

<p>1 Tuesday, 23 November 2021</p> <p>2</p> <p>3 INDEX</p> <p>4</p> <p>5 MS JULIE MACKAY (continued)2</p> <p>6 Questions from MS HILL (continued)2</p> <p>7 Questions from MR DAVIES11</p> <p>8 Questions from MR MORLEY79</p> <p>9 Questions from MR SKELTON85</p> <p>10 Further questions from MR O'CONNOR116</p> <p>11 Questions from THE JURY123</p> <p>12 Housekeeping130</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">Page 1</p>	<p>1 murder/manslaughter or administering a noxious substance</p> <p>2 that led to the death, yes.</p> <p>3 Q. You are talking there about the idea of charging him</p> <p>4 with something arising from Anthony's death?</p> <p>5 A. Yes.</p> <p>6 Q. You answered questions about the reality of having</p> <p>7 somebody in the cells for 96 hours at a maximum; is that</p> <p>8 right?</p> <p>9 A. Yes, that is true.</p> <p>10 Q. And how if somebody had been arrested, whether or not</p> <p>11 they had been arrested for murder, but if you were</p> <p>12 concerned about their involvement in someone's death,</p> <p>13 you would prioritise the actions that you took while</p> <p>14 they were in custody?</p> <p>15 A. Yes, you can prioritise actions according to what you</p> <p>16 are investigating.</p> <p>17 Q. We had some discussion about how long it might take to</p> <p>18 get toxicology results, do you remember that?</p> <p>19 A. Yes, I do, and I am not sighted on the time constraints</p> <p>20 around that at that time.</p> <p>21 Q. I just wanted to show you, please, if I may, one email.</p> <p>22 It is IPC246, can I bring that up, please. Just scroll</p> <p>23 in on that email, it is an email from September 2014, do</p> <p>24 you see that?</p> <p>25 A. Yes, I do.</p> <p style="text-align: center;">Page 3</p>
<p>1 (10.00 am)</p> <p>2 (In the presence of the jury)</p> <p>3 MS JULIE MACKAY (continued)</p> <p>4 THE CORONER: Good morning, members of the jury.</p> <p>5 Yes, Ms Hill.</p> <p>6 Questions from MS HILL (continued)</p> <p>7 MS HILL: Good morning, in fact I have a few more questions</p> <p>8 for you, just arising from some of the issues that you</p> <p>9 touched on yesterday, if I may.</p> <p>10 Bring up please in your report, I will just remind</p> <p>11 you perhaps of what you said at 147, I am just going to</p> <p>12 read out what was in your report and you agreed with it.</p> <p>13 You say:</p> <p>14 "It is my view that the lack of inquisition or</p> <p>15 enquiry into the circumstances of Anthony's death</p> <p>16 resulted in a missed opportunity to charge him in</p> <p>17 relation to the death."</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. Just to be clear, although you answered questions</p> <p>21 yesterday about what Mr Port might have been charged</p> <p>22 with in terms of X3, what you meant here was charging</p> <p>23 him in relation to the murder of Anthony, that is what</p> <p>24 you meant, I think?</p> <p>25 A. Yes, so whether that was an offence of</p> <p style="text-align: center;">Page 2</p>	<p>1 Q. There is discussion there about the toxicology results</p> <p>2 in relation to the Whitworth case, it is said here in</p> <p>3 the email:</p> <p>4 "If it is down to toxicology I see no reason to keep</p> <p>5 the body, we can wait and see after the CCTV if you</p> <p>6 like. I don't think we should keep it until tox is</p> <p>7 received [I think that is perhaps the body] unless it is</p> <p>8 fast tracked and will be with us in a week or 10 days."</p> <p>9 Do you see that?</p> <p>10 A. Yes, I do.</p> <p>11 Q. That suggests, doesn't it, on the borough as at roughly</p> <p>12 the end of September 2014, if toxicology had been fast</p> <p>13 tracked they would expect to get it back within 7 to 10</p> <p>14 days?</p> <p>15 A. Yes, it does, yes.</p> <p>16 Q. The dates that we looked at yesterday involved the</p> <p>17 receipt of some information about GHB on Anthony on</p> <p>18 13 August, do you remember that?</p> <p>19 A. Yes, I do.</p> <p>20 Q. In fact I was helpfully reminded overnight that there</p> <p>21 had been some delay in submitting the samples, they</p> <p>22 didn't get submitted straight after Anthony's death, so</p> <p>23 if I can bring up please IPC35, internal 89. I am</p> <p>24 hoping that this is the CRIS and that we see within 89</p> <p>25 on here the date of 8 July. Can you see that, as being</p> <p style="text-align: center;">Page 4</p>

<p>1 the date when the samples were submitted?</p> <p>2 A. Yes, that is what I had understood as well.</p> <p>3 Q. Just taking that down, so what it looks as if the timing</p> <p>4 shows is this, isn't it, that although we have heard</p> <p>5 about how fast tracking tox can result in an answer</p> <p>6 being received in a short period of time, as</p> <p>7 Ms Stanworth said, or 7 to 10 days as the email</p> <p>8 suggested, but in Anthony's case what actually happened,</p> <p>9 submission on 8 July, a result of GHB, albeit not yet</p> <p>10 the level, received on 13 August?</p> <p>11 A. Yes.</p> <p>12 Q. Again, that is a period of weeks, isn't it?</p> <p>13 A. Yes, I think roughly six weeks, maybe.</p> <p>14 Q. As far as the Jack Taylor results are concerned, you</p> <p>15 will remember I couldn't do the maths on my feet</p> <p>16 yesterday, but is this right, I am afraid I couldn't</p> <p>17 quite establish overnight exactly when the submission</p> <p>18 was made for toxicology on Jack, but on the basis that</p> <p>19 it went in shortly after he was found dead, it was</p> <p>20 returned I think on 6 October, so that suggests</p> <p>21 a turnaround time of about three weeks, doesn't it?</p> <p>22 A. Yes, it does.</p> <p>23 Q. On all of that evidence, isn't this fair, that assuming</p> <p>24 that the police had formed the view in relation to</p> <p>25 Anthony's death, that establishing what drugs were in</p> <p style="text-align: center;">Page 5</p>	<p>1 happened?</p> <p>2 A. Yes, I do.</p> <p>3 Q. Therefore, is it right that in assessing all of the</p> <p>4 evidence the officers would take into account what he</p> <p>5 had said in any further interview?</p> <p>6 A. Yes, because if a final interview had been conducted,</p> <p>7 I would have expected them to have reviewed the previous</p> <p>8 interviews in order to have a structure to know what</p> <p>9 they were going to ask him about, so hopefully through</p> <p>10 that process they would have identified the matters that</p> <p>11 were relevant, so even if it was perverting the course</p> <p>12 of justice, and any other matters that were highlighted.</p> <p>13 Q. You have also explained, haven't you, that some of the</p> <p>14 other enquiries you would anticipate taking place were</p> <p>15 things like contacting his employer to see whether his</p> <p>16 rota and his time of work matched his account given in</p> <p>17 interview?</p> <p>18 A. Yes, definitely.</p> <p>19 Q. Again, if there was any disparity there, that would all</p> <p>20 form part of the decision making?</p> <p>21 A. Yes, it would have done.</p> <p>22 Q. As far as the laptop is concerned, I think the dates</p> <p>23 that we have for that -- let's see if I can bring these</p> <p>24 up briefly, perhaps I don't need to bring them up, but</p> <p>25 the evidence we understand in relation to the laptop is</p> <p style="text-align: center;">Page 7</p>
<p>1 his body was really important and a priority task, on</p> <p>2 all of that evidence, it is clear, isn't it, that the</p> <p>3 police could have received the toxicology results well</p> <p>4 before Gabriel died?</p> <p>5 A. Yes, they could have done, and in fact they did get the</p> <p>6 initial indications, didn't they, before Gabriel had</p> <p>7 died?</p> <p>8 Q. Because we know, don't we, that allowing for Mr Port</p> <p>9 being arrested on 26 June, whatever he was arrested for,</p> <p>10 it is just over eight weeks, isn't it, until Gabriel is</p> <p>11 found dead at the end of August?</p> <p>12 A. Yes, that's right. As I said, they had the results,</p> <p>13 didn't they, mid-August, so the initial results were</p> <p>14 available already.</p> <p>15 Q. I think the evidence you gave said yesterday was to the</p> <p>16 effect that taking a statement from X3 was the sort of</p> <p>17 thing that would happen quite quickly?</p> <p>18 A. Yes, I would have expected that to have been one of the</p> <p>19 priorities, yes.</p> <p>20 Q. That is the sort of thing that could in fact have</p> <p>21 happened while Mr Port was in custody?</p> <p>22 A. If you were going for the extended period in custody,</p> <p>23 yes.</p> <p>24 Q. You have described yesterday Mr Port being interviewed</p> <p>25 again, being something that you think should have</p> <p style="text-align: center;">Page 6</p>	<p>1 that was submitted on 28 April, that's IPC87, perhaps</p> <p>2 bring that briefly if we may. Page 9 shows the date</p> <p>3 I think of 28 April 2015. The bottom right-hand side,</p> <p>4 do you see that?</p> <p>5 A. Yes, I can see that.</p> <p>6 Q. Our understanding is that the return date was 18 May,</p> <p>7 I don't know if we need to bring that up but we can if</p> <p>8 we need to, it is IPC341.</p> <p>9 That has the date at the top left-hand side of the</p> <p>10 analysis carried out, do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Even allowing for the fact, I appreciate, this is as we</p> <p>13 know lamentably very many months after Anthony's death,</p> <p>14 that turnaround time shows, doesn't it, that the laptop</p> <p>15 was, even on a slow time, returned in a matter of weeks?</p> <p>16 A. Yes, no, within just over three weeks.</p> <p>17 Q. It follows, doesn't it, that even on that timing that is</p> <p>18 again something else the police could have had available</p> <p>19 to them before Gabriel's death?</p> <p>20 A. Yes, they could have done, if they had submitted it at</p> <p>21 the end of June.</p> <p>22 Q. Is this fair, that when you said in your report that you</p> <p>23 believe there was a missed opportunity to charge Mr Port</p> <p>24 with an offence arising out of Anthony's death, it is</p> <p>25 because those things were not in place for the police?</p> <p style="text-align: center;">Page 8</p>

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<p>1 A. Yes, because all these actions and the inquisition 2 hadn't taken place, so therefore they didn't know the 3 results. 4 Q. It is right, isn't it, that if in fact -- I appreciate 5 we are doing the best we can to look at what would or 6 what might have happened -- the police had had evidence 7 from X3, the toxicology results, the laptop analysis, 8 potentially further lies in interview, potentially 9 further inconsistencies around his movements, possibly 10 even a statement from X2, which we talked about 11 yesterday, that that would have given the police 12 a strong case to put to the Crown Prosecution Service to 13 charge him with murder? 14 A. I think if they conducted -- 15 Q. Forgive me, sorry murder or manslaughter or any offence 16 arising out of his death? 17 A. Of course, so I think if they had conducted all the 18 actions that are identified over that long period of 19 time expeditiously, and produced a full file to take to 20 the Crown Prosecution Service, with consideration around 21 looking at actually the involvement in the death, rather 22 than the perverting the course of justice, they would 23 have had a strong position. 24 Q. You think that that realistically would have been the 25 case before Gabriel died?</p> <p style="text-align: center;">Page 9</p>	<p>1 A. Yes. 2 MS HILL: Thank you. 3 A. Thank you. 4 Questions from MR DAVIES 5 MR DAVIES: Ms Mackay, I know you will, from following the 6 proceedings, appreciate I represent with Ms Dobbin 7 Queen's Counsel a number of the individual borough 8 officers. 9 The purpose of my questioning, as it has been 10 throughout, is not to set up an artificial proposition 11 that things did not go wrong in these investigations -- 12 they did -- or to avoid responsibility on individuals 13 where it is appropriate to attach it to those 14 individuals, and there are examples of that. All right, 15 so to make that clear from the outset. 16 A. Thank you. 17 Q. But it is the purpose of questioning just to put some 18 context around individual decisions that were wrong, and 19 to explore with you more generally your evidence over 20 the last day and into today, please. 21 Just by way of general proposition, do you agree 22 that when one approaches any analysis, whether it is in 23 policing or in a medical context in a hospital or any 24 professional environment, one is entitled to analyse the 25 situation, including the considerations of the</p> <p style="text-align: center;">Page 11</p>
<p>1 A. So I can say hypothetically, because this is based on 2 the submissions that we have seen that have been done 3 subsequently -- 4 Q. Of course. 5 A. -- and of course if the investigation is managed 6 effectively, but there is no reason, given the 7 turnaround of those items that have been submitted, that 8 that couldn't have been achieved. 9 Q. That proposition would be even stronger would it if the 10 MIT team had accepted primacy, because their detection 11 rate is so much greater and their expertise and 12 resources more improved? 13 A. I think if the MIT team had had it, the strategies would 14 have been much stronger, there would have been much more 15 focus, and the actions would have been completed in 16 a quicker turnaround time. 17 Q. I think you would agree, would you, with the evidence 18 from DCI Jones that we heard some time ago that if 19 somebody is arrested on a charge of murder or something 20 similar, the prospects of them being remanded in custody 21 are very high? 22 A. Certainly with murder, yes. 23 Q. We know, don't we, from later evidence that when Mr Port 24 was remanded in custody in 2015, plainly he was unable 25 to continue with his murderous acts?</p> <p style="text-align: center;">Page 10</p>	<p>1 qualification of individuals to perform roles? 2 A. Yes, I agree that is important. 3 Q. Assuming they have qualifications, their experience in 4 role? 5 A. Yes, that can be relevant. 6 Q. And, assuming a level of qualification and a level of 7 experience, their day-to-day capacity to perform those 8 roles? 9 A. That can be influencing factors as well, yes. 10 Q. In other words, the relationship between their workload 11 and their time to discharge their workload? 12 A. Yes. 13 Q. One of the features of policing, to get to the immediate 14 case, is that once officers go off duty, they are off 15 duty, they can't access police intelligence systems, 16 they can't take work home with them, they are literally 17 off duty for a number of reasons? 18 A. Yes, that's correct, that is how it should work. 19 Q. Of course I dare say there are supervising officers, 20 including yourself over the years, where the boundary 21 between on and off duty changes -- or doesn't exist -- 22 but for regular detective constables on CID, they have 23 to be on duty to have access to the materials to conduct 24 the investigation, don't they? 25 A. So I think the point you are making is that yes, of</p> <p style="text-align: center;">Page 12</p>

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<p>1 course there is a transgression from that and that</p> <p>2 happens more as you go higher up through the ranks, so</p> <p>3 the on and off duty perhaps becomes clouded. I think it</p> <p>4 is really important though that actually all officers</p> <p>5 are entitled when they go off duty that they are off</p> <p>6 duty. There is not an expectation that even if they</p> <p>7 could access emails or their work that they should be</p> <p>8 doing that and in a lot of cases, given the sensitive</p> <p>9 nature of that work, it certainly shouldn't necessarily</p> <p>10 be within a home environment or somewhere that is not</p> <p>11 secure.</p> <p>12 Q. Quite, they are not entitled to take confidential</p> <p>13 material home, agreed?</p> <p>14 A. Sorry, no, they are not entitled, no, they should not do</p> <p>15 that.</p> <p>16 Q. Culturally, for the reason you have given, once they are</p> <p>17 off duty, they are expected to be off duty?</p> <p>18 A. Yes, they are, yes.</p> <p>19 Q. Which means that, whatever the workload is, it has to be</p> <p>20 accommodated within their shifts, to put it very</p> <p>21 bluntly?</p> <p>22 A. Yes, so there is a finite amount that you can achieve in</p> <p>23 an 8-, 9-, 10-hour period, whatever the period is that</p> <p>24 you are on duty. As detectives, I am sure you will be</p> <p>25 aware that they often end up working overtime because it</p> <p style="text-align: center;">Page 13</p>	<p>1 concurrent duties we have heard about for some of the</p> <p>2 borough officers I am representing?</p> <p>3 A. Yes, so you are correct in that I have not worked in</p> <p>4 that public protection arena, but I have had</p> <p>5 responsibility in my career for multiple other units.</p> <p>6 I think when DI McCarthy was referring to his domestic</p> <p>7 abuse teams, his prisoner processing teams, local</p> <p>8 investigation teams, alongside CID officers, that is the</p> <p>9 arena that I have operated in, had responsibility for</p> <p>10 multiple teams at once.</p> <p>11 Q. I am going to come back to him, but you said it was</p> <p>12 a very poor decision for him to step back when he did</p> <p>13 from the Anthony Walgate investigation.</p> <p>14 A. Yes, I did, yes.</p> <p>15 Q. His role in it may have changed, I will come back to</p> <p>16 this later, but he didn't step back, because in the end</p> <p>17 he was asking for HAT advice before it went to the CPS.</p> <p>18 It wasn't completely stepping back, was it?</p> <p>19 A. I think the point around him stepping back is that he</p> <p>20 delegated responsibility on the CRIS and he said in his</p> <p>21 evidence that he was now giving that responsibility to</p> <p>22 DS O'Donnell and he no longer saw himself as the</p> <p>23 investigating officer.</p> <p>24 Q. That is true. He didn't entirely step back, did he?</p> <p>25 Given his role at the end with the intended further</p> <p style="text-align: center;">Page 15</p>
<p>1 is not feasible or that is the demanding nature of the</p> <p>2 job and that goes across other aspects of policing as</p> <p>3 well.</p> <p>4 Q. Or they end up working extended hours without overtime</p> <p>5 payment?</p> <p>6 A. Well I think the regulations are quite clear around</p> <p>7 whether there is payment or not.</p> <p>8 Q. You addressed through Mr O'Connor yesterday very fairly</p> <p>9 that nationally there were cuts to policing budgets that</p> <p>10 had practical consequences in every police force in the</p> <p>11 United Kingdom?</p> <p>12 A. Yes, that's right.</p> <p>13 Q. You said, page 19 of yesterday's transcript:</p> <p>14 "I think it would be unfair to comment specifically</p> <p>15 about Barking and Dagenham, because I didn't work there</p> <p>16 and I wasn't sighted on that."</p> <p>17 You stand by that, I dare say?</p> <p>18 A. Yes, of course. I can't change that.</p> <p>19 Q. In actual fact, although you have a distinguished</p> <p>20 detective career, and no challenge at all to your</p> <p>21 expertise in that sense, if I have understood your</p> <p>22 career correctly, you have not been required at any</p> <p>23 point in your detective career to have concurrent</p> <p>24 responsibilities for example to community safety units,</p> <p>25 to MAPPA teams, to MARAC teams and all the other</p> <p style="text-align: center;">Page 14</p>	<p>1 submission to the HAT team -- it didn't happen, but that</p> <p>2 was his intention.</p> <p>3 A. Yes, so if that was his intention and he was responsible</p> <p>4 as the investigating officer or he was still responsible</p> <p>5 for that investigation at that stage, then I would have</p> <p>6 expected him to take that responsibility and make sure</p> <p>7 it did happen and check and test that it happened.</p> <p>8 Q. All right, I will come back to him in a moment, but let</p> <p>9 me go to other ranks because I want to start with</p> <p>10 qualification and bring us back to Barking in 2014.</p> <p>11 A. Yes.</p> <p>12 Q. One of the features of the two teams we are directly</p> <p>13 concerned with is the proportion of trainee detective</p> <p>14 constables; do you agree with that?</p> <p>15 A. Yes, I do.</p> <p>16 Q. It is something over half of the detectives, on the two</p> <p>17 teams we are directly concerned with, were trainee</p> <p>18 detectives, yes?</p> <p>19 A. Yes.</p> <p>20 Q. In one case it was three out of four were trainees.</p> <p>21 Looking at the question of qualifications alone,</p> <p>22 never mind experience, are trainee detectives fully</p> <p>23 accredited as detectives under the national system?</p> <p>24 A. They don't become fully accredited until they have been</p> <p>25 signed off, so the trainee detective scheme can go on</p> <p style="text-align: center;">Page 16</p>

