

Inquest into the death of Jean Charles de Menezes

Metropolitan Police Commissioner's response to the Rule 43 Report

Introduction

1. On 7th January 2009 the Metropolitan Police Service (the *MPS*) received the Coroner's report pursuant to Rule 43 of the Coroners Rules 1984 (as amended by the Coroners (Amendment) Rules 2008) (the *Report*). The Report contains the Coroner's views on which MPS systems and practices should be reviewed in light of the evidence given at the inquest into the death of Jean Charles de Menezes which concluded on 12th December 2008.
2. In paragraph 4 of the Report, the Coroner stated that within 56 days of the date of the Report, the Commissioner and the Metropolitan Police Authority (the *MPA*) are required to 'provide a written response containing - (a) details of any action that has been taken or which it is proposed will be taken in response to the report or otherwise; or (b) an explanation as to why no action is proposed.'
3. Therefore, further to paragraph 4 of the Report, this response on behalf of the Metropolitan Police Commissioner, addresses each of the Coroner's concerns in the order they appear in the Report.
4. In addition to addressing these concerns, it is important to emphasise that since the tragic shooting of Jean Charles de Menezes the MPS has carefully reviewed (and continues to do so) its operating procedures in an attempt to ensure, as far as possible, that this type of incident does not reoccur.
5. Any future terrorist activity will undoubtedly cross police force boundaries. It is sensible and expected that police forces provide a co-ordinated response to incidents which could involve simultaneous attacks in a number of locations. To ensure consistency across forces to enable effective management of all Counter-Terrorism incidents, including those of a smaller scale affecting just one force and those larger more complex operations involving multiple forces, the MPS is leading a national

“Counter Terrorism Interoperability Project”. This will ensure national consistency in the areas of: command and control; firearms; surveillance; control rooms; and, technical support.

6. The MPS recognises that much of the learning from July 2005 is not just relevant to London and is, through both the Counter Terrorism Interoperability Project and through representation on national working groups, ensuring that this learning is being considered during the revisions to relevant Association of Chief Police Officers (*ACPO*) Manuals (e.g. Manual of Guidance on the Police Use of Firearms and the Surveillance Manual) in an attempt to disseminate the learning throughout the UK.
7. The statement of Commander Stewart referred to in paragraph 6 of the Report details the many reviews, reports and subsequent work that the MPS has undertaken internally. In paragraph 6 of the Report the Coroner states that it is apparent that the MPS has made efforts to resolve a number of the problems which are identified in his Report, but that there are some matters that remain to be addressed. Each of the Coroner’s concerns has been addressed in order in the following paragraphs.

(1) Command Structure

(a) Gold / Silver / Bronze Structure

Concern

8. The Report raises the concern that it was unclear precisely to what extent the Gold Commander was required to supervise the operation after setting the strategy. In addition, there was argument in the Inquest as to the freedom of the Silver Commander to adjust or refine the Gold strategy. The Report suggests that the MPS might usefully review the command structure and the ACPO Manual of the Police Use of Firearms, and consider whether there can be further clarification of the continuing role played by the Gold Commander after setting his strategy.

Response

9. The MPS is contributing to a revised ACPO Manual of Guidance on the Police Use of Firearms (to be called the ACPO Manual of Guidance on the Management, Command and Deployment of Armed Officers (the *ACPO*

Manual 2009)¹). The guidance given in the current draft of the ACPO Manual 2009, in relation to the Gold and Silver Commanders' responsibilities, is broadly similar to the guidance given in the current ACPO Manual (the April 2006 version).

