re-examined how such a misidentification came
9 about in order that you minimise the risks of
10 an innocent member of the public being misidentified
11 again?

12 A. I am not sure I understand your question, sir.

13 Q. Yes. Have you considered what protocols, guidelines,
14 precautions that should be taken by surveillance teams,
15 firearms teams, DSOs, to minimise the risk of
16 misidentification leading to death in the future?

17 A. I have thought about these issues, I haven't been
18 actively involved, it is not actually my job to be
19 actively involved, in sort of policy development around
20 this sort of thing. But as you are aware, because
21 I have mentioned the new system, the Metropolitan Police
22 has been very much putting its mind to how it can ensure
23 to the best of our ability in very, very, very difficult
24 dynamic circumstances sometimes, identifications are
25 achieved and communicated as well as possible.

1 MR MANSFIELD: Sir, there is one other area that's linked to
2 this. I wonder if I could, as it were, ask if I could
3 raise it with you now in the absence of the jury so they
4 can go, and it may be raised tomorrow morning, it will
5 not take long. I have virtually finished.

6 SIR MICHAEL WRIGHT: Very well, yes, all right.

7 MR MANSFIELD: If that's acceptable.

8 SIR MICHAEL WRIGHT: Yes, that's acceptable, I think.

9 I think I did say to you, I hope you have all now taken
10 it on board, at the moment your Fridays have gone.
11 10 o'clock tomorrow morning, please.

12 (In the absence of the jury)

13 SIR MICHAEL WRIGHT: Can we let the witness go,

14 Mr Mansfield?

15 A. Sir, I am in the same position as yesterday, I would
16 like to take these, is that all right?

17 SIR MICHAEL WRIGHT: Yes, sit down.

18 A. Thank you very much.

19 APPLICATION - see separate transcript

20 Discussion re: timetabling

21 MR HOUGH: Sir, before everybody flees the building, there
22 is a timetabling point. A revised timetable was
23 circulated this morning but it has to be revised, I am
24 afraid on my feet at the end of today, for a reason that
25 I have to make clear: the timetable as circulated

1 allowed for on Thursday, Cummings, Mellody and Nick with
2 Bernard in reserve if we got to him, and then Friday,
3 Pat, Bernard, Brian and Owen.

4 There is a difficulty with that in that I am told
5 today by my learned friend Ms Studd for the MPS that
6 notes have been located of Mr Mellody which are being
7 deciphered but they will not be made available until
8 probably first thing on Thursday, so that it would be
9 obviously unfair to have Mr Mellody on Thursday.

10 Therefore, what we are proposing is for Thursday to
11 be Cummings, Brian, Bernard and Nick, with Owen in
12 reserve, and Friday to be Pat, Mellody and Owen if we
13 have not got to him on Thursday.

14 SIR MICHAEL WRIGHT: Yes. I am perturbed about this. When
15 was Mr Mellody asked, I ask either Mr Horwell or
16 Ms Studd, I don't mind which, whether he had any notes?

17 MS STUDD: Sir, I think that all witnesses have been asked
18 repeatedly for their notes.

19 SIR MICHAEL WRIGHT: That doesn't answer the question of
20 when.

21 MS STUDD: Mr Mellody was asked again at the beginning of
22 the week because it was reiterated as a result of
23 Mr Mansfield's observations on Friday night. These
24 notes I think contain quite a lot of material that will
25 not be relevant to this inquest, but his handwriting is

1 almost impossible to read, and it's only right that he
2 should have a chance, we have had them typed but there
3 are problems with some of the translation, and so my
4 instructing solicitors arranged to go through them with
5 him tomorrow after court on the basis that he was not to
6 be called until Friday.

7 SIR MICHAEL WRIGHT: If he didn't heed the request that was
8 originally made, he is to be reprimanded.

9 MS STUDD: That may be so.

10 SIR MICHAEL WRIGHT: The second thing I want to say is that
11 it is manifestly unfair to everybody else involved and
12 it is likely to cause unnecessary delay if notes are
13 suddenly produced as it were at the beginning of the
14 week when a witness is going to be called. This having
15 happened, what I am really going to say, Ms Studd, is
16 that I do ask those behind you to take urgent steps to
17 ensure that every witness is again told that if they
18 have notes they must produce them to those instructing
19 you now --

20 MS STUDD: Those requests have been made. In relation to
21 officers --

22 SIR MICHAEL WRIGHT: -- with appropriately menacing threats.

23 MS STUDD: Yes. Officers represented by interested parties
24 and I say this in open court, have been asked
25 specifically to contact every officer who they represent

1 to ensure all contemporaneous material has been
2 disclosed.

3 SIR MICHAEL WRIGHT: Yes, it applies to everybody, and no
4 doubt those who are actually specifically acting for
5 individuals will be in a better position to do so.

6 I have to say that I can't believe that officers
7 have not been made aware of their responsibilities in
8 this case. You know and everybody else knows that there
9 is a common law duty on every police force to disclose
10 all relevant material to an inquest.

11 MS STUDD: Yes.

12 SIR MICHAEL WRIGHT: And I have to say that, you know, if
13 this goes on then I will have something fairly pointed
14 to say about it and I would expect steps to be taken.

15 MS STUDD: I hope it won't go on, sir.

16 SIR MICHAEL WRIGHT: Very well. 10 o'clock tomorrow.

17 (5.30 pm)

18 (The court adjourned until 10.00 am on
19 Wednesday, 8 October 2008)

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