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<p>1 for several months and I think in this case they have 2 discussed two years.</p> <p>3 They undergo initial training around a course, where 4 they get effectively classroom input.</p> <p>5 Then they are mentored with a detective constable, 6 a substantial tutor detective constable.</p> <p>7 Then, as you have pointed out, they go on then and 8 perform a period of time where they are still monitored 9 until they get signed off as being accredited.</p> <p>10 In the case you are talking about with the trainee 11 detective constables, at that stage they had not been 12 signed off as being accredited for PIP2.</p> <p>13 Q. No, so they were not PIP2 accredited?</p> <p>14 A. They were not accredited, no.</p> <p>15 Q. The point of that process of mentoring -- I know it 16 overlaps with experience -- for a trainee is to ensure 17 they have a level of competence and understanding to be 18 accredited. Until that process is over, they are by 19 definition not accredited in role?</p> <p>20 A. Yes, that is the process that goes through. It is 21 a national process.</p> <p>22 Q. Does that process of accreditation involve completing 23 a workbook to show you have satisfied various criteria, 24 had certain levels of experience in specific areas 25 before you are accredited?</p> <p style="text-align: center;">Page 17</p>	<p>1 different. Notwithstanding that, I think it was a high 2 number of staff that were trainee detectives.</p> <p>3 Q. The teams, and we have heard about teams here, the team 4 under DS Turrell were trainee detective constables 5 Slaymaker, Berry and Adeyemo-Phillips, and a single 6 substantive detective, Jacqueline Baxter. That was 7 team, I am talking about.</p> <p>8 A. Yes.</p> <p>9 Q. The other team, under DS O'Donnell, was Trainee 10 Detective Constable Parish, Trainee Detective Constable 11 Franks, a part-time substantive DC called Garrett and 12 a substantive detective constable, Desai.</p> <p>13 Those are the teams I am referring to.</p> <p>14 A. Yes, so you would expect to have one detective constable 15 at least on each team, wouldn't you? In small teams 16 like that. One of those teams has more than one. 17 I don't know at what stage of their development they 18 were.</p> <p>19 Q. We have heard from them as to some of that, but, for 20 example, one finds Trainee Detective Constable Slaymaker 21 performing the role, contrary to guidance on his own, 22 contrary to guidance as a trainee, of FLO on two 23 potentially homicide investigations and he is doing that 24 for the first time.</p> <p>25 Isn't there an obvious risk that will compromise</p> <p style="text-align: center;">Page 19</p>
<p>1 A. Yes, it will do.</p> <p>2 Q. Again, it is implicit in what I have asked but until you 3 have completed that workbook for accreditation, you are, 4 as the word implies, a trainee?</p> <p>5 A. Yes, until you are signed off as accredited by 6 an assessor, you are exactly that. That is why it is 7 there.</p> <p>8 Q. It is by no means inevitable that somebody will at the 9 end of the process become accredited; they have to 10 satisfy the tests.</p> <p>11 A. Yes, they do, if they don't satisfy the tests, they 12 don't become accredited.</p> <p>13 Q. What is your reaction to the fact that such a high 14 proportion of the detectives in the two teams we are 15 directly concerned with were still trainees?</p> <p>16 A. One of the questions that I am not clear about is how 17 many people were actually within that team. I know you 18 have referred to three out of four, is that the whole 19 team? If we take it on that basis that is a high 20 proportion of staff who are trainee detectives. I think 21 the only other matter to consider is at what stage they 22 were in their accreditation, because if they are nearly 23 at the end of it and are purely awaiting for an assessor 24 to sign them off, and that is an administrative task as 25 opposed to a competency task, that could be slightly</p> <p style="text-align: center;">Page 18</p>	<p>1 what he is doing based, if nothing else, on 2 inexperience?</p> <p>3 A. I don't know why the decision was made to contradict 4 their guidelines around utilising a trainee detective 5 for family liaison duties. I don't understand the 6 rationale behind that, I haven't been sighted on it.</p> <p>7 Q. I think the rationale was there was no one else?</p> <p>8 A. What, to be trained?</p> <p>9 Q. Hmm.</p> <p>10 A. If there is nobody else to be trained, then there must 11 be a decision that is recorded around the risk of 12 training somebody who doesn't fit the national criteria.</p> <p>13 Q. I think the point was being made in reality -- 14 I emphasise the reality -- on borough at the time was 15 that people were allocated roles based on who was 16 available, not what would be ideal. That was the 17 reality of borough.</p> <p>18 A. I accept you are saying that and I think in addition 19 I have already discussed around the supervision and the 20 support to those officers, and if you take that point in 21 fact around DC Slaymaker as his deployment as a family 22 liaison officer, he should have been supported by the 23 family liaison coordinator, that is their role and 24 responsibility, as is the SIO investigating officer, 25 whichever terminology you want to utilise around that</p> <p style="text-align: center;">Page 20</p>

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<p>1 deployment.</p> <p>2 Q. You have Trainee Detective Constable Parish, just one</p> <p>3 more example, being asked to perform computer analysis,</p> <p>4 having never done that before.</p> <p>5 A. Sorry, being asked to perform?</p> <p>6 Q. Analysis of a computer.</p> <p>7 A. Well --</p> <p>8 Q. He had not been asked to do that before.</p> <p>9 A. Computer analysis is something that is conducted much</p> <p>10 more regularly, you know, in policing and has been for</p> <p>11 a long time. I don't think that analysis of a computer</p> <p>12 is particularly complex. I think the whole thing that</p> <p>13 has been missing throughout these investigations is the</p> <p>14 fact that there hasn't been any strategy or parameters</p> <p>15 set by people who were responsible for it. So if you</p> <p>16 take the examination of the computer, and if he didn't</p> <p>17 know what to do and felt not confident in that, there is</p> <p>18 a bit of personal responsibility here to go to his</p> <p>19 supervisor and say:</p> <p>20 "I don't know what the parameters are that I am</p> <p>21 meant to be looking at, what do you want me to do in</p> <p>22 respect of this investigation?"</p> <p>23 Q. I am not ignoring personal responsibility, that is how</p> <p>24 I introduced the questions to you --</p> <p>25 A. Yes.</p> <p style="text-align: center;">Page 21</p>	<p>1 department basis, what we do is assess things on</p> <p>2 threat/risk/harm and you have to make decision about</p> <p>3 things that will be prioritised. Sometimes you have to</p> <p>4 make difficult decisions about things that will be</p> <p>5 prioritised ahead of others.</p> <p>6 I think throughout this, we have heard about</p> <p>7 pressures of work but we haven't heard about any</p> <p>8 prioritisation or process that was utilised, at any</p> <p>9 level in the borough, in order to make sure that those</p> <p>10 were addressed.</p> <p>11 Q. I am not sure I accept that, but I will come back to</p> <p>12 that with individual officers.</p> <p>13 Still on qualifications, we have in the core teams</p> <p>14 we are concerned with, an acting detective inspector in</p> <p>15 Mr McCarthy, an acting detective inspector in</p> <p>16 Mr Schamberger and in the latter case with no prior</p> <p>17 background detective experience of any substance.</p> <p>18 What do you say to that, structurally, on borough at</p> <p>19 this time? In addition to all the trainees, what do you</p> <p>20 say to that?</p> <p>21 A. I think that I understand the rationale for utilising</p> <p>22 officers in the next rank up as acting in order to</p> <p>23 develop them. I think you will find that I have</p> <p>24 highlighted that, when you have -- for example in the</p> <p>25 case of the two acting detective inspectors in post,</p> <p style="text-align: center;">Page 23</p>
<p>1 Q. -- but in any environment, medical, policing or</p> <p>2 otherwise, where the whole environment is overloaded,</p> <p>3 people become less willing to ask these questions, don't</p> <p>4 they? They just try to do it themselves. That is the</p> <p>5 risk.</p> <p>6 A. That is a risk when there is pressure. And to balance</p> <p>7 that risk, my point around all of this has been that the</p> <p>8 leadership has a responsibility to recognise if there is</p> <p>9 that pressure, the impact of it, and to make sure that</p> <p>10 they are supporting their staff and taking those steps.</p> <p>11 If they can't, and I know that we heard from</p> <p>12 DS Turrell I think it was, that she had raised this,</p> <p>13 hadn't she, the issues around not being able to</p> <p>14 effectively work or manage, through her line managers</p> <p>15 and that was the right thing to do.</p> <p>16 Q. One interpretation of the evidence is that it was no</p> <p>17 secret on borough, right up to the senior leadership</p> <p>18 team, just how overloaded the system was, but, bluntly,</p> <p>19 there were no additional resources to throw at it. You</p> <p>20 can raise it all you like, but if there are no</p> <p>21 additional resources, there is no practical difference,</p> <p>22 is there?</p> <p>23 A. When you are working in an environment where there is</p> <p>24 a lot of pressure or it is particularly busy, and that</p> <p>25 could be on a day by day or week by week or a different</p> <p style="text-align: center;">Page 22</p>	<p>1 neither of them will have had an opportunity to attend</p> <p>2 the national course -- this is what you are talking</p> <p>3 about -- the qualifications --</p> <p>4 Q. Pausing there.</p> <p>5 A. Sorry?</p> <p>6 Q. I am sorry to interrupt, but those courses matter, don't</p> <p>7 they?</p> <p>8 A. They do matter.</p> <p>9 Q. They deliver expertise?</p> <p>10 A. Yes, they do.</p> <p>11 Q. They deliver the capacity better to manage</p> <p>12 investigations of this type. So if people are acting up</p> <p>13 without the training, you risk a compromise to</p> <p>14 performance, by definition.</p> <p>15 A. So I agree with what you are saying in that it creates</p> <p>16 huge risk when everybody is acting at every rank, and if</p> <p>17 there was nothing put in place to support those</p> <p>18 individuals, either in the form of a mentor or a leader</p> <p>19 that is making sure they are regularly sitting down with</p> <p>20 them to say:</p> <p>21 "Do you know what you are doing? Are you all right?</p> <p>22 Come and talk to me. What are your difficult challenges</p> <p>23 this week/this month?"</p> <p>24 You know, they are the things that need to be put in</p> <p>25 place to support people doing jobs that either they</p> <p style="text-align: center;">Page 24</p>

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<p>1 haven't had the training for or they are just moving up</p> <p>2 into that next rank.</p> <p>3 Q. Of course sitting above those two acting detective</p> <p>4 inspectors was a temporary detective chief inspector,</p> <p>5 Mr Kirk. So from top to bottom you have people in fact</p> <p>6 who haven't had accreditation and training to perform</p> <p>7 role, top to bottom in the particular teams we are</p> <p>8 looking at.</p> <p>9 A. Mr Kirk I think had been in that position for some time,</p> <p>10 and he would have had the relevant detective inspector</p> <p>11 training. But I think it even goes one higher than</p> <p>12 that, doesn't it, was Mr Hamer not a temporary</p> <p>13 superintendent initially, or one of them was a temporary</p> <p>14 superintendent, so yes.</p> <p>15 Q. There is no dispute of fact that acting roles have</p> <p>16 a professional benefit, but it is the proportion here in</p> <p>17 the teams on Barking at the time that was known and</p> <p>18 surely represented a risk to the quality of delivery by</p> <p>19 borough?</p> <p>20 A. The question you are asking me is about the level of</p> <p>21 risk that that delivers and the number that were there.</p> <p>22 I mean I am not best placed, Mr Cundy made reference to</p> <p>23 other boroughs that had significant numbers of acting as</p> <p>24 well, I think. I'm not best placed within the</p> <p>25 Metropolitan to say how they measured that risk. What I</p> <p style="text-align: center;">Page 25</p>	<p>1 an officer yourself, there would be an expectation they</p> <p>2 would do that, wouldn't there?</p> <p>3 A. I don't think so. The reason I say that is it depends</p> <p>4 which pathway they are on.</p> <p>5 So old-style promotion process, you took an exam and</p> <p>6 that exam, that qualification, sat with you for the</p> <p>7 purposes of promotion forever. You could then choose or</p> <p>8 be asked to act up accordingly.</p> <p>9 In the new process, which we use now, the exam that</p> <p>10 you take for the next rank up, so this is just sergeant</p> <p>11 and inspector, is only valid for a period of five years,</p> <p>12 so if you were taking that exam and putting yourself</p> <p>13 through that process of getting that first aspect of the</p> <p>14 qualification, then it is usually with an expectation</p> <p>15 that you want to get promoted within the five-year</p> <p>16 period.</p> <p>17 So I think that if you take the exam and you are</p> <p>18 qualified, and you are asked to act up, it is more</p> <p>19 likely that you would say yes than no. I think that if</p> <p>20 you don't take the opportunity, it is not considered</p> <p>21 an adverse impact on your career per se, not in the way</p> <p>22 that: we are not going to promote that person or ask</p> <p>23 them again because they have declined on this occasion.</p> <p>24 People will always have good reasons for declining and</p> <p>25 I think if you look, as we have talked about, the number</p> <p style="text-align: center;">Page 27</p>
<p>1 do accept is that --</p> <p>2 Q. Mr Cundy didn't produce any concrete example, so I will</p> <p>3 move on.</p> <p>4 A. No, but my point is --</p> <p>5 Q. I am interrupting again, it would be disturbing if there</p> <p>6 were boroughs with an even higher proportion of acting</p> <p>7 or trainees or temporaries, wouldn't it? Even higher</p> <p>8 than this?</p> <p>9 A. My point around these officers here is that when you</p> <p>10 have people who are in those acting roles and there is</p> <p>11 no support around them, it will pose a risk to the</p> <p>12 organisation, and I have highlighted that, because if</p> <p>13 they don't have the requisite training and support,</p> <p>14 either they will not have the knowledge to be able to</p> <p>15 investigate effectively or mistakes will be made.</p> <p>16 Q. Yes, deconstructing risk to the organisation, you mean</p> <p>17 there is a risk that despite their best efforts the</p> <p>18 quality of investigations would be compromised, it</p> <p>19 doesn't remove individual responsibility but despite</p> <p>20 people's best efforts, that structure will risk</p> <p>21 compromise to the quality of investigation?</p> <p>22 A. So it can provide risk.</p> <p>23 Q. Can I just pick up briefly on a point the jury asked</p> <p>24 earlier. Culturally, if an officer is asked to act up,</p> <p>25 for example to be acting detective inspector, as</p> <p style="text-align: center;">Page 26</p>	<p>1 of opportunities that appear to be there to conduct</p> <p>2 acting, because everybody is acting, the fact that you</p> <p>3 perhaps don't act up this month or in this period of six</p> <p>4 months, it seems that there would be future</p> <p>5 opportunities anyway because of the way the borough was</p> <p>6 operating.</p> <p>7 Q. If the reality is not the theory, and how it should</p> <p>8 work, but being approached by your governor who says,</p> <p>9 "I am desperate, there is no one else to fill the post,</p> <p>10 will you act up?" Then, in reality, there is a pressure</p> <p>11 to do it, isn't there?</p> <p>12 A. I still think that if you felt that you couldn't do it</p> <p>13 or you were not ready to take on that responsibility,</p> <p>14 then you would be able to decline that.</p> <p>15 Q. Let's look at the capacity question in terms of</p> <p>16 supervision, allowing again for in principle there</p> <p>17 should be professional supervision, and that should</p> <p>18 factor in the level of experience or not of those you</p> <p>19 are supervising. You need to put that in the context of</p> <p>20 how much capacity you have yourself to conduct intrusive</p> <p>21 supervision, don't you? Back to the shift point I made</p> <p>22 earlier, you have to squeeze everything into your shift,</p> <p>23 as a basic proposition?</p> <p>24 A. Yes, of course you do. There are a number of things</p> <p>25 that you have to do. So if you are a supervisor, you</p> <p style="text-align: center;">Page 28</p>

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<p>1 have a number of responsibilities, you have</p> <p>2 responsibilities to your team, you have responsibilities</p> <p>3 to delivering the daily service, you have responsibility</p> <p>4 to ensure any investigations are conducted, and you will</p> <p>5 undoubtedly have other responsibilities that come to the</p> <p>6 table that perhaps are not something that is a regular</p> <p>7 thing that you deal with.</p> <p>8 Q. Some, but not all, of the features we have heard in</p> <p>9 these proceedings are: there had been on Barking</p> <p>10 a reduction in the number of substantive sergeants;</p> <p>11 a reduction from seven to three in the number of DIs;</p> <p>12 DS O'Donnell, because of workload on others, had</p> <p>13 personally retained some 70 investigations himself, as</p> <p>14 a DS, which would normally have been a matter of him</p> <p>15 supervising others.</p> <p>16 This all stretches the supervisor's capacity,</p> <p>17 doesn't it, to be as intrusive as they may have wished</p> <p>18 to be in the supervision of others?</p> <p>19 A. It does, and I would fully accept that, and I think</p> <p>20 those workloads are high. If he had personally 70</p> <p>21 investigations, that is high. I think we should</p> <p>22 recognise that. I don't know the context of all those</p> <p>23 investigations, and whether a number related to the same</p> <p>24 matter, but I also think that it is important that there</p> <p>25 are other aspects of supervising than just trying to</p> <p style="text-align: center;">Page 29</p>	<p>1 Q. Then another day goes by when something has not</p> <p>2 happened. That is the working environment?</p> <p>3 A. Yes, it is.</p> <p>4 Q. Looking at Mr McCarthy, you will remember, won't you,</p> <p>5 and I come back to the point as to his own priorities,</p> <p>6 he was, in August 2014, made responsible for the Barking</p> <p>7 community safety unit, which was one of nationally for</p> <p>8 the types of so-called domestic violence that was</p> <p>9 intrinsic to that role, one of the highest numbers of</p> <p>10 cases per capita anywhere in the country?</p> <p>11 A. That is what he said, yes.</p> <p>12 Q. He was responsible for 60 to 70 members of staff?</p> <p>13 A. 60 to 70?</p> <p>14 Q. Yes.</p> <p>15 A. Yes.</p> <p>16 Q. DCI Kirk said that Mr McCarthy's proactive policing had</p> <p>17 prevented the escalation of domestic abuse cases to what</p> <p>18 may have otherwise been very serious crimes of violence</p> <p>19 or homicide.</p> <p>20 So those cases cannot be categorised as anything</p> <p>21 other than an immediate priority, can they? Where there</p> <p>22 is a risk of serious domestic violence and he is</p> <p>23 responsible for policing it. What could be a greater</p> <p>24 priority day to day than that?</p> <p>25 A. I think the purpose of the inquest is to understand that</p> <p style="text-align: center;">Page 31</p>
<p>1 take the pressure off your staff by doing those</p> <p>2 investigations.</p> <p>3 Q. We have also heard that it was the nature of CID work</p> <p>4 that possibly in contradistinction to the more</p> <p>5 controlled environment of a MIT, it was reactive very</p> <p>6 often -- you would come in intending to do one thing and</p> <p>7 you would be pulled away to an operational matter at</p> <p>8 very short notice, for example DC Desai being made to do</p> <p>9 the warrant and the search and the interview, one</p> <p>10 obvious example. His whole day taken over at very short</p> <p>11 notice?</p> <p>12 A. Yes, so to be clear, reactive CID office, which is what</p> <p>13 this was on the borough, it is the same as reactive CID</p> <p>14 offices across the country, that is exactly what</p> <p>15 happens, you have your work that you are investigating,</p> <p>16 your day job, if you like, and then when things come</p> <p>17 through the door you are expected to respond and like</p> <p>18 the interview, going out to the sudden deaths,</p> <p>19 particularly in these cases, these are all things that</p> <p>20 come through the door each day.</p> <p>21 Q. It is a childish point to make, I suppose, but whatever</p> <p>22 you had planned for your shift in terms of other</p> <p>23 investigations, making progress, priorities, overtaken</p> <p>24 at short notice by the realities of reactive policing?</p> <p>25 A. Yes, that happens.</p> <p style="text-align: center;">Page 30</p>	<p>1 investigating of the death of somebody is equally a high</p> <p>2 priority --</p> <p>3 Q. I am not suggesting it is not a priority or a high</p> <p>4 priority. I am suggesting that when you are dealing</p> <p>5 with real-time operational policing, real-time threats</p> <p>6 of serious violence to extremely vulnerable people, and</p> <p>7 you have a massive workload in that environment, that is</p> <p>8 equal, if not greater, priority, and he was entitled to</p> <p>9 do that?</p> <p>10 A. My suggestion, back to you, is that notwithstanding all</p> <p>11 of this, at some point he should have sat down and taken</p> <p>12 the time to review where the investigation was.</p> <p>13 So it is not a case of this is better than that, or</p> <p>14 this should take precedence over that, you need to be</p> <p>15 able to put time in your diary, and that might be</p> <p>16 duplicated on a number of occasions because something</p> <p>17 supersedes it, but you need to be able to put time in to</p> <p>18 sit down and say: where are we with this investigation</p> <p>19 into the death of Anthony? That was my point, that when</p> <p>20 he has handed over to DS O'Donnell, there has been no</p> <p>21 further sit down and say:</p> <p>22 "Have we done these actions? Where are we with it?</p> <p>23 Are we happy with the position? Do you need any other</p> <p>24 help or support? Should we go back to the HAT? Have we</p> <p>25 gone back to the HAT? Who is doing what?"</p> <p style="text-align: center;">Page 32</p>