10. The current draft of the ACPO Manual 2009 outlines that the Gold Commander MUST set, review, communicate and update the strategy based on the threat assessment, should maintain a strategic overview and must remain contactable by the Silver Commander.
11. The current draft of the ACPO Manual 2009 outlines that the Silver Commander is responsible for developing and co-ordinating the tactical plan in order to achieve the strategy set by the Gold Commander. It envisages that the Gold Commander's maintenance of the strategic overview will mean that strategies are developed to adapt to changing circumstances.
12. However, the MPS considers that the Gold, Silver and Bronze terminology may not be flexible enough in operations which are particularly complex, where the firearms element is but one part of a much wider operation, and which therefore may require responsibility for the firearms functions to be given to other officers. The MPS is working to influence national guidance on this issue.
13. Because of the need for a common approach to the command of firearms operations across all police forces, the MPS must continue to use the terms Gold, Silver and Bronze Commanders. However, the Gold Commander must consider the implementation of a command protocol at the outset of those more complex cases, outlining who has responsibility for handling each aspect of that operation.
14. Command responsibilities are embedded in MPS firearms command training and are tested in exercise.
15. To assist officers involved in complex Counter-Terrorism operations to understand which officers are responsible for each function, within the

¹ This revised Manual is anticipated for publication by June 2009 and is currently in draft form out for consultation with police forces in England and Wales

Control Room the command structure (with officer names identified) is displayed on screens alongside the strategy set by the Gold Commander.

(b) Maintenance of Chain of Command

Concern

16. The Report requested that consideration is given to ensuring that, in major operations, the chain of command is maintained when a Gold or Silver Commander is absent (i.e. by nominating interim replacements).

Response

17. The ACPO Manual 2009 outlines the requirement to consider issues relating to continuity of command during extended operations and that the Gold Commander is responsible for the overall resourcing of an operation.
18. The MPS accepts the need to maintain the chain of command throughout lengthy operations – this means replacement of key commanders to allow for periods of rest and adequate handovers (appropriately documented). This has been re-emphasised in practical exercises and in the training given to officers and will be included in an MPS command and control policy document due for internal release during 2009. This policy will complement the work being undertaken in the area of command and control by the Counter Terrorism Interoperability Project referred to in paragraph 5 above.
19. During 2009/2010 the MPS is moving towards a dedicated team (a cadre) of officers to command firearms operations (including officers responsible for setting and reviewing the strategy and carrying it out) on a full time basis. Creating such a cadre has to be a carefully considered and staged process to ensure that only trained and appropriately experienced officers will perform command functions – particularly in complex and high-risk operations. The MPS will make sure that the introduction of such a cadre does not negatively impact upon specialist crime operations. An appropriately resourced cadre will prevent commanding officers having to work for excessive periods in charge of high-risk firearms operations and will allow for the smooth hand-over between cadre officers in the chain of command.

(c) DSO

Concern

20. The Report outlines in relation to the role of the DSO (Designated Senior Officer), the concern that all officers should know (i) when the DSO becomes involved in commanding an operation and (ii) precisely what command role he performs. The Report queries whether the DSO is to assume command from the start, or only to step in when an armed intervention is required.

Response

21. The MPS no longer uses the term DSO. Every firearms operation has a tactical firearms commander - recognised both in title and role in the ACPO Manual 2009. In the MPS, in cases of an emerging *extreme* threat (e.g. a suspected suicide bomber), the tactical command role will be assumed by a specially trained senior level officer (called the "Extreme Threat Tactical Commander").
22. Extreme Threat Tactical Commanders are now trained to state to Control Room staff the reason for their appearance in the Control Room, i.e. to announce what role they are performing – for example, a passive role of reviewing intelligence and not being in the command chain or having been appointed to take responsibility for tactical decision-making relating to the emerging extreme threat. Where an Extreme Threat Tactical Commander takes responsibility for tactical decision-making, they are trained to ensure that this is communicated to officers on the ground in addition to those in the Control Room.
23. The role of this Extreme Threat Tactical Commander is not to manage the entire operation but to identify and deal with the emerging threat in accordance with the strategy. They will monitor emerging threats, will be appointed to take tactical command when a credible threat becomes apparent and will determine the tactical response appropriate to the threat.
24. As stated in paragraph 5 above, the Counter Terrorism Interoperability Project will ensure national consistency in command and control. This will specifically include consistency in the Extreme Threat Tactical Command role through training accredited by the National Policing

Improvement Agency (the *NPIA*) and a structured national exercising programme.