<p>1 Q. He delegated, bearing in mind his other 2 responsibilities, to an experienced detective sergeant, 3 and when it came to a point in time, he set and was 4 expecting the matter to be referred to the HAT for 5 further input before it went to the CPS. That didn't 6 happen, but that's a separate point. 7 Have you been able to look at the level of 8 Mr McCarthy's other commitments in detail before you 9 made judgment on whether he was right to step back and 10 delegate to Detective Sergeant O'Donnell, or are you 11 simply asserting it? 12 A. He stepped back -- I think it was around 27/28 June -- 13 and gave that back to Sergeant O'Donnell. He then goes 14 on and takes on his other responsibilities. 15 My opinion is that he should have still maintained 16 an intrusive responsibility around that investigation. 17 He had started off saying that he thought it was 18 a homicide. He had gone to the HAT. He then stepped 19 back within a period of 10 days to say, "Actually, it is 20 now going to DS O'Donnell", without any rationale around 21 that and notwithstanding he might have had significant 22 other commitments, and I accept all of what you are 23 saying there, I still think he had a responsibility to 24 make sure that that investigation was progressing in 25 an effective manner.</p> <p style="text-align: center;">Page 33</p>	<p>1 cochairing MARAC, which was the multi-agency risk 2 assessment conference. 3 In your career, did you ever have a similar set of 4 concurrent responsibilities when you were a detective 5 inspector? 6 A. So I have taken part in some of those processes, so 7 chairing MARAC, contributing to MAPPA, being involved in 8 other areas of the business. That area that you are 9 referring to is what I would call a public protection 10 unit, detective inspector responsibility, so I have not 11 worked in the public protection unit arena, so I am 12 aware of all those areas of the business that you refer 13 to, and I am aware of that setup being the 14 responsibility of a detective inspector in -- so, for 15 example, in Avon and Somerset. 16 Q. I mean it is a formidable set of competing 17 responsibilities, isn't it, that he had? 18 A. He had a large portfolio. 19 Q. And at risk, to use your expression from yesterday, 20 where you are saying that policing is constantly looking 21 at managing risk, he is responsible for managing risk to 22 dozens concurrently of vulnerable people in the 23 community and managing the risk represented by offenders 24 in the community. Those are priorities, aren't they? 25 A. I was going to say that I completely acknowledge that</p> <p style="text-align: center;">Page 35</p>
<p>1 Q. An investigation he reverted to, and I repeat again, in 2 his expectation, having reviewed it, having delegated it 3 to an experienced detective sergeant, that it would go 4 to the HAT and the error is that it didn't, it fell 5 between the cracks between those two officers. 6 A. He only reviewed it though before he handed it over, 7 didn't he? He didn't review it again afterwards. 8 Q. Well, the point is made that he was discharging his 9 duties generally, supervising some 60 to 70 other staff 10 members on some of the most difficult and operationally 11 immediately demanding domestic violence cases. 12 Mr Schamberger, you are aware, you have heard the 13 evidence, that, firstly, he was an A/DI with limited if 14 any direct detective experience before he took that 15 additional responsibility on, but, additionally, as we 16 have seen, had geographically removed responsibilities 17 to the multi-agency safeguarding hub, for child sexual 18 exploitation on borough, for missing persons, for the 19 youth offending service, for the gangs unit, for the 20 integrated offender management unit, for Operation 21 Jigsaw -- which to remind people was managing the 22 borough's high risk sexual and violent offenders in the 23 community -- he was chairing the multi-agency public 24 protection arrangements committee, which manages high 25 risk sexual and violent offenders and he was chairing or</p> <p style="text-align: center;">Page 34</p>	<p>1 there is high-risk offenders that he will be managing 2 within that arena. 3 Q. There is a risk of minimising the responsibility, isn't 4 there? 5 A. I think that if you -- 6 Q. The volume of time it takes to manage those risks. 7 These are cases that require careful ongoing review and 8 sometimes real-time operational responses, because of 9 the level of threat and risk. 10 A. A lot of policing is managing risk and we have just 11 discussed about the risk that is managed in the borough 12 CID office and dealing with the risk that is presented 13 each day, you have related to the risk around the 14 domestic violence unit, domestic abuse unit. The same 15 risk is in the public protection unit. That is the 16 business of policing, is managing risk. 17 Q. When you are giving any opinions about then 18 A/DI Schamberger, we have to recognise -- it is not 19 a criticism -- that you yourself, when you were 20 a detective inspector, never had anything like this 21 concurrent portfolio of risk to address. You heard him 22 describe it? 23 A. My portfolios were around managing risk to life, 24 managing gun crime, managing drug dealers, managing 25 deaths, managing domestic abuse ...</p> <p style="text-align: center;">Page 36</p>

<p>1 So my management of risk as a detective inspector 2 was also significant, it just wasn't in a public 3 protection world. I completely acknowledge it is 4 a risky business, I know it, I understand it, I have 5 worked in some of those meetings, I have chaired some of 6 those meetings and I have contributed towards them. So 7 I do completely acknowledge that. I think my point is 8 that all policing is risky, we all have responsibilities 9 and it is hard work.</p> <p>10 Q. Let me go on to a more general point, again, which is 11 the relative ability of a MIT versus borough to conduct 12 investigations into unexplained deaths. I think the 13 substance of your evidence yesterday, starting at 14 page 102 of the transcript, is that in simple terms MIT 15 is a very different animal in terms of its ability to 16 investigate these things, coordinate it, record actions, 17 follow up actions, throw people at it, get results from 18 forensics, than a borough CID team fitting it in around 19 other responsibilities?</p> <p>20 A. Yes, that is definitely the case.</p> <p>21 Q. They are just poles apart, aren't they, in terms of 22 their abilities to focus on the investigation and give 23 it a priority?</p> <p>24 A. So I made it clear yesterday that they are structurally 25 better set up, they operate in that way every day, so it</p> <p style="text-align: center;">Page 37</p>	<p>1 A. Yes, it is, yes. They have that resource available to 2 them.</p> <p>3 Q. In reality, they also have the fact that if they ask for 4 something to be submitted to forensics, for whatever 5 reason, from a MIT that is almost certainly going to be 6 authorised without difficulty?</p> <p>7 A. I think the thing about the forensic submissions is they 8 have ready access to the crime scene manager, which 9 makes it much easier to prioritise what you are going to 10 do.</p> <p>11 Q. Although it is obviously depicted accurately or not in 12 popular dramas, the major incident room is just that, 13 isn't it, it is dedicated to an investigation?</p> <p>14 A. It is, yes.</p> <p>15 Q. Unlike the borough CID room, which is investigating 16 hundreds of matters at the same time?</p> <p>17 A. Yes, and the MIT team might investigate hundreds of 18 matters, but when the operation room is active, then 19 that is usually dedicated to that one investigation.</p> <p>20 Q. Yes.</p> <p>21 In general terms, where MIT have not assumed 22 primacy, but they are advising a borough CID team, how 23 do you see the purpose of the written HAT advice? What 24 should be in it?</p> <p>25 A. We have heard evidence about HAT advice and why that has</p> <p style="text-align: center;">Page 39</p>
<p>1 is just their core business. They have more resources 2 available, they have access easily to things that will 3 help support those investigations.</p> <p>4 Q. Page 106 of the transcript yesterday -- I won't rehearse 5 it all -- but you point out one of the merits of the 6 HOLMES system relative to any other system, which is, 7 whilst not artificial intelligence, it means that all 8 actions are recorded and there is an automated system 9 for seeing whether they have been done and they are not 10 signed off until there is a rationale for it no longer 11 being required?</p> <p>12 A. Yes, that's correct.</p> <p>13 Q. Although it is not investigating for you, it is 14 ensuring, as a minimum, that all actions are recorded 15 and all actions are either done or not done for 16 a particular reason?</p> <p>17 A. Yes, it is a tool for doing that.</p> <p>18 Q. You have also said -- it probably applies particularly 19 here to the Walgate and Whitworth investigations, where 20 the HAT team were involved at the early stages -- that 21 unlike perhaps borough the MIT team is able, at short 22 notice to, as you put it, work at pace and pressure and 23 take people off other enquiries, for example in the 24 96-hour window of custody to, progress the 25 investigation. That is another difference, isn't it?</p> <p style="text-align: center;">Page 38</p>	<p>1 been given. My view is that if the HAT team are 2 involved, when they provide that written advice they 3 should be supportive, helpful, outlining their 4 understanding of the situation as has occurred, lines of 5 enquiry that should be followed up and any advice on how 6 that could be done.</p> <p>7 Q. You will have read the evidence questioning from me, 8 amongst others, that HAT advices in this case did not 9 always include specific lines of enquiry that had been 10 stated orally by the attending HAT officer to the 11 borough officer.</p> <p>12 A. So I have heard the HAT officers, I have heard you ask 13 that question and they have said perhaps they wouldn't 14 write down things they think are obvious, or it is meant 15 to be a bit more generic than that.</p> <p>16 Q. What is your view on that?</p> <p>17 A. I think that if you have had the discussion and the HAT 18 are attending and I made a bit of reference to this 19 around the support to DI McCarthy, that there was no 20 written feedback around things to consider. I think the 21 HAT document, it appeared to me, is probably something 22 that is used as a standard document every day and they 23 have just gone down the list and filled in a few key 24 areas without giving it thought.</p> <p>25 The reason I say that is, in particular, the results</p> <p style="text-align: center;">Page 40</p>

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<p>1 of the special post mortem, when there is no sign of</p> <p>2 assault, you know key areas that really should be</p> <p>3 explored are not there and not highlighted.</p> <p>4 Q. I am coming on to that now, but in general terms, if it</p> <p>5 is known that the HAT advice is going to be used, read</p> <p>6 by multiple audiences for one thing but used by the</p> <p>7 borough team as a basis for expert guidance on what</p> <p>8 actions to take, even obvious actions should be set out</p> <p>9 in writing, shouldn't they, so they are not missed?</p> <p>10 A. Absolutely, and that is the crux of some of this, isn't</p> <p>11 it, is that actions are not documented. So whether that</p> <p>12 is on the HAT or on the CRIS or even in an email so it</p> <p>13 can be transferred from one medium to another, the lack</p> <p>14 of documentation around actions means that there is no</p> <p>15 trail to follow and therefore it doesn't mean that they</p> <p>16 are all recognised as to whether or not they are</p> <p>17 completed.</p> <p>18 Q. Because on the HOLMES system, whether or not an action</p> <p>19 is obvious, it goes on the system as an action, on</p> <p>20 a common database, to ensure, however obvious, it</p> <p>21 happens. There should be no different system for a HAT</p> <p>22 advice, should there, to borough? No different</p> <p>23 principle applies? A list of actions to take, however</p> <p>24 obvious.</p> <p>25 A. Whether that is on the HAT advice or however that is</p> <p style="text-align: center;">Page 41</p>	<p>1 over all that ground again, but looking at the post</p> <p>2 mortem, the special post mortem, you have already</p> <p>3 covered the ground that Dr Biedrzycki gave the cause of</p> <p>4 death as under investigation. "There are no signs of</p> <p>5 assault or restraint", and you have covered that as to</p> <p>6 in your opinion that as being somewhat misleading given</p> <p>7 the bruising.</p> <p>8 Can I ask about this though, Anthony was found at</p> <p>9 4.00 in the morning, or just after, by an experienced</p> <p>10 paramedic. He had an ear temperature of 24 degrees.</p> <p>11 This on an ordinary night in the middle of June in the</p> <p>12 summer, when he is wearing all his clothing, he has</p> <p>13 a hoody on with the hood up, reducing the loss of heat</p> <p>14 through the head. There is rigor mortis observed in his</p> <p>15 small joints and he has hypostasis.</p> <p>16 Allowing for the fact there is a degree of debate as</p> <p>17 to precisely quantifying time of death around that. In</p> <p>18 your report you have attached significance to those</p> <p>19 three elements, as to the basis on which he was found.</p> <p>20 Do you stand by that?</p> <p>21 A. Yes, I do. Just to help the jury, so for me the key</p> <p>22 things at that scene when the police attended was the</p> <p>23 fact that Anthony was so cold, and if he had just died,</p> <p>24 as was indicated by Port when he made the call to the</p> <p>25 ambulance and subsequently to the police, that was not</p> <p style="text-align: center;">Page 43</p>
<p>1 communicated or if the person who is receiving it</p> <p>2 records that, I think your HAT officers gave evidence</p> <p>3 that they saw it more as a strategic document to inform</p> <p>4 others, but I agree with you in that if we are setting</p> <p>5 out actions to support an investigation or an inquiry,</p> <p>6 they need to be recorded somewhere. If those actions</p> <p>7 are coming from the HAT officer, so another example in</p> <p>8 point is around the handwriting, isn't it, the</p> <p>9 submission of that, that is included on there that that</p> <p>10 should be considered.</p> <p>11 Q. Yes.</p> <p>12 A. I can't speak for how it is operating now, because</p> <p>13 I know there has been a review, hasn't there? But</p> <p>14 I think it should be clearer:</p> <p>15 "This is our strategic oversight of what has</p> <p>16 happened, these are the actions that we recommend that</p> <p>17 are done and have been shared with borough, whoever that</p> <p>18 is."</p> <p>19 Then it is clear for everybody to see and there is</p> <p>20 no mistake.</p> <p>21 Q. Yes.</p> <p>22 Going to the Walgate investigation, I think you have</p> <p>23 covered the ground with others that in your view it</p> <p>24 should have been assumed by MIT and retained by MIT as</p> <p>25 and until suspicion had been eliminated. So I won't go</p> <p style="text-align: center;">Page 42</p>	<p>1 consistent with him having just died, the body</p> <p>2 temperature.</p> <p>3 Hypostasis, and I accept that I am not a medical</p> <p>4 expert and I purely include this on the basis of my own</p> <p>5 experience and opinions and just looking at what the</p> <p>6 scene tells you, as I said before, should prompt you to</p> <p>7 ask a number of questions.</p> <p>8 Hypostasis will indicate the pooling of the blood</p> <p>9 within the body when it has been lying for a period of</p> <p>10 time, perhaps the position that that body has been in</p> <p>11 and occasionally, when you are looking at that, it might</p> <p>12 raise the question of the pooling is here but they are</p> <p>13 not lying on their side, why is that? Is it as a result</p> <p>14 of being moved or is it because they have been in</p> <p>15 another position for a period of time?</p> <p>16 Then the final point you raised was around the rigor</p> <p>17 mortis. Again, I am not a medical expert, but rigor</p> <p>18 mortis usually sets in some time after death and I know</p> <p>19 that Dr Munro didn't actually relate to this until 8.00</p> <p>20 in the morning, so some four hours later, but even if</p> <p>21 you took that perhaps it was 6 to 9 hours -- and it can</p> <p>22 be different on every occasion given external</p> <p>23 temperatures, and this is why the pathologist didn't</p> <p>24 want to put any credence to it necessarily, but for me</p> <p>25 personally, it was not about saying, "He had definitely</p> <p style="text-align: center;">Page 44</p>

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<p>1 died at such and such a time", it prompted a number of</p> <p>2 questions that as he presented there, it did not look</p> <p>3 like he had just died at 4.00 in morning when the call</p> <p>4 came in and therefore what had happened in that</p> <p>5 intervening period of time?</p> <p>6 I think that is the question that you are asking of</p> <p>7 me, that is what I explained in my report. I accept</p> <p>8 there has been debate during the course of the inquest</p> <p>9 around whether you can give too much accuracy to it, but</p> <p>10 for me personally, assessing a scene, I think that is --</p> <p>11 Q. 24 degrees, is 24 degrees, isn't it?</p> <p>12 A. 24 degrees is what, 12 degrees lower than it should be?</p> <p>13 Yes.</p> <p>14 Q. I suppose my point is: are you surprised there is no</p> <p>15 reflection whatsoever in the special post mortem</p> <p>16 analysis of the 24 degrees, the rigor mortis and the</p> <p>17 hypostasis as one way or the other indicating a range</p> <p>18 for the time of death?</p> <p>19 A. I can't answer for the pathologist, all I can say is</p> <p>20 that, having read the documents available to me,</p> <p>21 I identified those things as I would consider important</p> <p>22 to consider at the scene. So I am sorry, I can't say</p> <p>23 what the pathologist would say. I know they didn't want</p> <p>24 to comment specifically.</p> <p>25 Q. All right.</p> <p style="text-align: center;">Page 45</p>	<p>1 was such a review, or simply wait to be asked again?</p> <p>2 A. Yes, I think the email that you are referring to</p> <p>3 actually only addressed members from SC&O1 -- is that</p> <p>4 correct, as well?</p> <p>5 Q. Yes.</p> <p>6 A. If he has communicated that to either DCI Jones --</p> <p>7 I know that he didn't do that support on the</p> <p>8 Thursday/Friday, the Friday in particular -- but if he</p> <p>9 was the one who was the initial attending officer and he</p> <p>10 was the SIO nominated to be the link with the borough,</p> <p>11 then it should have gone back to him.</p> <p>12 I think the whole point of this is it wasn't clear</p> <p>13 within HAT or SC&O1 which SIO was retaining</p> <p>14 responsibility for liaising with the borough, if any.</p> <p>15 Who had responsibility for making sure a review took</p> <p>16 place, and then there was no check and test and follow</p> <p>17 up to see if it had taken place.</p> <p>18 Q. Right.</p> <p>19 The specialist interview conducted of Port by</p> <p>20 DC Holt and DC Levoir, the tier 5 specialist</p> <p>21 interviewer, where manuscript notes were provided to</p> <p>22 Mr McCarthy, DC Levoir appears to have briefed Mr Jones</p> <p>23 but not Mr McCarthy following that interview. No typed</p> <p>24 record has been shown to exist, no follow up to the</p> <p>25 interview has been provided to borough by anyone at MIT.</p> <p style="text-align: center;">Page 47</p>
<p>1 To take matters on in time, I don't want to go</p> <p>2 through the documents again, we know there is DCI Kirk's</p> <p>3 email about SC&O1 taking primacy, IPC753, we know that</p> <p>4 Mr Sweeney replied as he did, others have taken you</p> <p>5 through those documents. We know that DC Desai</p> <p>6 interviewed Mr Port when he did, when there was</p> <p>7 a complete change of account from Mr Port.</p> <p>8 Have I understood you correctly that throughout it</p> <p>9 should have been an SC&O1 investigation, but once Port</p> <p>10 had changed his account to DC Desai, what was already</p> <p>11 clear was really unanswerable, in terms of who should</p> <p>12 have primacy?</p> <p>13 A. Yes, I think that the account he was giving just wasn't</p> <p>14 satisfactory in relation to the death of Anthony and</p> <p>15 that they should have taken primacy to investigate fully</p> <p>16 what his involvement was in that death.</p> <p>17 Q. You have commented -- I will not rehearse it all again</p> <p>18 for that reason -- on the fact that Mr Sweeney's reply</p> <p>19 included that primacy would be regularly reviewed as the</p> <p>20 investigation produces results and, more generally,</p> <p>21 having cleared the ground as he put it, there would be</p> <p>22 a review, and that never happened?</p> <p>23 A. No, it didn't.</p> <p>24 Q. Bearing in mind that was Mr Sweeney's intention, was</p> <p>25 there an obligation on SC&O1 proactively to ensure there</p> <p style="text-align: center;">Page 46</p>	<p>1 At risk of repetition, where you have a specialist</p> <p>2 MIT team interviewing somebody, what are the minimum</p> <p>3 expectations in terms of how the hard-edged</p> <p>4 recommendations arising from that interview are passed</p> <p>5 back to borough? What would you expect as an absolute</p> <p>6 minimum, following an interview of that length, where</p> <p>7 they have been present and are able to brief borough as</p> <p>8 to the key points. What is the minimum expectation?</p> <p>9 A. I think I covered this yesterday, in that my expectation</p> <p>10 would be that there was highlighting orally of any</p> <p>11 fast-time actions out of that interview with DS Reeves,</p> <p>12 who was there as their supervisor, to provide that</p> <p>13 bridge and that a report should have been prepared.</p> <p>14 Again, just highlighting those actions so that it was</p> <p>15 easy for anybody picking it up to see that.</p> <p>16 I think that would be my expectation, if it was in</p> <p>17 a MIT environment as well as within a borough</p> <p>18 environment. My point is that, in either scenario, that</p> <p>19 would be the expectation that that would be fed back in.</p> <p>20 Q. To put it very bluntly: to highlight in writing the</p> <p>21 points arising that have attracted an asterisk in your</p> <p>22 manuscript note?</p> <p>23 A. Yes.</p> <p>24 Q. Because, once again, if you rely on oral communication</p> <p>25 down the chain, it gets lost, doesn't it?</p> <p style="text-align: center;">Page 48</p>

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<p>1 A. It does. The other point around this that I raised is 2 there did not appear to be any briefing or debriefing. 3 The only other opportunity for capturing those actions 4 would be if collectively at the end of that Friday the 5 interview teams had sat down with DS O'Donnell and any 6 other members of staff that were working on it, so that 7 could be borough and MIT officers, collectively sit down 8 for an hour and go through all the information that has 9 been obtained and the actions that have been done that 10 day. 11 Q. There is a legitimate expectation, isn't there, for the 12 borough officers, that if something important was in 13 that interview, the MIT interviewing officers would 14 proactively tell them, proactively tell them 15 immediately? 16 A. Yes, I think there is definitely should be -- there is 17 a right to have an expectation of that, as you would if 18 you were working in the MIT environment. 19 Q. Yes, and furthermore, not just tell them but put that 20 point in writing in some way, so it was recorded? 21 A. So it doesn't get lost, yes. 22 Q. Recording is key, isn't it? 23 The HAT advice after that, IPC45. A couple of 24 points, and again if they are repetition I apologise. 25 One of them is that intel is being conducted by MIT</p> <p style="text-align: center;">Page 49</p>	<p>1 be familiar with setting the strategy and parameters 2 around dates, times, maybe search words or search 3 engines to look at when you are looking at either 4 computers or phones. This is an area of expertise that 5 they have and will be used to dealing with on a regular 6 basis. 7 Q. "They" the MIT team -- 8 A. Yes. 9 Q. -- as distinct from "they" the borough team? 10 A. Sorry, the MIT team. 11 Q. I am just labouring the point. This is specialist 12 advice from trained officers to borough colleagues, whom 13 they know are less qualified in the conduct of 14 homicide-related investigations. That is why it has to 15 be pretty clear, isn't it? 16 A. I just think it would have been really, really helpful 17 and supportive if, in that, they had said time 18 parameters, what you should be looking for and given 19 that guidance and support. The purpose of the HAT team 20 on that day is to provide guidance and support. 21 I think we heard DS Reeves talk about, well, I would 22 have expected such and such a strategy to have been 23 done, because he works in an environment where those 24 strategies are prepared and done. The borough, and 25 I know this will go back to some of what you have</p> <p style="text-align: center;">Page 51</p>
<p>1 officers. True to say there wasn't a follow up to say: 2 where is the product? But if that is in a HAT advice, 3 again it is a legitimate expectation that that is being 4 done, isn't it? 5 A. Yes, it is. The fact that it is recorded on here shows 6 that they are doing it. I don't know where the MIT team 7 recorded that action and that that was to be captured to 8 be followed back in. They clearly either didn't do it 9 or they didn't feed back that product and on balance, it 10 is written on the HAT return and the borough didn't go 11 through that, identify the action and say: where is the 12 product? 13 Q. Yes. 14 But on the face of it, the exercise was being done 15 by the MIT team? 16 A. That is definitely an area of responsibility that they 17 have taken on that day, along with the interviews and 18 the search of the property. 19 Q. Additionally, and nothing new here, we see over the 20 page, "Ensure suspect's phone and laptop computer are 21 submitted for download". 22 I think you are critical in your report, paragraphs 23 67 and 71 in particular, that that is lacking 24 specificity. Can you elaborate on that criticism? 25 A. Yes, so the MIT team, as I have already alluded to, will</p> <p style="text-align: center;">Page 50</p>	<p>1 alluded to around their ability and capability to set 2 those strategies, the reason that they are going for 3 that help and support from the HAT or the MIT team is 4 for exactly that: 5 "We can do this work, just help us set it out 6 a little bit and help us with those actions that we 7 should be focusing on." 8 Q. There is absolutely nothing wrong in this professional 9 environment with the MIT team producing something of 10 a Ladybird set of action points and why a computer 11 should be sent off in the context of the immediate 12 investigation. In other words, what is the point of it? 13 If you are going to get the submission home. 14 That would have been good practice, wouldn't it? 15 A. That would have been good practice and that links into 16 the support from the PIP3 SIO to DI McCarthy around what 17 policy have you written? What are your objectives? Why 18 are you doing these things? What do you seek to 19 achieve? 20 Q. The Walgate post mortem, IPC339, again, you have 21 commented on this, and if we look at paragraph 9 in 22 particular, please. Well, we are familiar with it, this 23 is the point about the bruising -- "Conclusions", 24 paragraph 9, towards the end, I do apologise. 25 I think the point is about this, that the pre mortem</p> <p style="text-align: center;">Page 52</p>

<p>1 nature of this bruising was identified at the special 2 post mortem itself. In other words, the bruising under 3 the armpits was consistent with having been inflicted in 4 life rather than after death?</p> <p>5 A. Yes, I think they talk about in life or at the point of 6 death, is that the case here?</p> <p>7 Q. Moribund or pre-arrest?</p> <p>8 A. Yes.</p> <p>9 Q. Again, bearing in mind the presence of specialist MIT 10 officers and an exhibits officer indeed at the special 11 post mortem, that is the kind of subtlety that they are 12 there to pick up, isn't it?</p> <p>13 A. The purpose, in my understanding, of sending the MIT 14 officers to the special post mortem along with the 15 borough officer is because they have that expertise and 16 experience of attending those post mortems. They will 17 be familiar with the process of it, the questions that 18 need to be asked and also the importance of highlighting 19 everything that has been identified during the course of 20 that post mortem back to the investigating officer. 21 The reason for that is because you don't get the 22 final report until months later, so the pathologist 23 won't provide you with a final report, some pathologist 24 are much better and will give you an interim report 25 quite quickly, but your key link in at that early stage</p> <p style="text-align: center;">Page 53</p>	<p>1 experienced in doing that to be the ones that could do 2 that report.</p> <p>3 Q. Just before we break, I want to cover some contingencies 4 in the Walgate investigation, based on your evidence. 5 Much of your analysis -- I think all of it -- in terms 6 of what could have happened in terms of the 7 investigation and the timing of any charge decision was 8 on the premise that the investigation had been taken 9 over by a MIT, rather than conducted on borough. Do 10 I have that right?</p> <p>11 A. I think there are two strands to it. I think that if 12 the investigation had been taken over by MIT things 13 would have been expedited. I think the other strand 14 though is that the borough, if they had just continued 15 to record and progress their investigations, they would 16 have reached a stronger position more quickly and 17 efficiently. I think there are two different aspects to 18 that there.</p> <p>19 Q. Yes.</p> <p>20 One of the points you have made is that there is the 21 possibility that the toxicological results would have 22 been fast tracked under a MIT in the way that wasn't 23 possible under borough?</p> <p>24 A. I don't think I made that point. I think that point was 25 made by representative for the families. I think the</p> <p style="text-align: center;">Page 55</p>
<p>1 is the officers that attend the post mortem.</p> <p>2 Q. Same point, the obligation to produce a very clear set 3 of observations and action points for borough colleagues 4 if you are not assuming primacy is self-evident, isn't 5 it? Following a special post mortem?</p> <p>6 A. Sorry, could you repeat that, I couldn't quite hear?</p> <p>7 Q. The obligation following a special post mortem on the 8 MIT specialists who have attended to produce a clear, 9 comprehensive set of observations and action points is 10 almost too obvious for me to rehearse the point again, 11 isn't it?</p> <p>12 A. I think the reason they have gone is because they are 13 there to support the borough, so to support the borough 14 they should have produced a document that highlights the 15 key issues from the special post mortem. DS O'Donnell 16 attended, didn't he, he hadn't been at the scene, and 17 I think did he say that was his first post mortem or was 18 that DI Schamberger, forgive me?</p> <p>19 Q. Schamberger.</p> <p>20 A. Yes, so just to be clear, for those attending, this is 21 what we are going to record, these are the points that 22 we picked up from the post mortem, there is a debrief at 23 the end of it, you have heard the officers refer to 24 that, that is usual, and you take that away. 25 I would expect the team that are supporting and are</p> <p style="text-align: center;">Page 54</p>	<p>1 point around toxicology and forensic submissions was 2 that the MIT team have access to a forensic coordinator, 3 a crime scene manager, therefore that discussion would 4 probably have taken place more easily and therefore the 5 submissions would have been done.</p> <p>6 So they are -- part of their process is embedded and 7 the process on the borough, which is what I think you 8 are referring to, is not as embedded and therefore that 9 could and probably did lead to the delay of a week or 10 so.</p> <p>11 Q. You haven't referred or been referred in your evidence 12 to the fact that if we look at the FLO log, IPC78, 13 starting at page 19, T/DC, as he then was, Slaymaker has 14 given evidence that he was attempting to fast track the 15 toxicology, either 5 or 15 August, and if we turn to 16 page 21, and just remind ourselves that this was 17 refused:</p> <p>18 "I had a conversation with Brad [that is the person 19 he has to ask for authority] today, unfortunately they 20 cannot mark this as urgent as it will not be authorised. 21 The deadline date is kept as 2 October 2014."</p> <p>22 That, again, is something of the reality, isn't it, 23 that although borough tried, the indication they 24 received back was that it wouldn't have been authorised?</p> <p>25 A. I am not clear who the conversation was with to</p> <p style="text-align: center;">Page 56</p>

<p>1 authorise that, sorry.</p> <p>2 Q. Back to page 19?</p> <p>3 A. Is that a forensic coordinator or is that with the</p> <p>4 laboratory?</p> <p>5 Q. That is the borough forensic manager.</p> <p>6 A. Yes, okay.</p> <p>7 Q. The internal process on borough, the reality was,</p> <p>8 although the officer, T/DC Slaymaker, was pushing for it</p> <p>9 to be authorised, the reality was the borough forensic</p> <p>10 manager said it will not be marked as urgent?</p> <p>11 A. Is this dated 5 August or the 15th?</p> <p>12 Q. I think it is probably the 15th, because the next one</p> <p>13 looks to end with a 2, which implies it would be</p> <p>14 something 22.</p> <p>15 A. Was the initial result not back though by 13 August?</p> <p>16 Q. Yes, the initial result simply indicating GHB was back,</p> <p>17 but that doesn't give you anything in terms of the level</p> <p>18 of GHB, and whether it was even potentially capable of</p> <p>19 being fatal. It doesn't tell you a great deal, does it?</p> <p>20 A. So the point that you are raising here --</p> <p>21 Q. Stopping you there for a second, it also doesn't tell</p> <p>22 you as to whether it demonstrate when is it was taken.</p> <p>23 A. The point that you are raising here is that there was</p> <p>24 an awareness at this time that GHB was present, from the</p> <p>25 toxicology, and -- sorry, you will have to forgive me</p> <p style="text-align: center;">Page 57</p>	<p>1 Q. Unless it is marked and paid for as "urgent", this is</p> <p>2 the timetable.</p> <p>3 A. I can't comment on that, because I am not really sighted</p> <p>4 on the full circumstances as to what was being asked</p> <p>5 for, or the reasons as to why it couldn't be expedited.</p> <p>6 Q. Just in terms of what would have to be proved for</p> <p>7 a homicide, and what the CPS lawyer Mr Held said he</p> <p>8 would need to see to authorise a charge for homicide,</p> <p>9 you need the toxicology report to prove the drug has</p> <p>10 caused death. You can't charge without that, can you,</p> <p>11 if there is a threshold decision?</p> <p>12 A. You need a cause of death.</p> <p>13 Q. You need to prove that GHB not only was administered by</p> <p>14 Mr Port, with the requisite intent to cause at least</p> <p>15 really serious harm but in fact, even assuming those</p> <p>16 features, has caused death, more than minimally</p> <p>17 contributed to death. You cannot get to that threshold</p> <p>18 decision until you have the toxicology report and</p> <p>19 a pathology report based on it confirming that is the</p> <p>20 cause of death.</p> <p>21 A. You need to have a cause of death, you are absolutely</p> <p>22 right. I think that was achieved, wasn't it,</p> <p>23 subsequently in a short period of time following the</p> <p>24 death of Jack Taylor, when Operation Lilford came in?</p> <p>25 Q. Yes, under a MIT?</p> <p style="text-align: center;">Page 59</p>
<p>1 without referring to the document if there was</p> <p>2 mephedrone as well, but I think the significant drug</p> <p>3 that the toxicologist was saying was present was GHB.</p> <p>4 DC Slaymaker is asking if it could be expedited to</p> <p>5 get the full details around that, ie the levels of</p> <p>6 toxicity, through the crime scene manager and that</p> <p>7 wasn't authorised. Is that the point you are making?</p> <p>8 Q. He is asking for the final report from Ms Stanworth,</p> <p>9 which would include the levels and the interpretation of</p> <p>10 those levels, the crucial information in other words</p> <p>11 from the toxicologist. And an attempt to speed it up</p> <p>12 was refused. That is the point I am making.</p> <p>13 A. The forensic manager was saying that is not possible to</p> <p>14 do that, but I don't know the circumstances as to why</p> <p>15 that wasn't possible.</p> <p>16 So whether that was finance, whether that was the</p> <p>17 constraints of the toxicology lab or the ability to</p> <p>18 actually have those results back, because the initial</p> <p>19 results are there, aren't they?</p> <p>20 Q. It is not for me to say --</p> <p>21 A. Nor me.</p> <p>22 Q. -- but I think the inference is the timetables cannot be</p> <p>23 speeded up, they are going to work to their ordinary</p> <p>24 operating models.</p> <p>25 A. I don't think I can --</p> <p style="text-align: center;">Page 58</p>	<p>1 A. Under a MIT, yes, absolutely.</p> <p>2 Q. With a wholly different factual starting point of, by</p> <p>3 then, four suspected murder victims.</p> <p>4 I am concentrating on Mr Walgate.</p> <p>5 A. All I will say is that because this was not being</p> <p>6 investigated as a murder, which I think is the point you</p> <p>7 are making, the same support was not provided around</p> <p>8 those submissions.</p> <p>9 Q. Yes.</p> <p>10 In terms of some other features, you have already</p> <p>11 addressed the fact that the laptop was recommended for</p> <p>12 submission but without much specificity, but the laptop</p> <p>13 evidence itself, do you agree, doesn't prove that</p> <p>14 Mr Port administered GHB to Anthony. The laptop doesn't</p> <p>15 prove that?</p> <p>16 A. In the case of all of this, I don't think there is any</p> <p>17 single piece of evidence that proves he administered the</p> <p>18 GHB. The whole crux of this investigation is it is</p> <p>19 a combination of evidence that then leads eventually to</p> <p>20 that charging decision.</p> <p>21 Q. Neither does the laptop in itself prove an intention by</p> <p>22 Port, even if he is proved to have administered it, to</p> <p>23 cause really serious harm. It shows an interest in</p> <p>24 pornography of a particular type?</p> <p>25 A. I think the examination of the laptop shows that he has</p> <p style="text-align: center;">Page 60</p>

15 (Pages 57 to 60)

<p>1 not just an interest in pornography but a specific 2 interest in pornography where young men are drugged and 3 then raped. I think that is very different than if he 4 had not – if his interests had just been in pornography 5 and didn't have any similarities to the circumstances of 6 Anthony dying or potentially being present in his flat. 7 Q. Yes. 8 A. I think the importance -- 9 Q. He also had an interest in consensual use of GHB with 10 other partners for sexual euphoria. 11 A. Yes, and I think the importance though of computers is 12 that people often use them in a way that highlights what 13 their interests are at that time. So if you take 14 drugging to rape young men and you take consensual GHB, 15 then that will help the decision making and inform the 16 investigation team to understand what has gone on. 17 That is part of the wider investigation. 18 Q. I am not disputing it is part of the picture but in 19 terms of proving a specific offence against a specific 20 person, it is not conclusive, is it? 21 A. But none of these items of evidence that you have 22 discussed individually would have proved the specific 23 offence. The level of GHB in the toxicology alone would 24 have not proven the specific offence. It is a complex 25 investigation, which is what we have discussed, and it</p> <p style="text-align: center;">Page 61</p>	<p>1 at the time. 2 A. That is what he says -- that what it says I think on the 3 CRIS around his withdrawal? 4 Q. Yes. 5 A. Yes. 6 Q. Which in terms of proving an allegation of rape is 7 fundamental? 8 A. Yes, you have to prove that there was no consent and 9 that he didn't know. 10 Q. Yes, not only that there was no consent, but, 11 importantly, even assuming there is no consent, that 12 Port had no reasonable belief as to consent. Here the 13 victim is saying, in terms, he wouldn't have known 14 I wasn't consenting. That is the end of the rape 15 allegation, isn't it? 16 A. That is the end of the rape allegation there, which is 17 why it is filed. It doesn't detract from the 18 circumstances around it. 19 Q. I am not disputing that, as a general proposition as to 20 Port's personality, but it doesn't prove the Walgate 21 offence either, does it? 22 A. But it was never there to prove the Walgate case, it was 23 part, as I said, of the whole bad character and 24 understanding the behaviours of Stephen Port. That is 25 why it was important.</p> <p style="text-align: center;">Page 63</p>
<p>1 needed all those matters of evidence to be pulled 2 together. 3 MR DAVIES: Madam, I have less than five minutes on the 4 Walgate topic, if I can probably finish that and have 5 the break, if that is all right, to manage expectations. 6 The X1 incident on New Year's Eve, that is on the 7 PNC. You accept, don't you, that his account, leaving 8 aside the challenges presented by the witness in terms 9 of his mental health and so on, but his account in fact 10 doesn't involve an allegation of the administration of 11 GHB, it is poppers and alcohol? 12 A. So the account on the PNC is poppers. 13 Q. It is in the context of an ongoing relationship between 14 X1 and Port, that indeed continued after that incident? 15 A. Yes. 16 Q. Rather than meeting up online? 17 A. They are in a relationship, yes, and it is part of that. 18 Yes. 19 Q. As Mr O'Connor took you to yesterday, in the withdrawal 20 statement, whilst not withdrawing the fact that he 21 either felt pressured into it or didn't consent as 22 a fact, I am not challenging that, but in terms, 23 "Stephen would not have known I was not consenting". 24 A. Sorry, who would not have known? 25 Q. Stephen Port would not have known I was not consenting</p> <p style="text-align: center;">Page 62</p>	<p>1 Q. Going to X3, which is proximate in time, accept for 2 these purposes obviously relevant potentially to the 3 consideration of the Anthony Walgate situation. 4 But it is not necessarily straightforward, is it, 5 that X3 would have volunteered a statement in June 2014 6 about his experiences, although he was willing to do so 7 in April 2016. It is not that straightforward, is it? 8 A. I don't think we can comment on that, because he was 9 never approached for a statement, so I can't say. 10 Q. Could we have IPC390 up, please, starting with page 1. 11 This is his statement given to Lilford, 7 April 2016. 12 So this statement, some six months thereabouts after 13 Lilford has started, although they knew about X3 well 14 before that, the context is: 15 "I am a 24 year old, currently living at home with 16 my parents, my parents are unaware of my contact with 17 the police in the making of the statement. I do not 18 wish them to be informed. I do not drink alcohol, 19 neither do I use any drugs." 20 Then if we go to the very final page, please, 21 page 6, he then sets out his account and the jury have 22 had it read to them. If we go to page 6, final 23 paragraph: 24 "It has taken some time to provide this statement to 25 the police, as I am really fearful that my details are</p> <p style="text-align: center;">Page 64</p>