(2) Communications Systems

(a) – (d) Radio Operation and Maintenance / Radio Coverage above Ground / Radio Coverage Underground / Communication between Teams

Concern

25. The Report highlighted concerns regarding communications – in particular in relation to the Cougar radio system in operation on 22 July 2005. The concerns included:
- a. difficulties in operating specific police radios;
 - b. poor coverage and radio black spots (including no underground facility);
 - c. undue reliance on mobile telephones; and
 - d. the general need for an effective radio system allowing communication between different branches of the MPS engaged in the same operation.

Response

26. The MPS considers that the introduction of covert 'Airwave' radios (replacing the Cougar radios) addresses the above concerns. The technology to provide adequate levels of security on the *covert* Airwave system (as opposed to the non-covert Airwave system) was not available until 2006. The roll-out of the covert Airwave system within the MPS was completed by mid-May 2008. The new system addresses the 'range' problems experienced with the Cougar system. Secure communications are achievable between different MPS departments (including Control Rooms) and with other police forces and Agencies.
27. The NPIA has completed its roll-out of the Airwave radio network to all 125 sub-surface underground stations. This extension to the covert Airwave network provides officers with the ability to communicate with colleagues and other emergency services. Radio coverage is now available in all areas of the station below ground that are open to the public, such as platforms, escalators and booking halls.

28. There is also extensive tunnel coverage and by autumn 2009 the project to complete Airwave network coverage in **all** tunnels is scheduled to be complete.
29. In conclusion, the MPS considers that the introduction of the covert Airwave radio system addresses the difficulties highlighted by the Coroner's concerns. In particular, the use of effective radios should reduce the need for officers to use mobile telephones to simply relay information to their colleagues. However, as the Report points out in paragraph 14, mobile telephones may be appropriate for confidential communications between particular officers.

(e) Language

Concern

30. The Report includes a concern in relation to the way officers use police terminology and the need to ensure that all officers have the same understanding of what this terminology means.

Response

31. The MPS recognises the need for definitive terms for use in joint surveillance and firearms operations to ensure consistency and clarity of understanding across police forces. The MPS is currently contributing to the creation of a national glossary of terms relating to the command and control of operations involving surveillance and firearms with a view to its formal adoption as a national standard for use across police forces.
32. The use of terminology in relation to identifying persons under surveillance is addressed within the 'Identification' section below.

(3) Radio Discipline

(a) – (b) The Speaker Announcing Himself / Acknowledging Messages

Concern

33. The Report includes concerns in relation to how officers use the radios and in particular:
 - a. the failure of speakers giving important announcements to identify themselves; and

- b. there was no system for ensuring that officers acknowledged a message / question – silence can mean they cannot answer the question or they didn't hear the question.

Response

- 34. The MPS surveillance training, both in July 2005 and now, emphasises the need for brevity of communication during a surveillance operation. Training includes that when a surveillance officer takes over the surveillance commentary of a subject, it is announced over the covert radio who that officer is. From that point onwards all the commentary on the subject will be coming from that officer. The training also emphasises that irrespective of rank or status, no other officer will transmit a message without asking permission of that officer. If an officer makes this request, they will identify themselves at the point of making the request.
- 35. Each surveillance team will have a dedicated loggist who will be following the surveillance commentary and recording material surveillance information and attributing this information to the relevant surveillance officers. At the end of the operation, the surveillance team will review the surveillance log to ensure that it accurately records who said what and when.
- 36. In addition to the surveillance log completed by the loggist, MPS surveillance policy issued in August 2008 now requires the surveillance team leader to complete a "Surveillance Management Record" during the surveillance operation, which is aimed at providing a sequential record of the administration of the surveillance operation. This record will provide an audit trail for identification issues relating to the subject(s) under surveillance. This will include what level of identification has been achieved, when and why.
- 37. Further information on identification issues has been included below in response to other concerns included in the Report.
- 38. In relation to acknowledging messages, the training teaches that a question or instruction to all surveillance officers will not be automatically acknowledged by every officer individually – to do otherwise may disrupt the surveillance commentary. One officer will indicate that they have heard the message and therefore that a successful transmission has taken

place. Common practice is that if the message is not acknowledged at all, it will be repeated. The better quality radio equipment discussed above provides additional confidence that all messages should be heard throughout the surveillance team.