<p>1 not revealed so they are reported on in the media. My 2 sexuality is very private and I do not want anyone to 3 know of my involvement in this case, as if it were 4 I would never have agreed to assist the police in this 5 case." 6 It has taken him some time, for the perfectly 7 legitimate reasons he has given, to cooperate with 8 Lilford. So you cannot safely assume he would have done 9 so in isolation at the time of Anthony Walgate, can you? 10 A. I don't think I can comment, because he wasn't 11 approached at that time. 12 Q. You are assuming he would have cooperated. Although the 13 police had been involved, the BTP had been involved in 14 that incident, he had not gone to them to make 15 a complaint at the time. 16 A. So he hadn't made a complaint to BTP at the time. 17 I think the questions that I was asked was around 18 whether we, as an investigation team, should approach 19 him. I said yes. Then it went on that if he provided 20 that evidence during the 96-hour time clock, and there 21 was sufficient evidence for that offence, you could 22 approach the CPS because you have reached the threshold 23 test with a view to remanding him, Port, in custody. 24 I think that was the context of it, wasn't it? 25 I also referred to the importance of it around bad</p> <p style="text-align: center;">Page 65</p>	<p>1 Port actually administered that, but it is the evidence 2 as a whole to show that for the threshold charging test. 3 The toxicology, the cause of death, are crucial to part 4 of that process. 5 Q. Yes. 6 Final point, in terms of the investigation, you have 7 heard Mr Cundy refer to the ABC of investigations? 8 A. Yes. 9 Q. Everyone accepts that the evidence from friends and 10 family is important. Your experience as a detective, 11 surely, is that, as Mr O'Connor established, what 12 friends and family know about somebody may not be the 13 whole picture. Do you accept that? 14 A. Yes, I accept that. 15 Q. The job of the police investigation, applying the ABC, 16 is to establish the whole picture. 17 A. The job of the police investigation is to establish the 18 truth of what has happened. 19 Q. That can include, would require, an investigation into 20 a deceased's previous history of using drugs or not? 21 A. Yes, so a really important part of investigating 22 a death, I am sure you have referred it to here, is 23 something we call "victimology". It is understanding 24 everything that we possibly can around a victim and that 25 will, particularly in these cases, include use of drugs</p> <p style="text-align: center;">Page 67</p>
<p>1 character, about understanding the approach that 2 Stephen Port had made to him -- 3 Q. Ms Mackay, I am not disputing the relevance of it once 4 he has given the statement. 5 The issue is that it cannot safely be assumed in 6 June 2014, in circumstances when he hadn't given the 7 statement to BTP, and for the reasons he has given in 8 terms of his personal position, perfectly 9 understandably, it cannot be assumed that he would have 10 given a statement in 2014? 11 A. I am saying I don't know what he would have said or done 12 in 2014. 13 Q. To get to a charging decision for Walgate, the minimum 14 the CPS would have required, even as a threshold, was 15 evidence that Port had administered GHB, rather than 16 Anthony taking it voluntarily, and in terms of 17 a homicide decision, rather than administering a noxious 18 substance, not only proving that to the criminal 19 standard, but that the drug had caused or contributed to 20 Anthony's death, that requires toxicology, and 21 a pathology opinion, forensic pathology opinion, and he 22 did so with the intent to cause at least really serious 23 harm. All of those things would have to be in evidence 24 before even the threshold decision, wouldn't they? 25 A. I don't want to labour the point around proving that</p> <p style="text-align: center;">Page 66</p>	<p>1 and alcohol, as well as their behaviours. 2 That information can come from family and friends, 3 and what you are referring to is there will be occasions 4 as well where family and friends might not be sighted on 5 that information. They might behave in a way -- I think 6 X3 is a point around that -- that perhaps their family 7 are not aware of. 8 You have to balance all of that and it is about 9 obtaining all of the information and reviewing all of 10 it. 11 Q. We have heard the evidence summarised through 12 DI Richards of the hair sample analysis for the four 13 victims in this case. Now, with all the qualifications 14 in there of external contamination and the rest, for 15 Anthony, the variation in the reading of the washed hair 16 sample along its length weighed against it being 17 external contamination. 18 A. I don't know enough about that examination to be able to 19 comment effectively on that. 20 Q. If that justified a conclusion of a history of taking 21 GHB, that would be a relevant consideration, wouldn't 22 it, in the history around Anthony's death, whether he 23 took it voluntarily or not with Port? 24 A. If you are doing an examination and that shows 25 a presence of a drug that you are interested in, or any</p> <p style="text-align: center;">Page 68</p>

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<p>1 other drug, then it is relevant.</p> <p>2 MR DAVIES: Could I pause, there madam. Sorry to have gone</p> <p>3 on a bit longer.</p> <p>4 The residue of my questions are considerably</p> <p>5 shorter, I am assure you.</p> <p>6 THE CORONER: Thank you.</p> <p>7 Members of the jury, I don't know the precise</p> <p>8 timings from now on today, so if you have made any</p> <p>9 arrangements for this afternoon -- I am not saying it</p> <p>10 will be a full day, we certainly won't, but there is</p> <p>11 a risk that we might go into the afternoon. I am going</p> <p>12 to find out during the break how much that is a risk.</p> <p>13 Perhaps if you have made arrangements for 1.00, you</p> <p>14 could do something about disentangling those during this</p> <p>15 break.</p> <p>16 Thank you very much.</p> <p>17 (11.39 am)</p> <p>18 (A short adjournment)</p> <p>19 (11.59 am)</p> <p>20 (In the presence of the jury)</p> <p>21 MR DAVIES: Ms Mackay, I will go on to the Kovari and</p> <p>22 Whitworth investigations. As in relation to</p> <p>23 Anthony Walgate, and for that matter Mr Taylor, it is</p> <p>24 not my purpose to imply that the officers I represent</p> <p>25 did not make mistakes, there were not failures in their</p> <p style="text-align: center;">Page 69</p>	<p>1 A. I think it is incorrect, quite simply, because you have</p> <p>2 one person in Daniel on the face of as it is presenting</p> <p>3 saying he is responsible for the death of another</p> <p>4 person. They have considered it is so significant that</p> <p>5 they have convened a gold group, so the impact not only</p> <p>6 on the investigation, on the victims, on the families,</p> <p>7 on the community is significant. SC&O1 are invited to</p> <p>8 that gold group and don't turn up and the explanation is</p> <p>9 they were not aware, but, you know, surely somebody</p> <p>10 would have at least put a phone call in, a PA, to say,</p> <p>11 "Are you coming?"</p> <p>12 The decision making around that seems to be without</p> <p>13 being fully sighted on the investigation or the facts.</p> <p>14 Q. Mr Lyons said that he received the email, it pre-dated,</p> <p>15 pre-timed the gold group, he may not have read it</p> <p>16 beforehand therefore no one attended, but what about the</p> <p>17 obligations on SC&O1 knowing there had been a gold</p> <p>18 group, as to the follow up, the outcome, the</p> <p>19 implications? There seems to have been nothing.</p> <p>20 A. I think notwithstanding the gold group, SC&O1 have made</p> <p>21 a decision, haven't they, on the HAT advice</p> <p>22 acknowledging that there might be a manslaughter, and we</p> <p>23 know clearly that the indication is that it is</p> <p>24 a manslaughter/homicide, that they are not going to take</p> <p>25 it. I think the aspect of the gold group -- the whole</p> <p style="text-align: center;">Page 71</p>
<p>1 role in the investigation, there is not the obligation</p> <p>2 to take personal responsibility for that, all right.</p> <p>3 Just so we are clear, this is not a binary choice</p> <p>4 between borough officers and MIT in terms of</p> <p>5 responsibility.</p> <p>6 In terms of your approach, paragraph 92 of your</p> <p>7 report, I think like DAC Cundy you have a clear view</p> <p>8 that the circumstances in which Daniel was found</p> <p>9 necessitated a MIT-led investigation from the beginning?</p> <p>10 A. Yes, that's correct.</p> <p>11 Q. The corollary of that is that the borough team should</p> <p>12 not have been responsible for this investigation in the</p> <p>13 first place.</p> <p>14 A. No. The MIT should have taken it on on the day that</p> <p>15 Daniel was discovered.</p> <p>16 Q. Did you consider the evidence of Superintendent Wilson</p> <p>17 in relation to the atmosphere coming out of the gold</p> <p>18 group meeting that he convened and chaired, albeit in</p> <p>19 the absence of SC&O1?</p> <p>20 A. I am sorry, I might have missed what you mean by the</p> <p>21 context of the atmosphere.</p> <p>22 Q. His evidence that the atmosphere coming out of that gold</p> <p>23 group was that this was fundamentally a coronial</p> <p>24 investigation rather than a homicide one.</p> <p>25 What is your reaction to that, from a gold group?</p> <p style="text-align: center;">Page 70</p>	<p>1 purpose of having a gold group is because it is so</p> <p>2 significant, that is why it is chaired by the</p> <p>3 superintendent and the strategies are set around that.</p> <p>4 I think that there are a number of failings in that</p> <p>5 gold group, not least of which the fact that SC&O1 were</p> <p>6 not present and nobody even made a phone call to say,</p> <p>7 "You have been invited, where are you?"</p> <p>8 Q. And the other way afterwards, no apparent follow up?</p> <p>9 A. Well, there was no subsequent gold group, was there?</p> <p>10 There was no chasing of actions. I don't think there</p> <p>11 was even established in that gold group primacy for the</p> <p>12 investigation, which was one of the key areas that they</p> <p>13 wanted to establish.</p> <p>14 Q. All right, I am not going to cover it all again. You</p> <p>15 have covered it with Mr O'Connor.</p> <p>16 A. Yes.</p> <p>17 Q. One illustration of the need for clear actions to be</p> <p>18 recorded in the HAT advice though is that the HAT advice</p> <p>19 following the SPM for Daniel, and for that matter the</p> <p>20 crime scene manager's log, didn't include any reference</p> <p>21 to the recommendation to send off the bedsheet?</p> <p>22 A. No, so I understand.</p> <p>23 Q. Would you have expected that to be in the HAT advice, as</p> <p>24 a directed action?</p> <p>25 A. I think this is duplicitous really of the previous</p> <p style="text-align: center;">Page 72</p>

<p>1 special post mortem, where I have said that the whole 2 purpose of having the HAT officers there is because they 3 are experienced, the discussions that take place during 4 the course of that post mortem should be recorded 5 properly and effectively, actions that come out of it 6 should be documented. If they are not documenting it, 7 I think they need to be satisfied that in this case it 8 was DI Schamberger who was present, that he has 9 documented it.</p> <p>10 Q. The specialists at the special post mortem, who produce 11 an advice afterwards, are the HAT, aren't they?</p> <p>12 A. This is exactly the same as our previous discussion 13 around – they provide the HAT advice, they are the 14 specialists at the post mortem. Whether that is 15 included on the HAT advice or, as we have discussed 16 before, the interviews in the form of a report.</p> <p>17 Q. These actions should be set out, shouldn't they, in 18 writing?</p> <p>19 A. You should definitely record everything that you 20 discuss, all those potential actions should be recorded. 21 The decisions as to whether or not they are carried out 22 can then be followed up with the investigating officer, 23 but if you don't record them in the first place, then 24 they get missed.</p> <p>25 Q. Yes.</p> <p style="text-align: center;">Page 73</p>	<p>1 Daniel's partner and the person who spent the most 2 amount of time with him and probably the person who 3 could most assist at that time.</p> <p>4 Q. The obvious problem is that on that inadequate sample, 5 and without the caveats entered, in terms of whether it 6 was or wasn't by Daniel's father, there was no statement 7 and it became received wisdom in the investigation 8 afterwards that it was in fact Daniel's writing. That 9 was a big mistake?</p> <p>10 A. The errors are: 1, that it was a short excerpt that was 11 shown; obviously, 2, the manner in which it was shown; 12 and, 3, that then, as you said, there is no statement 13 confirming from Mr Whitworth that actually he has seen 14 that and he is satisfied that that is his son's 15 handwriting.</p> <p>16 Q. The exercise was given to a trainee detective constable, 17 who had done nothing similar before?</p> <p>18 A. Yes, that's correct.</p> <p>19 Q. I think you followed the evidence from Mr Slaymaker that 20 the intention was that Daniel's parents would decide 21 whether Ricky was shown the note once they had seen it. 22 Do you remember that evidence?</p> <p>23 A. I don't recall that evidence, but I don't dispute that 24 is what he said.</p> <p>25 Q. All right. The intention was that would happen after</p> <p style="text-align: center;">Page 75</p>
<p>1 The special post mortem gave rise to bases for 2 further suspicion, didn't it, that was yet further 3 grounds for this to be picked up by the MIT in terms of 4 primacy?</p> <p>5 A. It is my opinion that it should have done, because again 6 there is evidence of bruising and the circumstances of 7 the death of Daniel wasn't fully comprehended, never 8 mind the death of Gabriel at that stage.</p> <p>9 Q. Okay.</p> <p>10 Handwriting, enter a specific caveat, as I have 11 already, that this was not handled correctly. I think 12 you agree that it was reasonable in principle to ask 13 a family member at the early stage whether they could 14 identify the handwriting?</p> <p>15 A. I absolutely agree in principle it would have been the 16 right thing to do to show the note to see if they 17 recognise the handwriting.</p> <p>18 Q. I think you agree in principle for this note there had 19 to be a degree of caution who it was shown to, because 20 of the sensitivities of the information in it. Do you 21 agree with that? At least thought given to that 22 question.</p> <p>23 A. I would have shown that note to family members, 24 ie immediate family, but I would also have shown that 25 note to Ricky Waumsley, because he was, effectively,</p> <p style="text-align: center;">Page 74</p>	<p>1 they were shown it at Barking Town Hall here?</p> <p>2 A. Yes.</p> <p>3 Q. The intention was that reflected the potential 4 sensitivities to Ricky of what was in it?</p> <p>5 A. Well, the sensitivities are that he is living with his 6 partner, he has been with his partner for a significant 7 period of time, not a matter of weeks, a significant 8 period of time. He is his partner and if he has 9 committed suicide and outlined the circumstances for 10 that suicide, I think it is really important that that 11 information should have been shared with his partner.</p> <p>12 Q. I am not disputing but, as I say, the recorded intention 13 was that Daniel's parents could give a view on it before 14 that happened. It didn't work out that way, but that 15 was the intention.</p> <p>16 A. Even if they gave a view on it on a day, I don't think 17 there was any effort then to show the note to Ricky on 18 a subsequent day or even on that same day.</p> <p>19 Q. No, I admit, Ms Mackay, I agree at some point it should 20 have happened but the intention was that there would be 21 careful consideration in consultation with Daniel's 22 parents as to what needed to be said by way of warning 23 to Ricky before that happened, as to the content.</p> <p>24 A. Sorry, by way of warning to Ricky?</p> <p>25 Q. Yes.</p> <p style="text-align: center;">Page 76</p>

<p>1 A. Yes, you can have that discussion with Daniel's father 2 around that, but equally it is for the -- if I use the 3 term SIO, you know that I am referring to the 4 investigating officer as opposed to the PIP3 accredited 5 officer. I think they could make that decision that 6 they are going to share that information with, in this 7 case, Ricky as a next of kin as well and have the 8 discussion with Daniel's father to say, "This is our 9 decision, we intend to share it with him as well, this 10 is when we are going to do it, do you have any views?" 11 That could still be shared with him, even if there 12 were adverse views, and those views could be recorded.</p> <p>13 Q. I agree. As I say but the intention was to get their 14 views first and the process was unfortunately was not 15 followed through as intended.</p> <p>16 A. Absolutely, but it is not necessary or essential to have 17 done that. Does that make sense?</p> <p>18 Q. I don't think we are disagreeing.</p> <p>19 A. Yes, thank you.</p> <p>20 Q. In terms of telephone enquiries, and I am coming to 21 an end, again, telephone enquiries were delegated to 22 T/DC Slaymaker. His evidence was not that he wasn't 23 willing to do it but he had never done it before in his 24 experience. We are almost back to where we started, 25 aren't we, that these are roles given to members of</p> <p style="text-align: center;">Page 77</p>	<p>1 around engaging with the public. That is my 2 understanding of it.</p> <p>3 Would you expect them to conduct the investigations 4 into an unexplained death? No, I probably wouldn't. 5 Did they try and do a good job when they were 6 instructed? Yes, they did.</p> <p>7 Q. All right, I am not required to go through each and 8 every point of commentary you have made. I hope the 9 themes have been clear from my questioning and that is 10 all I ask, thank you.</p> <p>11 A. Thank you.</p> <p style="text-align: center;">Questions from MR MORLEY</p> <p>12 MR MORLEY: Good afternoon, I represent Mr Sweeney and 13 I just have I think three topics that I would like to 14 ask you about, please.</p> <p>15 The topics are going to be: the information that was 16 provided to Mr Sweeney; the decision that was actually 17 made by Mr Sweeney, whether it was right or wrong, I'm 18 talking about the decision in that email chain that we 19 have been looking at; and the tasks that Mr Sweeney 20 allocated at the end of that email.</p> <p>21 They are the three subjects I just briefly want to 22 ask you about, please.</p> <p>23 Starting with the information that was given to 24 Mr Sweeney, the information that was provided to him 25</p> <p style="text-align: center;">Page 79</p>
<p>1 a team, however hard they try, who have never done these 2 things before?</p> <p>3 A. In respect of the telephone data application, he said he 4 hadn't done it before. He made the enquiry and was told 5 a new form had to be submitted. There are many things 6 that we haven't necessarily done before, but there was 7 somebody there who has explained to him the process that 8 needed to be done. So it wasn't that, having never done 9 it before, he wasn't then told what needed to happen. 10 He made the enquiry, he was told to resubmit 11 an application and I think the issue then came about 12 that that wasn't done.</p> <p>13 I don't think it came about because he didn't know 14 what to do or didn't have any help.</p> <p>15 Q. Right, final point, in relation to Jack Taylor. 16 In terms of the reality of resources on the borough 17 at the time, what is your comment, if any, on the fact 18 that, for a period, the officer on the case in the case, 19 on the CRIS for three days, was a parks police officer 20 on a bicycle?</p> <p>21 A. So my personal view is that it surprises me that it is 22 a parks officer. We don't have parks officers in areas 23 that I have worked from, so I just say that purely on 24 the basis of what I have read and that they are deployed 25 to support the council around antisocial behaviour,</p> <p style="text-align: center;">Page 78</p>	<p>1 came from Mr Kirk, didn't it, in that email we have all 2 looked at and that email attached some information from 3 the HAT returns?</p> <p>4 A. I understand that is the case, yes.</p> <p>5 Q. There was some important information missing, wasn't 6 there, from that email and the HAT returns, for example 7 the bruising that was present.</p> <p>8 A. Yes, that's correct.</p> <p>9 Q. Because Mr Sweeney was told that there were no injuries?</p> <p>10 A. That is reflected I think in the information that he 11 says, "No sign of assault".</p> <p>12 Q. Absolutely, and that is important, isn't it?</p> <p>13 A. Yes.</p> <p>14 Q. Injuries are important, Mr Sweeney refers to it and you 15 highlight it in your report as well. Yes?</p> <p>16 A. Yes, that is true, yes.</p> <p>17 Q. He wasn't told as well, for example, about the Barking 18 incident, the intelligence that there was from BTP or 19 Mr Port had said in interview about another occasion 20 with a male at Barking?</p> <p>21 A. Like everybody else in the HAT, the information and the 22 investigation team around the Barking incident was not 23 known, and the same applies around the interviews and 24 the information that came out in relation to that 25 incident from the interviews was not shared widely.</p> <p style="text-align: center;">Page 80</p>

<p>1 Mr Sweeney was part of those people that wasn't made 2 aware.</p> <p>3 Q. You list a few topics in your report, could I ask for 4 your report, please, on the screen. It is INQ6, 5 internal page 12, paragraph 49. You list some important 6 matters there, the bruising, and we have dealt with 7 that, Mr Sweeney didn't know about that. The lies, the 8 client and the missing phone, Mr Sweeney did know about, 9 but the last line there as well about the lack of 10 contact and friends being concerned wasn't something 11 that was raised with Mr Sweeney either in the reports 12 that we have seen, was it?</p> <p>13 A. No, I don't believe he had all the detail.</p> <p>14 Q. Whether or not Mr Sweeney made the right or wrong 15 decision is something that you were asked by counsel to 16 the inquest yesterday. You said that you thought that 17 the decision was a wrong decision. I just want to 18 explore that a little bit, please, with you, because 19 there are a number of different sort of topic areas that 20 could be wrapped up in that question.</p> <p>21 The first is whether or not homicide command should 22 have taken primacy, knowing what we all know now, all 23 the information. I am not asking you that. It could 24 also be described as asking about whether homicide 25 command made the right or wrong decision knowing what</p> <p style="text-align: center;">Page 81</p>	<p>1 and the whole PND, the issue from the special post 2 mortem, there was evidence of an assault there, there 3 was bruising and the inaccurate recording of that 4 influenced further decision making.</p> <p>5 So he was wrong in his decision. However, I accept 6 what you are saying is: how could he make the correct 7 decision if he was not sighted on all the information at 8 that point?</p> <p>9 Q. Yes.</p> <p>10 A. Is that fair?</p> <p>11 Q. It is.</p> <p>12 A. Yes.</p> <p>13 Q. You deal with it in your report, it is probably the same 14 reference that we have at the moment, it is page 12 15 internally of your report, INQ6, I think it is at the 16 bottom of the page, paragraph 51 going over to 52. 17 Where you refer to the decision that Mr Sweeney made. 18 You describe the response at the top of internal page 13 19 in this way:</p> <p>20 "In his response the following morning 21 Superintendent Sweeney states he has made a decision not 22 to take ownership at that stage, but we will clear the 23 ground and then make a proper assessment."</p> <p>24 Pausing there, you don't say that was the wrong 25 decision, do you?</p> <p style="text-align: center;">Page 83</p>
<p>1 they did or they should have known at the time, 2 generally homicide command -- I see in your report that 3 you say really primacy should have been taken on from 4 probably 20 June, when bruises were apparent or known 5 about?</p> <p>6 A. Yes, at the special post mortem, I think there was 7 significant information there that was available to 8 those attending officers from the homicide team.</p> <p>9 Q. Yes, those that were there.</p> <p>10 A. Yes.</p> <p>11 Q. That's right, and I am not asking you about that.</p> <p>12 What I want to focus on is Mr Sweeney's decision on 13 that day, the evening of 26 going into 27 June, because 14 I think you agreed with Mr O'Connor that that was 15 a wrong decision but I suggest to you it was not 16 actually a wrong decision, because he doesn't really 17 make a final decision at all, really, does he?</p> <p>18 A. His decision on that date is that homicide command will 19 not take it. The basis of that is that there is no sign 20 of assault and it is not a clear homicide. I think you 21 will find that I did go on to say though that the next 22 part of his email was that he was supportive.</p> <p>23 It is a Catch-22, if he is not briefed properly, if 24 his team are not accurately recording the information 25 available and notwithstanding the issue around Barking,</p> <p style="text-align: center;">Page 82</p>	<p>1 A. No, I don't, no -- well I have said yesterday, didn't I, 2 and I agree he was supportive in the review.</p> <p>3 Q. Yes, and at that point that is not an unreasonable 4 decision, is it?</p> <p>5 A. Not unreasonable, no.</p> <p>6 Q. The issue really is the last sentence there, and what 7 you have told us about already, is was it reviewed and 8 whose responsibility was it to review the position, yes?</p> <p>9 A. Yes, that's right, and it wasn't reviewed. He has asked 10 for an action to be taken, that action doesn't appear to 11 have been taken, so he is not provided with a full 12 assessment of what happened on that Friday.</p> <p>13 Then the issue around the review, and even who from 14 HAT is going to be the link in with the borough, that 15 decision is not made and I think that was his decision 16 to make from my understanding of the evidence from the 17 SIOs, from HAT.</p> <p>18 Q. The last thing is just in relation to the list of tasks 19 that you have referred to, Mr Sweeney set out a list of 20 tasks that should be done, for example interviewing 21 Port, the crime scene, family liaison and so on. The 22 last on the list was for there to be a full review of 23 the enquiries that had already been undertaken. You 24 describe that part of the email as being supportive and 25 helpful, is that right?</p> <p style="text-align: center;">Page 84</p>

<p>1 A. Yes, as it is set out it is supportive and helpful.</p> <p>2 Q. That was a sensible approach, wasn't it, from</p> <p>3 Mr Sweeney?</p> <p>4 A. It was.</p> <p>5 MR MORLEY: Thank you very much, that is all I ask.</p> <p>6 A. Thank you.</p> <p>7 Questions from MR SKELTON</p> <p>8 MR SKELTON: Ms Mackay, I ask questions on behalf of the</p> <p>9 Metropolitan Police.</p> <p>10 A. Good afternoon.</p> <p>11 Q. Can I just ask, I have about four topics, I will try and</p> <p>12 deal with them fairly briefly, if I can.</p> <p>13 The first is going to be the MIT team's role.</p> <p>14 The second will be Anthony's death and its</p> <p>15 investigation.</p> <p>16 The third Gabriel and Daniel's death investigation.</p> <p>17 Lastly, just the question of causation, which</p> <p>18 Mr Davies touched on in questioning with you earlier</p> <p>19 this morning.</p> <p>20 The first of those is just the MIT team's</p> <p>21 responsibilities. Can I ask at the outset whether in</p> <p>22 your police forces in Avon and Somerset and then</p> <p>23 Gloucestershire you had a similar setup, in other words</p> <p>24 you had officers in localities and then specialist teams</p> <p>25 that could move around, whether in a HAT car or</p> <p style="text-align: center;">Page 85</p>	<p>1 special post mortem comes about, doesn't it?</p> <p>2 Q. Yes.</p> <p>3 A. I mean the issues that we have talked about this morning</p> <p>4 is around -- it is for the borough to work it out, so as</p> <p>5 to speak.</p> <p>6 I think my point has been we have these people with</p> <p>7 that professional expertise and experience available,</p> <p>8 supporting the borough, and if we just started with</p> <p>9 a special post mortem and recording what has taken place</p> <p>10 there and helping those borough officers to understand</p> <p>11 it, and the expectation of what they should be</p> <p>12 considering as a result of that. They are the things</p> <p>13 that have been lacking, and the same with the</p> <p>14 interviews.</p> <p>15 Q. To take the special post mortem as an example,</p> <p>16 DI Schamberger was there and he led the investigation,</p> <p>17 as we know, into those deaths. He was told directly by</p> <p>18 Dr Swift to test the bedsheet, and indeed we saw that he</p> <p>19 was told not only at the time but in the post mortem</p> <p>20 report which followed some months later, it wasn't for</p> <p>21 the MIT officers, was it, to tell DI Schamberger what he</p> <p>22 had already been told. That is the kind of thing</p> <p>23 I think you would expect any officer to write down and</p> <p>24 action?</p> <p>25 A. I think there are two sides to that, in that I have</p> <p style="text-align: center;">Page 87</p>
<p>1 something similar?</p> <p>2 A. Exactly the same as that. Hubs of MIT team officers who</p> <p>3 support what we call either districts or even police</p> <p>4 forces, so I have moved across three police forces.</p> <p>5 Q. As far as the advice that was given in the Walgate</p> <p>6 investigation is concerned, I think the understanding of</p> <p>7 the officers that gave evidence is that it wasn't the</p> <p>8 role of the MIT, or the HAT team, to give comprehensive</p> <p>9 advice about an investigation for which the local</p> <p>10 officers, in this case Barking borough CID, took</p> <p>11 primacy.</p> <p>12 Nor was it their role to set comprehensive deadlines</p> <p>13 for those actions, that was for the borough CID to do</p> <p>14 and what they did in effect was supplement it with</p> <p>15 specialist specific advice.</p> <p>16 Do you understand and accept that?</p> <p>17 A. I will accept whatever they say their policies and</p> <p>18 procedures were. But they are called, aren't they, if</p> <p>19 we are talking about Anthony Walgate to that scene, this</p> <p>20 is what you are saying, isn't it, initially the HAT</p> <p>21 officers are called to make the assessment?</p> <p>22 Q. They are and I think the HAT advice is give and a number</p> <p>23 of HAT returns, about five all in all, over a period of</p> <p>24 about a week?</p> <p>25 A. As a result of that initial assessment at the scene, the</p> <p style="text-align: center;">Page 86</p>	<p>1 talked already about personal responsibility, so I think</p> <p>2 absolutely DI Schamberger had a responsibility to record</p> <p>3 things that had been highlighted by the pathologist.</p> <p>4 I think we have also heard in evidence it was his first</p> <p>5 attendance at a special post mortem, he had never been</p> <p>6 to one before. Those MIT officers had been to a special</p> <p>7 post mortems before, they would understand as a result</p> <p>8 of attending there their responsibility would be to feed</p> <p>9 back in what has taken place and they are there in</p> <p>10 a supportive role.</p> <p>11 That is my point that I am making about relaying</p> <p>12 that on the HAT so everybody is absolutely clear what we</p> <p>13 should do as a result of that.</p> <p>14 Q. Can I just test though the standard that you are</p> <p>15 applying when you say that. I mean clearly from the</p> <p>16 perspective of today that would be good practice, best</p> <p>17 practice, helpful, et cetera, but wasn't it reasonable</p> <p>18 for the officers who attended the post mortem to expect</p> <p>19 that the officer in charge of the investigation would</p> <p>20 action what he was told to action?</p> <p>21 A. I think if they are the expert, it's unclear, isn't it</p> <p>22 about the discussion that took place in the debrief and</p> <p>23 who was present and whether they have gone through and</p> <p>24 said: what are we going to do now and what is the</p> <p>25 referral? This leads on into the fact that</p> <p style="text-align: center;">Page 88</p>

<p>1 DI Schamberger has written down the phone number of the 2 CSM, and was that because there was an expectation for 3 him to ring and arrange the forensic review or was it 4 the other way round?</p> <p>5 I know what you are asking me, is it the expectation 6 of the MIT officers that the officer leading the 7 investigation would do these things, but I think that it 8 has not really been very clear as to what was agreed at 9 the end of that special post mortem as to who would do 10 what and how that was recorded. For all those reasons, 11 these things have then fallen down between the cracks 12 really.</p> <p>13 Q. Can I ask you about some of the pathology signs which 14 spoke about in evidence both yesterday and today, 15 I think you said that you personally would have 16 approached Anthony's body differently in terms of its 17 appearance, both in terms of the hypostasis and the body 18 temperature. Is that correct?</p> <p>19 A. Yes, so my point is -- and it is a personal matter, 20 I would have considered those aspects as important. 21 I do accept though that during the course of the 22 evidence of the inquest the medical experts, who are 23 best placed to comment on that, have said that they 24 wouldn't do that and I know that DCI Jones as well said 25 he didn't consider that to be a factor.</p> <p style="text-align: center;">Page 89</p>	<p>1 course anybody will take their own view, I am just 2 explaining a view that I would have considered at that 3 scene and one of things that, having reviewed the 4 evidence, just struck me as being significant.</p> <p>5 Absolutely he has his own approach and his own view, 6 and he will have documented why he took that approach.</p> <p>7 Q. I just want to press you a little bit on this, 8 Ms Mackay, just so there is no ambiguity about it. You 9 are saying you had a view. You are accepting, I think, 10 that it would be reasonable to have a different view of 11 exactly the same scene, albeit you wouldn't have done?</p> <p>12 A. What I am accepting is that they did have a different 13 view. I am saying that I still consider though the 14 temperature of Anthony at that time was significant and 15 I don't think anybody took that into consideration.</p> <p>16 I think what you are saying is the science didn't 17 necessarily support it one way or the other, but I don't 18 think -- I think the evidence was that he didn't even 19 recognise the temperature of Anthony at that time. 20 DCI Jones was not appraised of that.</p> <p>21 Q. As far as the sex swabs are concerned, I think it is 22 right, isn't it, that they were obtained and they could 23 and probably should have been sent off for analysis. In 24 this particular case, in Anthony's case, it wouldn't 25 necessarily have been useful, would it, because Port had</p> <p style="text-align: center;">Page 91</p>
<p>1 Q. On that basis, it may have been reasonable for those 2 attending the scene to have taken that kind of view, in 3 other words not personally to have put too much emphasis 4 on those signs, which scientifically may not in fact be 5 that probative?</p> <p>6 A. I don't think that they recognised that even it asked 7 a question, I think that is the point around it. Even 8 if scientifically they didn't provide evidence 9 subsequently, because you then move into your pathology, 10 the whole purpose of attending the scene is to assess 11 what it tells and you to effectively ask yourself, and 12 in turn investigatively ask an investigation, a series 13 of questions. One of the questions I have just raised 14 is that because Anthony was so cold, it indicated that 15 he had been there longer than the few minutes that Port 16 was indicating on his call that he had just discovered 17 him and moved him. He thought he was having a fit. It 18 seemed to conflict that information.</p> <p>19 Q. That is your personal take on things. But if the actual 20 scientific evidence is that temperature or hypostasis 21 are not reliable indicators, and indeed the specialist 22 officer, DCI Jones said he didn't think they were 23 reliable indicators. It is reasonable, isn't it, for 24 some officers to take a different view from you on that?</p> <p>25 A. There are many things that are not reliable and of</p> <p style="text-align: center;">Page 90</p>	<p>1 admitted having a sexual relationship with him, briefly?</p> <p>2 A. He did subsequently, but he didn't at the time, did he?</p> <p>3 The purpose of submitting the sex swabs are that it 4 was known at that time of the special post mortem that 5 Anthony had travelled to Barking to meet somebody. 6 There are notes around whether that is Joe Dean or Port. 7 Nobody knew at that time whether Port was going to say 8 that he had had sexual relations with him, and it wasn't 9 known that he was that person.</p> <p>10 I think the other issue, as well, is we don't know 11 if he was the only person to have had sexual relations 12 with him, so there may have been somebody else involved, 13 we don't know or understand the story, and that person 14 could also be relevant to the investigation.</p> <p>15 Q. I am not questioning whether or not it should have been 16 done. I am saying what the outcome might have been. If 17 it came back and said Stephen Port appears to have -- 18 there seems to be some contact with Stephen Port on the 19 sex swabs, by which stage Stephen Port has accepted he 20 has had sex with Anthony, it wouldn't necessarily have 21 added anything to the picture?</p> <p>22 A. No, but we didn't know at that stage what account 23 Stephen Port was going to give. That is my point, so of 24 course evidentially all we are confirming is 25 Stephen Port is saying now he is the person who has met</p> <p style="text-align: center;">Page 92</p>

<p>1 Anthony, he is the person who has engaged his services 2 and he is the person he has had sex with and the sex 3 swabs, if sent off, and it is just Stephen Port, there 4 is nobody else on there, they also support that. 5 Q. I think you have read or heard Dr Biedrzycki give 6 evidence, the forensic pathologist. He was absolutely 7 clear when giving evidence that there was no sign of 8 assault on Anthony when he conducted the special post 9 mortem. Indeed that was Ms Kynaston's evidence, that 10 the bruising in fact that was found was not a sign of 11 assault. 12 Do you recall that? 13 A. I know that they have said it was not a sign of assault, 14 but nobody had an explanation as to how that bruising 15 had got there. And bruising is either incurred as 16 a result of some impact or pressure or being assaulted. 17 So he is saying no sign of assault in a traditional 18 sense. I accept him saying that, but I also still think 19 it was absolutely relevant. 20 Q. It was consistent, wasn't it, with the account that Port 21 gave of lifting Anthony -- so, he had in fact said, 22 "I lifted the body up", and it was obvious, I think, 23 certainly from Ms Kynaston's evidence, that that was the 24 view she took, that the bruising was consistent with 25 that account and not with an assault?</p> <p style="text-align: center;">Page 93</p>	<p>1 to work out how he died, which of course couldn't be 2 answered at the post mortem at that stage immediately? 3 A. No, it couldn't. 4 Q. Can I ask you just some questions about the primacy. 5 I appreciate you have already been asked a few questions 6 a short while ago by Mr Sweeney's representative, but 7 I'd just like to ask a few more, if I may. 8 How many murder investigations were you SIO on? 9 A. I probably SIOed 15 to 20 and I have been involved in 10 a significant number of other deaths, both 11 strategically. I was also trained as a scene liaison 12 officer, so would attend unexplained and suspicious 13 deaths in that capacity as well. 14 Q. You would also then have been involved with primacy 15 decisions as well, would you? 16 A. Absolutely, yes. 17 Q. Is it fair to say that when determining whether or not 18 a homicide may have taken place in any particular 19 instance, it can, in those borderline cases, be more of 20 an art than a science? 21 A. You are absolutely right it is complex. This was 22 a complex case. So I think we have already discussed 23 that if somebody is stabbed or shot, or an obvious 24 assault, perhaps a punch, then it is easy to say that is 25 a homicide. The experience and expertise of the</p> <p style="text-align: center;">Page 95</p>
<p>1 A. It could be consistent with that account. She took that 2 view. 3 Q. She did and the discussion at the post mortem, 4 Dr Biedrzycki was clear, no signs of assault. You 5 remember seeing that? 6 A. Yes, I do remember seeing that. I accept that that 7 bruising is caused as a result of carrying him out, but 8 we didn't understand the whole circumstances around 9 that. 10 Q. No, I think what I am trying to put to you ultimately is 11 that when the officers are going to a special post 12 mortem, they are looking to the special post mortem to 13 tell them whether or not criminal activity has taken 14 place and specifically to the pathologist to see if 15 there are signs of assault or foul play of some kind. 16 If the pathologist advises them there doesn't appear to 17 be, again it is a reasonable response of the officers in 18 question to think that doesn't appear to be the case. 19 A. Yes, it is reasonable on the basis that an assault might 20 be, you know, a punch or an injury like this. I think 21 the issue around this whole case with Anthony is that it 22 was complex and decisions are made without actually 23 thinking that there could be other explanations for it 24 or testing the evidence that was available. 25 Q. One of the ways in which things needed to be tested was</p> <p style="text-align: center;">Page 94</p>	<p>1 homicide detectives comes in these cases, where it is 2 not clear and primacy is something that is disputed all 3 over the country. I don't fall out with that at all. 4 Q. In fact it is not necessarily a binary position, as 5 I think Mr Morley put to you a short while ago. Primacy 6 can stay with the borough, it can go to the MIT or there 7 can be a hybrid where the MIT provide support or advice 8 for a period of time until a clearer decision or 9 a decision based on clearer evidence can be made? 10 A. Yes, and I think the point around that is the primacy 11 issue, the MIT will on occasions take investigations 12 into a death that transpires not to be a homicide. The 13 borough might retain a death that transpires to be 14 a homicide and you can work effectively together around 15 that. 16 Q. I think when Mr Sweeney made his decision on or around 17 27 June 2014, he had a number of factors available to 18 him of which you are well aware, they have been 19 discussed on many occasions during these inquests, so 20 the suddenness of Anthony's death, his lack of history 21 of drug use, Port's lies and the variations in his 22 account which had occurred a short while ago. Those 23 sorts of factors which from your perspective, at least, 24 and indeed some of the detectives involved, were 25 worrying factors. They were factors that added -- on</p> <p style="text-align: center;">Page 96</p>

<p>1 the scale they were pushing more towards third party 2 involvement than sudden and unexplained death. Is that 3 correct?</p> <p>4 A. I think they were significant, yes.</p> <p>5 Q. Is it fair that not only that, but he was also 6 considering other factors such as resources, I have 7 a specialist team, I have a borough who I expect to be 8 competent to do a certain degree of investigation, 9 I have to allocate resources effectively within this 10 situation. 11 He has to take that into account when he makes his 12 decision?</p> <p>13 A. I am sure his resourcing takes account of everything, as 14 do all the other competing demands.</p> <p>15 Q. I think you have also seen from the email -- I can get 16 it back up on screen as well -- that he himself weighed 17 up a number of other factors, so he said: 18 "From experience it will delay the process of 19 getting the investigation at a critical stage." 20 He thought that there was a momentum behind the 21 borough investigation. That some of the local knowledge 22 of the investigation won't be available, so there was 23 a degree of knowledge which they had already built up 24 within that week of fast tracking the investigation 25 locally. The lack of it being established as a murder,</p> <p style="text-align: center;">Page 97</p>	<p>1 clincher, as it were, they are just things that go in 2 the mix. It seems that he did weigh up quite carefully 3 the factors about the death that he was aware of and 4 a number of other factors, several of which I have just 5 quoted to you --</p> <p>6 A. Yes.</p> <p>7 Q. As I understood it -- sorry, may I just get to the 8 question, as it were. As I understood your evidence 9 yesterday, what you said is that you personally would 10 have made a different decision and you I think described 11 yourself as being a very decisive detective.</p> <p>12 A. Yes.</p> <p>13 Q. What I am asking really is whether or not the decision 14 made by Mr Sweeney from your perspective was in fact 15 unreasonable, in the sense that it was wrong -- not just 16 something you would have done differently, but actually 17 wrong?</p> <p>18 A. I think what I was just going to say to you then is the 19 thing about Mr Sweeney and his email was he did at least 20 provide a rationale for the decision making and that is 21 something that has not been included by anybody else in 22 their decision making.</p> <p>23 The fact that he has made his decision based on that 24 rationale is reasonable. The fact that he then goes on 25 to provide that support, I think is reasonable.</p> <p style="text-align: center;">Page 99</p>
<p>1 which I think you have already mentioned. 2 Then, finally, the issue of the family members and 3 how they may react if it suddenly turns into a murder 4 investigation. 5 None of those again is an absolute determinative 6 factor, but they are all things that are reasonable to 7 weigh up, aren't they?</p> <p>8 A. I think the momentum of the investigation was one of the 9 key reasons that the borough had approached the MIT, 10 because they didn't feel they had the capability and 11 capacity to be able to progress it as the pace that it 12 required. I know what you are saying is that his 13 consideration was that they did have sufficient, but 14 that was the whole purpose of them approaching him.</p> <p>15 Yes, the local knowledge, but every day of the week, 16 when there is a homicide, and a MIT team steps in, there 17 will be some local knowledge and it is not 18 necessarily -- you don't always take over 19 an investigation on day 1, you might take it over after 20 a few days. So that local knowledge is not essential to 21 progressing a murder inquiry.</p> <p>22 Q. I think that must be right, Ms Mackay, and I think were 23 Mr Sweeney to give evidence -- unfortunately, as you 24 know, he has been unable to -- I am sure he would 25 explain that none of these factors is an absolute</p> <p style="text-align: center;">Page 98</p>	<p>1 I said that I thought he should have taken it on 2 that day, and that is based on the complexities of the 3 investigation at that time, but I accept from what you 4 are saying that he wasn't sighted on all that 5 information, and his decision making was based on 6 perhaps a little bit less than that.</p> <p>7 Q. Even if he had all of that information, at this stage 8 his plan was that borough would keep it but there would 9 be support. In fact, the way the final HAT return on 10 the 27th is signed off is that it makes clear that the 11 MIT team have not finished their involvement and indeed 12 Mr Jones said that if at any stage key information had 13 come to light MIT would have swooped on it. So, for 14 example, the PND check, the Port laptop checks and so 15 on.</p> <p>16 A. We started this conversation by you saying that 17 Mr Sweeney was not sighted on the fact of the assault or 18 the bruising or the detail around the special post 19 mortem. So he wasn't sighted on all the information 20 that was being presented. He has made a decision based 21 on what he knew and he has provided a rationale. He 22 asked for the MIT to go and to support the teams. 23 I have explained that I think the way they supported the 24 teams was not necessarily complete, because they didn't 25 provide the reports at the end. He is also specific</p> <p style="text-align: center;">Page 100</p>