39. Surveillance radio discipline and procedures are continually assessed throughout the surveillance training course.

(4) Location Information

(a) – (b) Maps in the Control Room / Use of Maps to Assess Surveillance Plot Concern

40. The Report suggests that guidance should be given in relation to displaying maps in the Control Room and attempts to plot the approximate locations of different teams.
41. Furthermore, the Report suggests that guidance is given to Gold and Silver Commanders that, in surveillance-based operations, the Geographia and / or other maps should be checked to ascertain the nature of the premises under surveillance.

Response

42. The MPS now has the technology to display a variety of maps (showing different types of information) within the Control Room and commanding officers are aware of this capability. There are a number of MPS staff trained in the use of mapping technology in both the Crime and Counter-Terrorism Control Rooms. This technology has been tested in exercise and is now commonly used in live operations.
43. The MPS is currently testing a new Counter-Terrorism Control Room which incorporates technology enabling tactical commanders to display maps over-laid with detailed information (e.g. the position of relevant addresses (and the nature of premises) and officers) on large screens.
44. Ongoing developments in Control Room technology are being co-ordinated through the Counter Terrorism Interoperability Project to achieve national consistency.

(c) Transferring Imagery

Concern

45. The Report speculates that developing technology may allow officers on the ground to transfer to the Control Room visual imagery of important locations. This may assist in directing surveillance and firearms officers.

Response

46. The MPS has developed a range of technologies to allow the transfer of visual imagery from locations on the ground to the Control Room. This includes some access to CCTV feeds owned by 3rd parties. The tactical firearms command course (for officers who command high-risk intelligence led covert operations involving firearms) includes awareness training on the existence and capabilities of these technologies.

(d) Tracker Technology

Concern

47. The Report suggests that it may be possible in future for GPS/tracker technology to be used to ascertain the positions of vehicles engaged in surveillance or pursuit and to display those positions on screens in the Control Room.

Response

48. The MPS has initiated a project to provide a means for enabling Control Room staff to monitor and display the changing locations of firearms and surveillance officers in appropriate operations. The project intends to implement this technology during 2009.

(5) Identification

Concern

49. The Report expresses a concern that procedures for making and communicating identifications should be reviewed.

(a) Terminology

50. In particular, the Report indicated that clear terminology ought to be used to indicate the level of confidence with which a particular identification is made.

Response

51. The MPS recognises that the effective identification of an individual who is the subject of a surveillance operation is crucial, not only to the success of an operation but also to ensure that all necessary steps are taken effectively to manage the safety of that individual, the public and surveillance operatives. To assist with this objective, the MPS has enhanced the national identification system. The detail of the system used is sensitive. However, in short a small part of the system formalises identification of subjects by putting them into three general categories:
- a. Positive identification (where the operative has either personal knowledge of the subject or is making a judgment based on an honestly held belief arising from all the information available (e.g. descriptive characteristics / visual imagery));
 - b. Possible identification (where there is insufficient information available for the operative to make a positive or negative identification (e.g. where there is no photograph or other media available and the operative does not know the subject));
 - c. Negative identification (where there is sufficient information for an operative to make a judgment based on an honestly held belief that a person under surveillance is not the subject).
52. The MPS recognises that in particular circumstances achieving a positive or negative identification quickly can be very difficult. The system developed to assist identification includes not just the provision of photographs but the use of background intelligence to support the subjective view of a surveillance officer that the person under surveillance is or is not the subject of the operation.

(b) Use of photographs

Concern

53. The Report indicated that consideration should be given to advising officers to take photographs of the subjects of the operation with them unless particular circumstances dictate otherwise.

Response

54. This issue is currently being reviewed and guidance will be issued to officers in a revision to surveillance policy.

(c) Provision of photographs

Concern

55. The Report suggests that the following topics should be reviewed to assist the MPS in identification of subjects in intelligence-led operations:
- a. how to ensure that other agencies can be contacted (day or night) to obtain further photographs and information about suspects;
 - b. what guidance should be given on reviewing files of related operations to obtain further information on suspects; and
 - c. what guidance should be given on the use of photographs obtained from crime scenes to aid identification.