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<p>1 around there should at least be a review and no review 2 was undertaken. No SIO was nominated to be that link 3 and that person going forward to conduct that full 4 review.</p> <p>5 I know that on the day, Mr Kelly made telephone 6 contact with DI McCarthy. But, for me, a review would 7 be sit down, look at all the information as a whole, all 8 the action, see what is happening with it and get 9 a better understanding of where the borough were with 10 that investigation and that never took place.</p> <p>11 Q. By "review", do you mean the decision as to primacy be 12 reviewed or do you mean what had previously been called 13 a review of the investigation?</p> <p>14 A. Well, it cuts both ways, doesn't it, because I take it 15 from his email there that he is implicating by reviewing 16 all the information available he will review primacy, 17 but the two go hand in glove really, don't they?</p> <p>18 Q. I think again one has to be really quite careful reading 19 anyone's emails without necessarily hearing from them as 20 to what they meant --</p> <p>21 A. Yes.</p> <p>22 Q. -- but he says, "Primacy will be regularly reviewed as 23 the investigation undertaken produces results". 24 That is how he signs it off. It is not actually 25 clear from his email who is actually going to do the</p> <p style="text-align: center;">Page 101</p>	<p>1 have attended in person to get a statement of that 2 nature, but, you know, we speculate don't we on what we 3 can and cannot say, it is a bit like X3.</p> <p>4 Q. As far as the, as it were, being best practice, 5 obviously he was at the mercy of his sergeant, wasn't 6 he, and his sergeant thought, "Actually, I cannot spare 7 you to go off and do it in person, so I am afraid you 8 will have to do it by telephone", and in fact he did and 9 produced a very good statement?</p> <p>10 A. So I understand that now. Obviously that was not clear 11 when I did my report. But I still stand by that taking 12 a statement in relation to a death from that person, 13 good practice is to attend in person.</p> <p>14 Q. As far as Gabriel's clothing is concerned, I think 15 Ms Hill yesterday afternoon put a series of propositions 16 to you. Within one of those propositions, there were 17 quite a lot grouped in one, was the fact or the 18 suggestion that Gabriel's clothing should have been sent 19 off for testing, do you rather that?</p> <p>20 A. Yes, so I do exactly remember that. But of course 21 Gabriel's clothing wasn't available to be sent off, so 22 that hypothesis is on the basis that we had secured it. 23 But I know and you know that that wasn't available at 24 that time.</p> <p>25 Q. You have pre-empted exactly what I was going to ask you,</p> <p style="text-align: center;">Page 103</p>
<p>1 review. As we know, the MIT team didn't do a review and 2 the review that was conducted by the borough 3 investigators didn't in fact lead to a re-referral. 4 There is a degree of ambiguity there, isn't there?</p> <p>5 A. Absolutely, so why did he not nominate somebody from the 6 MIT team to be that person and be responsible for that?</p> <p>7 Q. Can I turn to Gabriel and Daniel's deaths, please. Just 8 first of all the question of PC Faulkner. I think you 9 said fairly yesterday he did in fact produce or elicit 10 a very good statement from Mr Pape by way of a telephone 11 interview?</p> <p>12 A. Yes.</p> <p>13 Q. He was I think as again you clarified yesterday, in 14 answer to questions from Mr O'Connor, he was working 15 effectively under the direction of the coroner at that 16 stage, because she was asking for more information about 17 the death?</p> <p>18 A. Yes, I understand that his enquiries were directed from 19 the coroner's officer, yes.</p> <p>20 Q. I don't think you are in a position to say, can you, 21 that had he attended in person there was specific 22 information that Mr Pape had at that time that would 23 have been added that was not added to the telephone 24 statement?</p> <p>25 A. I think my view was that it would have been better to</p> <p style="text-align: center;">Page 102</p>	<p>1 the officers cannot be criticised for not sending off 2 something that had not in fact been seized?</p> <p>3 A. That they don't have access to any more. I am not clear 4 what day that clothing was disposed of in relation to 5 Daniel Whitworth being discovered but subsequently, when 6 it has gone, it has gone.</p> <p>7 Q. Can I turn then to the issue of causation and again some 8 of this has been touched on already, so hopefully I will 9 not take too long on this.</p> <p>10 X1, who was a some time partner of Stephen Port, had 11 made an allegation to the police on New Year's Eve in 12 2012/2013, in respect of having been given poppers by 13 Stephen Port and then having non-consensual anal sex. 14 That allegation had been investigated and he did 15 a withdrawal statement, as it is called, and it was, as 16 it were, NFA. Do you remember that?</p> <p>17 A. I think when you say it had been investigated, the 18 situation was that when the police went back to him to 19 see after he had been treated if he wanted to pursue the 20 matter, he made a statement at that point of NFA. It is 21 not my understanding that Port was arrested or there was 22 any formal investigation around it, just that at the 23 point that the police went back to him, he said he 24 didn't want to pursue it and in fact Port would not have 25 known that he was not consenting.</p> <p style="text-align: center;">Page 104</p>

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<p>1 Q. I think Port was arrested actually, at that same time, 2 and gave his DNA in fact at that point. 3 A. Sorry. 4 Q. I think, in summary, it ended up with no further action 5 at that time because X1 didn't want to pursue it? 6 A. Yes. 7 Q. I think the question really is about -- well, there are 8 two questions. 9 One is I think you said yesterday that the PNC, 10 which is where this incident is recorded, indicates that 11 Port gave X1 poppers to stupefy him. I would just like 12 to test that. Ms Kynaston's evidence about the use of 13 poppers was they are a muscle relaxant and can assist 14 with sexual activity and they have a short-lived effect 15 and actually it is GHB which is the drug that stupefies. 16 Is that correct? 17 A. Yes, that is correct, yes. 18 Q. The second point, I think you mentioned in the context 19 of X1 being potentially an issue for bad character, as 20 you put it. I think it is right, isn't it, that if it 21 had remained an NFA, in other words it had led to 22 an arrest but no further action in respect of Mr Port, 23 that that is the kind of thing that ends up being added 24 to a suspect's bad character, because it isn't really 25 strong enough?</p> <p style="text-align: center;">Page 105</p>	<p>1 other Xs, isn't it? 2 A. We cannot say now whether at that point in 2014 they 3 would have given the evidence or testimonies that they 4 did or didn't subsequently. I think the point is that 5 they should have been approached and it is just about 6 having that broad investigative mindset around it. As 7 opposed to, as you will see on my report, the closed 8 mindset. 9 That is the issue, not whether or not they would 10 have actually provided the evidence at that time. 11 Q. You were asked about Karl Kamgdom yesterday by Ms Hill, 12 again in the afternoon. I think just to try and correct 13 the sort of timeframe, to understand how that might have 14 evolved if an investigation had taken a different 15 direction. In John Pape's statement that he gave to the 16 police on 8 September he identified somebody called 17 Karl. What was known at that stage was that he had been 18 involved with Gabriel and he was a black male. 19 There wasn't, I don't think, a surname or further 20 details of him or a phone number or such similar contact 21 details. At least based on the information provided by 22 Mr Pape at that stage, it wouldn't have been possible to 23 have found Karl, I think. Is that fair? 24 A. It comes back to the issue of recording all the actions 25 of what you should consider, and then, as you are</p> <p style="text-align: center;">Page 107</p>
<p>1 A. So there occasions when you can introduce statements of 2 evidence about bad character where there hasn't been 3 a prosecution. What you are referring to is that there 4 would usually be a conviction, but I have actually dealt 5 with occasions in murder where there has been similar 6 evidence, statements have been obtained, whilst 7 a complaint was made to the police, there was no formal 8 prosecution. So that has been included in the bundle. 9 Q. In this particular instance, going on the information 10 that was available, if X1 had not in fact given 11 a statement, it was going to be quite a difficult 12 decision to rely on just what was recorded in the PNC to 13 say Port has bad character, wasn't it? 14 A. The point about going back to X1 is you couldn't rely 15 solely on that PNC printout. It was in order to 16 understand the full circumstances, perhaps not even just 17 of that one incident but of his relationship with Port 18 and their sexual relationship and how that worked. Then 19 from that, then if it was relevant, it could be 20 introduced or considered to be introduced as bad 21 character. 22 Q. It is not possible to say though, is it, definitively, 23 whether X1 would have in fact come forward and 24 cooperated and provided further useful information at 25 that stage? I think that is the same, really, for the</p> <p style="text-align: center;">Page 106</p>	<p>1 progressing the other actions you can see if there are 2 opportunities to identify Karl. 3 On 8 September you might not know his surname or 4 contact number, but if you don't ever write it down as 5 an action, that he is potentially one of last people to 6 see Gabriel alive or to have interacted with him or 7 somebody who may be able to give some information, then 8 the whole thing just gets lost. 9 Q. I appreciate that. Obviously the jury also have to 10 consider not only what should have been done but also 11 what effect it might have had and that is the reason for 12 my questions. 13 I think it is correct, isn't it, that it is 14 Mr Amodio that actually had more details about Karl and 15 that came to light a few days later, in fact on about 16 21 September, when he gave information about Karl and 17 who he was? 18 A. Yes, and then you go back to your action, don't you, and 19 you now say, "I now know this little bit more and can 20 I progress it or can I not progress it?" 21 Q. Can I ask you about the charging issue, which Mr Davies 22 touched on in his questions with you. 23 Have you essentially concluded that, at least from 24 a policing perspective, it is possible that key evidence 25 could have been obtained to charge Stephen Port with</p> <p style="text-align: center;">Page 108</p>

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<p>1 a homicide offence before Gabriel's body was found?</p> <p>2 A. If you take into account the time that the toxicology</p> <p>3 could have come back, which as it appears within</p> <p>4 potentially three weeks, that may or may not have been</p> <p>5 the case with the levels, so that would have given you</p> <p>6 potentially your causation of death.</p> <p>7 You could have applied to your pathologist for</p> <p>8 an interim report if you needed that in order to go to</p> <p>9 the CPS for a threshold. The computer could have come</p> <p>10 back within that time that would have supported that and</p> <p>11 if they had had sufficient resourcing to obtain</p> <p>12 some statements from the key witnesses and making sure</p> <p>13 that was ready, then potentially all that evidence was</p> <p>14 there and available. It was around the timing that they</p> <p>15 could have gone to the CPS for a charging decision.</p> <p>16 Q. You are reliant on others, I think, for the timings in</p> <p>17 respect of the analysis and the toxicology and so on, to</p> <p>18 come to that view, I think?</p> <p>19 A. Yes, so, well, we know, don't we, that the initial</p> <p>20 toxicology results were available within three weeks,</p> <p>21 the decision --</p> <p>22 Q. Sorry, not in respect of Anthony Walgate, I don't think?</p> <p>23 A. Well, they were, because it was submitted on 8 July and</p> <p>24 it was back by 13 August, so the initial result was back</p> <p>25 around the GHB, the levels of toxicity were not</p> <p style="text-align: center;">Page 109</p>	<p>1 So it was useful, but it wasn't determinative at</p> <p>2 that stage, it needed the final report, didn't it?</p> <p>3 A. So it needed -- you need from a pathologist, along with</p> <p>4 the outcome of the toxicology, for the CPS, it doesn't</p> <p>5 have to be the final report, an interim report is</p> <p>6 perfectly satisfactory, but to be able to provide the</p> <p>7 cause of death at that stage.</p> <p>8 Q. From your perspective, as a former detective, if all of</p> <p>9 this information had been expedited and made available,</p> <p>10 putting it all together, you think there might have been</p> <p>11 enough to take it to the CPS for a decision?</p> <p>12 A. Yes, I think, if we accept -- I know that you are saying</p> <p>13 we don't know now, do we, in 2014, one person says this</p> <p>14 and another says that because of cost it wasn't</p> <p>15 possible. I think that you could have gone to the CPS</p> <p>16 with that information and presented it to them.</p> <p>17 Q. The next key step I think after that is the CPS decision</p> <p>18 making. On that you are not of course an expert,</p> <p>19 although you will have been involved with the CPS I am</p> <p>20 sure on many, many occasions throughout your career.</p> <p>21 The CPS witness who gave evidence, I think you are</p> <p>22 probably aware of this, Mr Held, said that he would only</p> <p>23 have been in a position to authorise a homicide charge</p> <p>24 once he had the preliminary cause of death, which</p> <p>25 I think is the same, really, as the police's</p> <p style="text-align: center;">Page 111</p>
<p>1 available at that point and I think the question that</p> <p>2 I was asked previously was they could have been</p> <p>3 available but the CSM wasn't prepared to authorise it,</p> <p>4 that is as it was recorded in the family liaison book.</p> <p>5 It is not clear about the discussion with the</p> <p>6 toxicologist. Certainly we know when Lilford took over</p> <p>7 the investigation that toxicology results were back, so</p> <p>8 they were able to present those.</p> <p>9 I think that there would have been -- if you accept</p> <p>10 those time constraints as they are portrayed, then you</p> <p>11 would have had enough to go to the CPS for a threshold</p> <p>12 charging decision before 28 August.</p> <p>13 Q. Ms Stanworth, I think, didn't in fact give a specific</p> <p>14 time of when she could have got the toxicology. She did</p> <p>15 make clear though that in 2014 they were having</p> <p>16 a particularly difficult time and their turnaround times</p> <p>17 were not as good.</p> <p>18 A. I think she also made the point that things could be</p> <p>19 expedited, but it would be at a cost.</p> <p>20 Q. She did, but she didn't give a precise timeframe.</p> <p>21 A. Yes.</p> <p>22 Q. As I think you pointed out, it was clear that the</p> <p>23 results that came back on the preliminary basis just</p> <p>24 showed the presence of GHB among other drugs, in fact,</p> <p>25 not an actual cause of death or levels, and so on.</p> <p style="text-align: center;">Page 110</p>	<p>1 perspective?</p> <p>2 A. Absolutely, and I don't fall out with that. You do need</p> <p>3 to get that. What I am saying is that that could be in</p> <p>4 the form of an interim report from the pathologist, it</p> <p>5 doesn't have to wait several months for the final</p> <p>6 report.</p> <p>7 Q. What he or she, whoever it was, would have weighed up in</p> <p>8 their mind when considering it would have been a number</p> <p>9 of other factors, of course, which is what is known</p> <p>10 about GHB at that stage, I think it is fair to say that</p> <p>11 it had not come to public attention or possibly policing</p> <p>12 attention as a weapon for murder, certainly. Is that</p> <p>13 correct? Is that a fair summary?</p> <p>14 A. Yes, that is definitely a fair summary.</p> <p>15 Q. Port's defence, which was that he had a consensual</p> <p>16 sexual encounter with Anthony who took drugs himself</p> <p>17 voluntarily. That, of course, we know was ultimately</p> <p>18 rejected by the jury in the context of four deaths with</p> <p>19 a similar MO, but back then it would have only been one</p> <p>20 death and Port was the only witness to it. That would</p> <p>21 have been a factor, no doubt, in the prosecutor's mind?</p> <p>22 A. Always consider potential defences when decision making</p> <p>23 like that is done.</p> <p>24 Q. As I say, you don't have a pattern of deaths at this</p> <p>25 stage either, so there isn't a pattern of finding bodies</p> <p style="text-align: center;">Page 112</p>

<p>1 in a similar place, connected to one person who provides</p> <p>2 a similar account or explanation in respect of what he</p> <p>3 may or may not have done. You don't have that built up</p> <p>4 body of evidence at that stage either?</p> <p>5 A. You don't in respect of the deaths. You do have</p> <p>6 though -- I accept that the PND wasn't done, but you did</p> <p>7 have two victims, potential victims around his use of</p> <p>8 administering drugs and the sexual behaviours that went</p> <p>9 with that.</p> <p>10 Q. Bearing in mind all of those factors, Ms Mackay, are you</p> <p>11 able to express a definitive conclusion on what may or</p> <p>12 may not have happened in that timeframe, had the file</p> <p>13 gone to a prosecutor?</p> <p>14 A. I said that my consideration around going to the</p> <p>15 prosecution, you will never be able to say exactly what</p> <p>16 Stephen Port did or didn't do for Anthony Walgate, but</p> <p>17 all the information and evidence was available and that</p> <p>18 includes the downloads on the computer, I think that</p> <p>19 would have had a significant impact on the decision</p> <p>20 making. That evidence was not presented to the</p> <p>21 prosecutor in the context of the perverting the course</p> <p>22 of justice. I know that we may agree or disagree around</p> <p>23 the timescales for the toxicology and the pathology</p> <p>24 report to come back, but if you took it that the initial</p> <p>25 report is there within three weeks, then I think that</p> <p style="text-align: center;">Page 113</p>	<p>1 ultimately are going to have to take a view about this.</p> <p>2 The test that they will be applying is on the balance of</p> <p>3 probabilities. In other words what is likely or not.</p> <p>4 What I am putting to you, Ms Mackay, is that it may be</p> <p>5 possible that all of those steps may have been taken,</p> <p>6 all the various moving parts about the toxicology, the</p> <p>7 laptop analysis, the final cause of death and the</p> <p>8 decision making not only by the officers, whether it is</p> <p>9 on borough but presumably on MIT, and also in the CPS,</p> <p>10 what their decision may have been.</p> <p>11 Putting all that together, you can say it might be</p> <p>12 possible that they would have charged Stephen Port, but</p> <p>13 you cannot say it was probable?</p> <p>14 A. I can't comment on what the ultimate decision of the CPS</p> <p>15 would be. All I can say is that the information that</p> <p>16 was available at that time was sufficient to approach</p> <p>17 the CPS. If those enquiries had been expedited, to seek</p> <p>18 a charging decision from them. I don't know what the</p> <p>19 CPS -- the CPS make decisions, you know, different</p> <p>20 decisions, different lawyers make different decisions</p> <p>21 based on the same evidence that you present to them.</p> <p>22 I think what you are asking me to say is would the</p> <p>23 CPS definitely support a charge for murder based on the</p> <p>24 evidence, and is that all the evidence that we now know,</p> <p>25 so including the computer and the toxicology and the</p> <p style="text-align: center;">Page 115</p>
<p>1 there would have been enough to consider going to the</p> <p>2 CPS.</p> <p>3 The difficulty, and I put a small proviso on this,</p> <p>4 is that if he is already on bail, then you are not</p> <p>5 likely to be going with a threshold test to the CPS, you</p> <p>6 are more likely to be going with what we refer to as</p> <p>7 a full code test, so that is having all the available</p> <p>8 evidence there ready for the CPS to go forward.</p> <p>9 Q. To summarise, is it your perspective that it might have</p> <p>10 been possible to send a file to the CPS with sufficient</p> <p>11 information to pursue a charge, and it might have been</p> <p>12 possible for the CPS to have made a positive decision</p> <p>13 prior to Gabriel's death to pursue that charge, but you</p> <p>14 cannot say for certain?</p> <p>15 A. It depends whether you were making that decision when he</p> <p>16 was in custody and you were going for a threshold charge</p> <p>17 decision or whether you were waiting to get the full</p> <p>18 code test, which requires everything to be presented to</p> <p>19 the CPS. I think your full code test is unlikely to</p> <p>20 have taken place before 28 August, but certainly the</p> <p>21 information for the threshold decision, if it had been</p> <p>22 investigated as a homicide and he had been retained in</p> <p>23 custody in those early days, the likelihood of that</p> <p>24 being available is much, much greater.</p> <p>25 Q. I am going to press you again a bit, because the jury</p> <p style="text-align: center;">Page 114</p>	<p>1 cause of death. I think the answer is that the police</p> <p>2 could have approached the CPS for that charging</p> <p>3 decision. I can't answer what the CPS decision would</p> <p>4 have been around that.</p> <p>5 Q. Beyond saying they might have done?</p> <p>6 A. Absolutely they might have done, because you would be</p> <p>7 presenting a case saying we need this person to be</p> <p>8 charged with a homicide. If they don't agree to support</p> <p>9 the charge, they would set you an action plan.</p> <p>10 MR SKELTON: Thank you.</p> <p>11 A. Is that clear for you?</p> <p>12 MR SKELTON: Thank you.</p> <p>13 Further questions from MR O'CONNOR</p> <p>14 MR O'CONNOR: Ms Mackay, just two sets of questions from me,</p> <p>15 if I may.</p> <p>16 First of all, Mr Skelton asked you about the</p> <p>17 evidence you have given about X1 and the use of poppers</p> <p>18 and he referred to I think the word you used was that</p> <p>19 Port had used poppers to stupefy X1. If you recall,</p> <p>20 Mr Skelton then reminded you of the evidence of CSM</p> <p>21 Kynaston and the physical properties of poppers as</p> <p>22 opposed to GHB, they are not a depressant drug, are</p> <p>23 they?</p> <p>24 A. No, they are not.</p> <p>25 Q. Can I just ask you to look with me and the jury back at</p> <p style="text-align: center;">Page 116</p>