Response

56. The MPS does have 24-hour access to many agencies to assist with acquiring photographs and background information. Access does vary between different agencies – especially in terms of length of time between the request and receipt of the information (which differs between office hours and non-office hours access). The MPS is reviewing how we can achieve quicker and better access.
57. In relation to reviewing files of related operations to obtain further information on subjects, the MPS is conducting a review of the use of intelligence (especially photographic intelligence) throughout the MPS to support identification of subjects. In 2005 the MPS set up a dedicated unit within the Counter Terrorism Command to review and collate photographic intelligence.
58. In relation to guidance on the use of photographs obtained at crime scenes to aid identification, the MPS has included in the surveillance policy document (August 2008) more detail on the use of photographs to brief surveillance teams. The policy makes clear that it is the responsibility of the operational team to declare the provenance (source and reliability) of any photographs or media presented at the briefing. There is an emphasis

on the use of photographs, such as those taken at police stations following a person's arrest, where identity has been confirmed.

59. However, it is recognised by the MPS that surveillance officers particularly should be given the best images available (bearing in mind the fast-moving nature of some operations) to enable them to make an identification. Guidance on the necessity to consider the best images available will be incorporated in a revision to MPS surveillance policy during March 2009. This may include photographs recovered from crime scenes – however, with the necessary warning about any lack of provenance.

(d) Transmission of Photographs

Concern

60. The Report suggests that developments in technology may make it possible in future for surveillance officers to take photographs covertly and to transmit them to a Control Room and also for photographs to be transmitted from the Control Room to surveillance officers.

Response

61. The MPS is now able to transfer images of subjects and persons under surveillance between officers on the ground and the Control Room. However, this facility is currently limited to specific departments within the MPS where an assessment has been made that the high-risk to life outweighs the risk of sensitive information being intercepted or lost. There is an ongoing project to trial equipment with higher levels of security that has recently become available and which is capable of wider information dissemination - for eventual use across all relevant MPS departments.

(6) Rules of Engagement and Code-Words

(a) Rules of Engagement

Concern

62. In relation to "Rules of Engagement", the Report suggests that the MPS considers giving guidance to officers in relation to the following areas:

- a. providing criteria, or a list of considerations, to assist firearms officers to decide whether to issue a challenge or to fire a critical shot without warning;
- b. linking criteria to an improved system for designating levels of identification;
- c. devising practical training for firearms officers to assist them in determining the appropriate response.

Response

- 63. The MPS recognises that it is important to provide firearms officers with as much assistance as possible in identifying the criteria / considerations to take into account when engaging in the very difficult decision-making required when they confront a suspected suicide terrorist. In relation to “challenge”, the ACPO Manual 2009 advises that firearms officers should issue a challenge unless to do so would unduly place any person at risk.
- 64. Due to the varied situations in which firearms officers may find themselves, an exhaustive list of considerations, focussed on whether to issue a warning or not, is not desirable.
- 65. The MPS considers that officers should engage in a process to assess threat and risk and then respond accordingly.
- 66. This process is described in the ACPO Manual 2009 as the Conflict Management Model. In general terms, this model requires firearms officers to consider the following:
 - a. **Information / intelligence** - the information / intelligence provided to them (in briefings before and during the operation) and the information which becomes apparent to them through their own observations;
 - b. **Threat Assessment** – use the information they have to make an on-going assessment of the likelihood and extent of harm being caused by the person;
 - c. **Powers and policy** – make an assessment of the powers (legal) and policies applicable to the circumstances;
 - d. **Tactical options** – deciding which tactical option(s) is the most appropriate in the circumstances (e.g. wait; take mitigating action; keep the person under observation; contain the area; challenge);
 - e. **Actions** - putting the chosen tactical option into effect.

67. The decision on whether to issue a “challenge” is at the tactical option stage of the process and is informed by the previous stages, accompanied by an assessment of the risks posed to any person by issuing that challenge.
68. The “identification” of the person is part of the information / intelligence stage of the model and the firearms officers’ understanding of the level of certainty regarding identification should be greatly assisted by the three levels of identification outlined above.
69. In relation to training, there is ongoing practical training for firearms officers in the application of the Conflict Management Model. The aim of this model is to determine an appropriate response to a firearm officer’s honestly held belief in the circumstances presented to that officer. This includes training for all firearms officers for circumstances involving confronting suicide bombers.
70. Specific Counter-Terrorism exercises involving a developing suicide terrorist threat (which often culminate in a confrontation with a suicide bomber threat) are regularly conducted and involve the use of Specialist Firearms Officers (*SFOs*) (from the MPS Specialist Firearms Command (*CO19*)).

(b) Code-Words

Concern

71. The Report endorsed the development of a system of Code-Words to be used by senior officers to give instructions for firearms officers to take particular action – for consistent use in: pre-planned; intelligence-led; and spontaneous situations.

Response

72. The MPS agrees that words of command should be consistent across all types of police operations. However, after much consideration the MPS has decided not to use Code-Words with preference to clear words of command which can be universally understood by all officers and are less likely to be misinterpreted.
73. The MPS approach to this issue is consistent with the ACPO Manual 2009 which considers the use of plain language to convey critical decisions is

important to reduce the potential for confusion. The Manual warns that care should be taken in respect of the use of Code-Words or complex descriptors which have the potential to confuse staff involved, i.e. officers may mistakenly attribute the wrong action to a Code-Word.

74. Therefore, the MPS has revised its procedures for use in suicide bomber situations and has removed reference to Code-Words to reflect this conclusion.

(c) Communication of intelligence

Concern

75. The Report highlights the importance of ensuring that intelligence is communicated to officers on the ground in so far as that is possible. The Report further states that if a firearms officer is expected to exercise his own independent judgment before firing a critical shot, he should be kept informed of what is known about the suspect.

Response

76. The ACPO Manual 2009 makes clear that firearms officers should be given the fullest briefing possible which should include the intended course of action and incorporate a range of contingencies that provide officers with as much clarity as possible as to the role they may have to undertake. The Manual goes on to emphasise that the Silver Commander should ensure that the level of threat assessed, the reasons for it, and the reliability of the information are included in the briefing. There is also a recognition in the Manual that firearms officers should be continually updated with relevant information during their deployment.
77. The importance of communicating information and intelligence to officers “on the ground” is well understood by commanding officers within the MPS. These officers place a high importance on the need to communicate information and intelligence through to officers “on the ground”. To assist with this the MPS is moving towards the issue of secure equipment to all “on the ground” officers to enable tactical commanders to directly pass regular briefing documents and photographs. In addition to the use of covert Airwave radios, this secure equipment should also reduce reliance on the use of mobile telephones.

78. However, the ACPO Manual 2009 also recognises that there may be circumstances where due to the immediacy and proximity of a threat, there is not time to update a firearms officer on the unfolding circumstances and a direction needs to be given to a firearms officer to take decisive action. This may include a time critical discharge of firearms to protect life. Furthermore, the Report recognises that, "It may well be impossible to provide full information to those engaged in a fast-moving operation." The MPS procedures for dealing with extreme threats to life take account of this guidance but recognise that this is an exception to the general position that all relevant intelligence / information is disseminated.

(7) Surveillance officers / firearms officers

(a) Joint Briefings and Joint Training Operations

Concern

79. The Report emphasised that where possible briefings for firearms officers and surveillance officers should be held jointly and should be audio or video recorded to avoid uncertainty about their tone or content arising later.
80. The Report also suggests that joint training of firearms and surveillance officers may help them to work together.

Response

81. MPS firearms procedures outline that the general principle for briefings is that all staff deployed on an operation should be present at the briefings. The procedures accept that in some exceptional circumstances this will not be possible. In these circumstances the reasons will be recorded and where possible alternative arrangements to brief those omitted staff will be made.
82. All intelligence briefings by Tactical Firearms Commanders to firearms officers in planned operations are audio-recorded. Following a successful pilot project, this requirement became policy throughout the whole of the MPS from the beginning of 2008.
83. In relation to joint training, the MPS conducts a minimum of 6 Counter-Terrorism exercises per year. The aim of these exercises is to test the relationship between the Control Room and officers on the ground and to

ensure that the surveillance and firearms officers understand each others' roles and work well together. All SFO teams were involved in this exercising during 2008. This is in addition to all the exercises incorporated into regular refresher training for firearms and armed surveillance officers. Funding has been agreed to expand the capability of the MPS surveillance training unit to provide an additional rolling programme of exercises involving all armed surveillance teams with officers from CO19.