<p>1 that CRIS, so we can see exactly what X1 said and 2 perhaps helps put your evidence about that into context. 3 A. Yes. 4 Q. It is jury bundle B/2, tab 56, please. For the screen, 5 it is IPC23. Within that, it is page 10, first of all. 6 This is where we see the first account that X1 gave, 7 if you recall, Ms Mackay. 8 Do we see here, if I am looking at the paragraph 9 number 2, that what X1 -- we see a record that on 10 arrival police spoke with X1, who stated that his 11 ex-partner Port had given him poppers and alcohol the 12 previous night and then had anal sex with him against 13 his will: 14 "X1 stated that Port kept plying him with poppers 15 and alcohol, each time he refused to have sex with him 16 until he was unable to say no." 17 Then just the next paragraph as well: 18 "The couple have been in a relationship with each 19 other for approximately two years, they do have a sexual 20 relationship in which they do have consensual anal sex. 21 However, X1 states that on a few occasions he has felt 22 pressured into sexual activity and this is not the first 23 time Port has used drugs and alcohol to take advantage 24 of X1." 25 The word "stupefy" is not used but the account</p> <p style="text-align: center;">Page 117</p>	<p>1 many ways about how he would react. Stephen would not 2 have known that I did not want to do these sexual acts, 3 as I have never said anything to indicate this, but 4 I didn't." 5 Was that the passage that you had in mind? 6 A. Yes, exactly. 7 I think point is that the account that he gives on 8 the night, on the New Year's Eve, does relay that he 9 wasn't giving true consent. So I know the investigation 10 into rape is always very complex and whilst it is 11 portrayed as you consent or you don't, it is never 12 really that straightforward, unless you are talking 13 about a stranger attack. Particularly in the context of 14 a relationship like this. 15 In this account here, he gives a bit more of 16 a fuller account as to what has gone on and that is 17 question makes it clear that, whilst he wasn't 18 consenting in his mind, he wasn't happy, he had been 19 given the drugs and the alcohol, he is also pointing out 20 that perhaps he didn't make that absolutely clear to 21 Stephen Port and so if he didn't make it absolutely 22 clear then, is the rape offence actually made out? Of 23 course he goes on to say that he was fearful around Port 24 and what his reaction would be. 25 Q. Just to finish on this then, stupefy was your word but</p> <p style="text-align: center;">Page 119</p>
<p>1 appears to be that it is the combination of poppers and 2 alcohol that is being used by Port to pressure, if you 3 like, X1 into having sex? 4 A. I think there are two things here. 5 His disclosure on the night, which is relayed here, 6 is around that he was unable to consent to the sex 7 because he felt he wasn't in full control as a result of 8 the drugs and alcohol. 9 The second point then is that when he makes his 10 retraction statement -- 11 Q. Let me interrupt you, because I was going to take you to 12 that. 13 As you say, he comes back to this theme in that 14 statement, doesn't he? If we can go to page 16, picking 15 it up about halfway down, this is written in the voice 16 of X1, in the first person. He says: 17 "I [that is X1 himself] spoke to a male officer and 18 explained how I felt with regards to my emotions and the 19 pressures I was feeling from Stephen. I also told him 20 Stephen was forcing me to do sexual acts I was not 21 comfortable with. By forcing me, I mean that he would 22 encourage me to drink large amounts of alcohol to get me 23 started for poppers. He would then give me poppers to 24 sexually arouse me. I was not comfortable with this at 25 all, but I didn't say anything because I was scared in</p> <p style="text-align: center;">Page 118</p>	<p>1 do we see again here what is being described is, as it 2 were, the combined use of alcohol and poppers by Port to 3 remove -- 4 A. He was removing his ability to control effectively what 5 he was doing and how his body was behaving. So I think 6 that is probably a fairer way to put stupefy, as opposed 7 to somebody who is unconscious and unaware of what was 8 happening to them. 9 Q. Thank you, that was the first point. 10 The second point is this, you have been asked a lot 11 of questions this morning on what has been described as 12 the causation issue. I don't want to go back into all 13 of the detail. The jury have heard the various 14 questions you have been asked and the way in which you 15 have answered those questions. What I do want to do is 16 just to clarify, I hope, one point, which emerges. 17 I think it was when you were answering questions from 18 Ms Hill this morning, you referred to there being two 19 tracks, the two different, as it were, hypothetical 20 tracks along which an investigation into Stephen Port 21 might have followed following 27 June. 22 As I understood your evidence, and is this right, 23 one of those tracks was a track along which the borough 24 might have proceeded, had for example the actions that 25 were apparent to them or should have been apparent to</p> <p style="text-align: center;">Page 120</p>

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<p>1 them at the end of that week been followed through, so 2 the toxicology been sent off straight away, the laptop 3 being sent off, and so on. Is that one of the tracks? 4 A. Yes, that is an option, for the borough to retain the 5 investigation and continue to do and work through the 6 actions. 7 Q. There are then timescales which we can think about on 8 that track? 9 A. Yes. 10 Q. Is it fair to say that the other track that you had in 11 mind was the track along which the murder investigation 12 team might have progressed had, for example, they taken 13 over primacy of the case, as we have discussed, at the 14 end of that week, because, let's say, the PND result 15 came back? 16 A. Yes, absolutely. 17 The two exactly are that (1) the slightly slower 18 time, if you like, around the borough with the officers 19 that they have that are doing that in tandem with their 20 other investigations and (2) would be with the MIT team 21 to take the investigation, where they would dedicate 22 their resources and teams to it. 23 Q. The broad question of timings was what I wanted to come 24 back to. You have been asked a lot of questions -- what 25 those questions have in common is trying to draw</p> <p style="text-align: center;">Page 121</p>	<p>1 have expedited it. 2 MR O'CONNOR: Thank you very much, Ms Mackay. 3 Questions from THE JURY 4 THE CORONER: The jury have asked some questions. One or 5 more of them have already been answered, so I am not 6 going to ask these again. 7 A. Thank you, ma'am. 8 THE CORONER: There is a question in relation to Gabriel's 9 phone records. With regards to Karl, when the police 10 heard about him, would investigating Gabriel's phone 11 potentially have identified Karl? 12 A. Yes, so if they had obtained -- with the phone data, you 13 can obtain what is called incoming and outgoing phone 14 billing, so if that had been obtained for that relevant 15 time period, as I have referred to, so when he is last 16 seen, particularly by John Pape, if that was the last 17 confirmed sighting up until when he was found dead, the 18 interaction with Karl, if that is via phone, whether it 19 is by messaging or telephoning, then that would have 20 been identified. Because the subsequent action is then 21 you have all this list of phone numbers, so if you have 22 10 numbers, you then can apply for subscriber checks on 23 those phone numbers or do intelligence checks to 24 identify the people that they relate to. 25 THE CORONER: Can you give any idea as to the sort of</p> <p style="text-align: center;">Page 123</p>
<p>1 inferences from what we know about the borough 2 investigation into Anthony and also we can see the other 3 cases, about, for example, how quickly toxicology 4 results came back and so on. Is it fair to say that 5 that is all part of track 1, so the borough 6 investigation? 7 I think as I understood your evidence, it was that 8 if we had about on track 2, if MIT had taken over the 9 case, your expectation would have been that those 10 sequence of events would have taken place more quickly, 11 because of the resources and the influence they had to 12 expedite these matters. 13 Please don't let me put words in your mouth. Can 14 you tell us what your view on that is? 15 A. To be clear, we have seen with the borough and the 16 officers that have had those actions and whether they 17 did or didn't do them, they have taken them step by step 18 alongside other matters. 19 The MIT team, if they had have had this 20 investigation, all those strands would have been running 21 in tandem, there would have been better oversight of it 22 and management of it. In turn, it would have been a far 23 quicker turnaround and the support of the crime scene 24 manager who is there, based within the team, and their 25 familiarity working in that environment would definitely</p> <p style="text-align: center;">Page 122</p>	<p>1 timescale, so provided the right application is made for 2 phone data, what is the sort of timescale of it coming 3 back? 4 A. I am really sorry, but I can't answer that question for 5 you because I don't know what the parameters are within 6 the Metropolitan Police area. I think that the ones 7 that were initially applied for for Daniel Whitworth, 8 when he was found, for the one week, came back 9 relatively quickly. But of course I think that was also 10 done on the premise that they didn't know who Gabriel 11 was at that stage, so there is different levels. 12 I can refer to my own personal experience in 13 policing and that is within a matter of days that you 14 can get that data back. 15 THE CORONER: Thank you. 16 Then there is a question about qualifications, you 17 were asked quite a lot of questions about that. The 18 question is how rigorous are the exams, tests and 19 courses that award accreditation to detectives and are 20 the standards continuously checked while the officers 21 are performing their roles? 22 A. The initial thing is the course that all detective 23 constables do, and detective sergeants and detective 24 inspectors, is national courses. They are set by the 25 College of Policing so they are professional courses and</p> <p style="text-align: center;">Page 124</p>

1 they are of a high standard.
 2 The workbooks or the assessments that are undertaken
 3 are similar, so there might be some localisms about what
 4 the workbook look like, but the detectives still have to
 5 achieve the same levels of accreditation, investigate
 6 the same sort of either offences or to same degree, so
 7 they have to give evidence of dealing with witnesses and
 8 suspects and victims and an ability to maintain
 9 investigative logs and deal with crime scenes, aspects
 10 like that.
 11 The assessors have to be accredited, so again that
 12 is a national approach that is taken. The only
 13 variation in it is that some are quicker, that
 14 accreditation process, than others. I think we have
 15 heard in evidence that in the Metropolitan Police it
 16 took up to two years, in my experience it has been
 17 around 9 to 12 months. But there is not really
 18 a specific reason for that, potentially other than just
 19 the availability of the assessors, rather than the
 20 competence levels of the detectives undergoing it or
 21 maybe the Metropolitan Police consider they require
 22 a bit longer.
 23 That is just to give a little bit of context, but
 24 not to be specific around the Metropolitan Police.
 25 THE CORONER: On a related topic, you were asked quite a lot

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1 of questions about trainee detective constables, is
 2 there any appreciable difference between that and
 3 somebody being described as a "temporary" something or
 4 an "acting" something.
 5 A. Yes, so the trainee is specifically around that, in that
 6 they haven't been signed off as part of their
 7 accreditation, that is why they have remained a trainee.
 8 If you are acting, so if I am a detective constable
 9 and I then perform the role of a sergeant, I would
 10 become an acting sergeant for the duration of taking on
 11 the responsibilities of that rank.
 12 The reason that temporary creeps in, and crept in in
 13 2014, and I am sorry it is a bit confusing, is that if
 14 you are performing that role, ie acting up into that
 15 role for a substantial period of time, and it is all to
 16 do with payments, but it is around in excess of 56 days,
 17 so two months or more, you then effectively become
 18 temporary in rank. That is to do with regulations and
 19 pension contributions, so if somebody is recognised as
 20 temporary, it is because they have usually been
 21 performing that role for more than two months and if
 22 they are acting, it is because it is more of a short
 23 term.
 24 I would just put a little proviso on that, sometimes
 25 people maintain the use of the word acting up in a rank,

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1 even though they might have been performing that
 2 a little while longer than the two months.
 3 THE CORONER: Thank you.
 4 There is a question in relation to DS O'Donnell and
 5 the appropriateness of him attending the post mortem
 6 when it was his first one. Of course the first obvious
 7 point is it is always somebody's first one, there is
 8 always going to be first one --
 9 A. Of course.
 10 THE CORONER: -- but do you think somebody else should have
 11 gone and if so who?
 12 A. I think fundamentally there is no problem with
 13 DS O'Donnell attending the post mortem, as it was his
 14 first one. The reason I say that is because he has the
 15 HAT officers there, who are the specialist officers,
 16 they have the experience of attending there and they are
 17 there to support him. That was the whole purpose, and
 18 as we heard, subsequently, DI Schamberger, it was his
 19 first special post mortem as well, and, again, the
 20 purpose of having those HAT officers there was to
 21 provide that support and help them understand the
 22 process.
 23 THE CORONER: Then still on the topic of DS O'Donnell, we
 24 heard evidence that he passed the Anthony Walgate
 25 investigation downwards, as it were, to DC Parish. Do

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1 you think that was appropriate?
 2 A. No, I don't. That just falls in line with the fact that
 3 I think that DI McCarthy should have retained the
 4 responsibility for it. I know that we have heard in
 5 evidence the rationale why he did hand it down, but
 6 I still think that was a poor decision and then
 7 consequently to pass it down again to DC Parish was
 8 wrong.
 9 THE CORONER: Thank you. There was evidence from
 10 Mr Schamberger, when he was challenged as to why he
 11 didn't raise matters with Mr Kirk, that Mr Kirk was
 12 always in meetings and he couldn't really get hold of
 13 him. What is your view as to the solution for that sort
 14 of situation?
 15 A. I don't think that -- personally, I don't think that's
 16 an acceptable explanation. Mr Kirk was his line
 17 manager, so there are a number of things that should
 18 happen around that. There should be some form of
 19 meetings with him as his line manager, even though he is
 20 in meetings, if he says and he cannot get hold of him,
 21 he could have emailed him requesting a formal meeting,
 22 he probably could have sent him a request through
 23 a diary, he could have texted him. I think that over
 24 the period of months we were talking about there would
 25 have been an opportunity and I am sure that Mr Kirk

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<p>1 would have made time for him.</p> <p>2 THE CORONER: That was a question about X1, but I think you</p> <p>3 have dealt with that.</p> <p>4 Then there is a question about the 2.2 billion</p> <p>5 budget cut, but it relates to the Met's overall budget</p> <p>6 and what percentage it was of that. Of course the</p> <p>7 £2.2 billion was the whole of the country, wasn't it?</p> <p>8 A. It was, yes.</p> <p>9 I'm sorry, I can't answer that question but I feel</p> <p>10 I have read it somewhere in the papers. So it might be</p> <p>11 that somebody could help the jury with that</p> <p>12 subsequently.</p> <p>13 THE CORONER: All right, but the important thing to</p> <p>14 understand is it was not the Met being cut by</p> <p>15 £2.2 billion?</p> <p>16 A. No, that was everybody.</p> <p>17 THE CORONER: Thank you very much.</p> <p>18 A. Thank you.</p> <p>19 THE CORONER: Ms Mackay, I am just going to deal with some</p> <p>20 matters with the jury, so do feel free to leave us now,</p> <p>21 if you would like to, or remain there, whichever you</p> <p>22 prefer.</p> <p>23 A. Shall I just wait to save the distraction, is that</p> <p>24 easier?</p> <p>25 THE CORONER: Thank you.</p> <p style="text-align: center;">Page 129</p>	<p>1 our minds on the legal issues that arise. That involves</p> <p>2 me receiving submissions of law and ruling upon them.</p> <p>3 Then at the end of that, I will decide precisely what</p> <p>4 questions I am going to ask you to ask and then to</p> <p>5 answer.</p> <p>6 Just so you understand, these are not them, but you</p> <p>7 will get in relation to each of the four deceaseds</p> <p>8 a list of written questions, so you know exactly what</p> <p>9 you have to ask and what you have to answer. Together</p> <p>10 with some guidance as to the law, as to what you can and</p> <p>11 cannot say or do in relation to these inquests.</p> <p>12 That guidance will be given to you at the outset of</p> <p>13 my summing up, which is the next stage in the case. In</p> <p>14 inquests there are not speeches made by advocates, the</p> <p>15 next stage is me summing this all up to you. That is</p> <p>16 what you will have, and I will be setting out for you at</p> <p>17 the beginning of the summary the questions that you need</p> <p>18 to answer. As you go through the evidence together</p> <p>19 again, you will know what it is your minds need to be</p> <p>20 focused on so far as the questions are concerned.</p> <p>21 I hope that will be a helpful way of approaching it.</p> <p>22 I am also going to provide you with more detailed</p> <p>23 chronologies than the ones you have at the moment, so</p> <p>24 that when we get to a piece of evidence or when you are</p> <p>25 in retirement looking for a piece of evidence, you will</p> <p style="text-align: center;">Page 131</p>
<p>1 Housekeeping</p> <p>2 THE CORONER: One of you, members of the jury, asked</p> <p>3 a question of me yesterday in relation to officers on</p> <p>4 the borough. I have considered that question. There is</p> <p>5 no evidence about that and it really is not necessary,</p> <p>6 bearing in mind the questions you need to ask, for you</p> <p>7 to receive evidence on that topic. That is the way I am</p> <p>8 going to deal with that question, for which thank you.</p> <p>9 There is a question as to whether you can have</p> <p>10 copies of Ms Mackay's report, or a summary of these.</p> <p>11 The answer is yes, the latter. You will be getting</p> <p>12 a summary of Ms Mackay's evidence from me next week, all</p> <p>13 right, so that is the answer to that. As indeed you</p> <p>14 will of all of the other evidence you have heard.</p> <p>15 Right, we are now at the stage where we have</p> <p>16 completed the evidence in these inquests.</p> <p>17 May I give my thanks to everybody, both on your</p> <p>18 behalf and my own, we are exactly where we said we would</p> <p>19 be at the beginning on the timetable, to almost the</p> <p>20 minute, maybe 17 minutes late, but we have not done</p> <p>21 badly bearing in mind how long we have been here. That</p> <p>22 is also down to you, for always being here on time and</p> <p>23 for cooperating with our timing, so thank you.</p> <p>24 What is going to happen now, as I indicated to you</p> <p>25 earlier, is that we the lawyers are now going to focus</p> <p style="text-align: center;">Page 130</p>	<p>1 have an immediate way of finding where that is in the</p> <p>2 bundles, which I hope again will be helpful for you and</p> <p>3 help you go through the process chronologically and</p> <p>4 systematically.</p> <p>5 That is what we are going to do between now and at</p> <p>6 least Tuesday morning.</p> <p>7 Lee has all your contact details, so that if in the</p> <p>8 event we are not going to be ready for you first thing</p> <p>9 on Tuesday, or at some near time thereafter, he will</p> <p>10 contact you and tell you whether you need to be here</p> <p>11 first thing on Tuesday or perhaps later in the day or</p> <p>12 even possibly later on, but our aim is to be ready for</p> <p>13 you for Tuesday. It certainly will not be before first</p> <p>14 thing on Tuesday morning.</p> <p>15 All of which means you have a few days off, and</p> <p>16 I mean a few days off. There is absolutely no</p> <p>17 requirement for to you return to work, you are still on</p> <p>18 jury service and I emphasise that now, all right.</p> <p>19 If you would like to leave us now, thank you very</p> <p>20 much, enjoy your few days off and we will meet again at</p> <p>21 a time to be notified but not before 10.00 on Tuesday</p> <p>22 morning.</p> <p>23 Thank you.</p> <p>24 (1.20 pm)</p> <p>25 (The inquests adjourned)</p> <p style="text-align: center;">Page 132</p>

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