84. In addition, MPS officers participate in a number of other Counter Terrorism related training exercises (involving surveillance and firearms teams) throughout the year with other police forces and partner agencies.
85. SFO teams regularly work in support of surveillance officers on non-Counter Terrorism crime operations and less often in Counter-Terrorism operations. Therefore, in addition to the exercising, since 2008 Counter-Terrorism surveillance teams have been increasingly involved in non-terrorist crime operations specifically to increase their familiarity in working with SFO teams. From the 1st April 2009 Counter-Terrorism and Crime surveillance teams will be amalgamated into a single dedicated surveillance command.

(b) Awareness of other officers

Concern

86. The Report placed importance on ensuring that surveillance, firearms and arrest teams are aware of each others' presence and position during the course of operations e.g. that surveillance officers are informed that firearms are joining a surveillance plot or that the arrest teams have been deployed.

Response

87. Command training and Counter-Terrorism exercises emphasise the need to ensure that officers on the ground are updated as to the addition of other teams into the operation.
88. The use of better technology (e.g. covert Airwave radio) should assist in distributing information to officers on the ground during the operation.

89. The joint briefings enable officers from each of the teams to understand which other teams will be involved in the operation and what each team may be asked to do.

(c) Training of surveillance officers

Concern

90. The Report suggests that consideration might usefully be given to training at least some armed surveillance officers in how to perform a stop of a suspected suicide terrorist.

Response

91. The MPS view is that it will always be desirable to use SFOs (the best-trained firearms officers with specialist weaponry and equipment) wherever possible to confront suicide terrorists. The MPS is developing additional training to allow small teams of SFOs to operate within the surveillance team to support rapid intervention where necessary.
92. However, it is recognised that there may be circumstances where armed surveillance officers have to use firearms to protect themselves, their unarmed colleagues and the public as an immediate reaction to the emergence or presence of a person posing an imminent lethal threat. This would include the sudden emergence of an extreme threat like a suicide terrorist.
93. Training for armed surveillance officers has included exercises during which armed surveillance officers must decide what action to take to mitigate an emerging extreme threat and where the rationale for the option chosen (which may be to incapacitate the person) is explored.
94. From April 2009 both the initial firearms training course and subsequent re-accreditation training for all armed surveillance officers will include an additional training element to control subjects within the context of a suddenly emerging extreme threat, such as a suicide terrorist. Within these courses will be training in how to engage, challenge or incapacitate a suicide terrorist where it becomes necessary in response to such a suddenly emerging extreme threat, considering the weapons available to them and the environment in which they are operating.

(8) Other points of concern

(a) Recording of Briefings and Control Room Activity

Concern

95. The Report suggests that consideration might be given to recording at least some briefings and Control Room discussions in important operations.

Response

96. The Counter Terrorism and Crime Operations Rooms (the Control Rooms) have the capability to audio record radio transmissions, telephone lines and ambient noise (e.g. room activity including conversations). These rooms also have the capability of being videoed.
97. Separate from the recordings of firearms briefings (as detailed above), there is some capability for briefing rooms attached to the Control Rooms to be audio and video recorded.
98. All recording facilities will be activated when an extreme threat emerges.

On-going work

99. The MPS recognises that it may be desirable to increase the use of recording facilities to other operations. However, the MPS is mindful of the cost implications of recording this information, the subsequent obligations to convert this information into evidence (further to the requirements laid down by the Criminal Procedures and Investigations Act 1996) and also the need for nationwide consistency. As stated in paragraph 5 above, Serious Crime and Counter Terrorism operations are rarely confined to the boundaries of one police force. Therefore, the MPS is currently engaged in a national review in relation to this subject. This review is looking at:
- a. the scope of the recording (i.e. what exactly do we need to capture);
 - b. the equipment capability (i.e. whether the equipment can in fact capture the required information - the quality of the recording can be poor in relation to ambient recording because of the busy operating environment);
 - c. the management of the product (i.e. whether relevant information can be identified and transcribed); and

- d. the extent of the use of the recording equipment (i.e. whether we should have the recording facilities switched on all the time and if not, which operations we should be recording).

(b) Preparation of Notes / Statements

Concern

100. Following the cross-examination of the officers at the inquest, the recent case of R (Saunders) v IPCC [2008] EWHC 2372 Admin and the recent ACPO guidance on the making of post-incident notes, in the Report the Coroner added his voice, "...to those recommending that clear guidance be given to ensure that officers should in future prepare early and independent accounts of any police actions which result in fatal or other serious injuries." The Report also suggests that serious consideration should also be given to audio / video recording of post-incident debriefings.

Response

101. On 24th October 2008 the Chief Constable's Council proposed and accepted an amendment to the provisions falling within the current ACPO Manual of Guidance on the Police Use of Firearms stating as follows:
"As a matter of general practice officers should not confer with others before making their accounts (whether initial or subsequent accounts). The important issue is to individually record what their honestly held belief of the situation was at the time force was used. There should be no need for an officer to confer with others about what was in their mind at the time force was used. If, however, in a particular case a need to confer on other issues does arise, then, in order to ensure transparency and maintain public confidence, where some discussion has taken place, officers must document the fact that this has taken place, highlighting the time, date and place where conferring took place, the issues discussed, with whom and the reasons for such discussion. There is a positive obligation on officers involved to ensure that all activity relating to the recording of accounts is transparent and capable of withstanding scrutiny."
102. In response, the MPS has adopted this principle and has issued interim instructions to armed commands in relation to how to implement this in practice. The MPS firearms procedures will be updated following

finalisation and publication of the ACPO Manual 2009 and the instruction relating to note-making and conferring will be included.

103. However, the MPS believes that the whole issue of note-making and conferring must be related to the need to identify a system that ensures the most accurate recollection of events is recorded to assist a fair investigation. Therefore, the MPS and the Police Federation have commissioned Portsmouth University to conduct scientific research on this subject.
104. The MPS is also reviewing how the principles in relation to note-making and conferring should apply to all other cases of police related death and serious injury.
105. In relation to the suggestion in the Report that serious consideration should also be given to the audio and video recording of post-incident debriefings, the MPS will consider this suggestion further both internally and through engagement with all relevant parties (e.g. ACPO, the IPCC, the Police Federation etc).
106. For consistency within the MPS, this issue requires consideration in relation to **all** post-incident debriefs relating to all serious incidents (i.e. firearms, public order, fatal collisions involving police vehicles etc) and not just the debriefs relating to firearms incidents.
107. In addition, to ensure consistency throughout England and Wales, the suggestion needs to be addressed throughout all police forces within England and Wales.

Concluding Comments

108. The inquest into the death of Jean Charles de Menezes provided the opportunity publicly to examine, in detail, all facets of the police response to a complex, fast moving and high-risk operation, set against the background of recent suicide attacks.
109. In his Report the Coroner acknowledges the work already undertaken within the MPS to resolve some of the issues that were identified before and during the inquest, however, he also states that some matters remain unresolved.

110. It is right that the public must feel assured that the processes and procedures adopted by the police are fit for purpose, particularly when firearms are used. To this end it is important that critical reviews continue, taking into account all surrounding circumstances.
111. The preceding paragraphs give the current MPS response on the vital areas identified by the Coroner, however, the work undertaken following the tragic events of 22nd July 2005 has left a legacy, whereby operational options are continually reviewed in the light of current threat, intelligence and available technology. We hope to have identified in this response where this continual reviewing is currently occurring.
112. The MPS is committed to ensuring that, as far as possible, no other family has to suffer the anguish experienced by the relatives of Jean Charles de Menezes.

Commander Moir Stewart (chair of the July Review Group)
for and on behalf of the
Commissioner of Police of the Metropolis Sir Paul Stephenson QPM

20 February 2009

