

NINETEENTH DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, 1996

before

THE HON. LORD CULLEN

on

MONDAY, 24th JUNE, 1996.

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

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APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayor (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G.C. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for individual officers of the Scottish Police Federation, and Lothian and Borders Police.

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MONDAY, 24th JUNE, 1996.

NINETEENTH DAY.

LORD CULLEN: Well, let's begin again. Now, Mr. Campbell, I think you were about to cross-examine?

MR. CAMPBELL: Thank you, sir. Good morning, Mr. Paton.

MR. PATON: Good morning.

CROSS-EXAMINED BY MR. CAMPBELL: Just a few fairly general questions, if I may? I think we know that legislation falls into at least two parts, one dealing with firearms and the other dealing with shotguns. Am I right in understanding that a shotgun is a deadly weapon? - Yes, it is.

So far as the ammunition for shotguns is concerned, namely shotgun cartridges, I take it they can be lethal as well? - Yes, they can; well, they are.

More generally, so far as blank rounds are concerned, which I take it could be used in either a shotgun or a firearm, can blank rounds cause physical injury? - The actual blank round itself could if the muzzle of the weapon firing it was held close to the skin or against somebody's head or face or into the eye, yes, it could cause injury. If you were firing let's say a blank round in a rifle, then that would be much more potent than a blank round in a pistol.

What does a blank round consist of? I know you went through this a little bit the other day, and it will be easier to follow if we see one? - Right -- I have here in my left hand -- this is a blank round, an 8 mm blank designed to be used in replica pistols, blank firing pistols, and basically it's the same as a standard round except it does not have a bullet in it. The amount of propellant in the blank round is considerably less than that in the live ammunition, and it will be slightly different in that the blank ammunition is designed for noise rather than propelling force.

This/

This may be outwith your expertise, but you mentioned the potential for harm if a blank round is used in a rifle? - Yes.

Could a blank round cause a fatal injury? - In a rifle, yes.

But not in any other form of weapon? - All I can say is I think it would be unlikely. I couldn't totally exclude it. It depends on the target, if you want, and where you are aiming at. If you put -- if you fire a blank round into somebody's eye, then you may do sufficient damage and the shot may kill, but I think it unlikely, but that is obviously more a medical question than I can directly answer.

Just so we understand a little bit more about how these things work, why is the use of a blank round in a rifle more harmful? - It will contain more propellant. In addition, it is unusual for civilians to fire blank ammunition in rifles. That is more a military use, and the military use blank rounds to simulate conditions of firing, in which case if it was a fully automatic weapon, blank ammunition will be sufficiently powerful to cause the weapon to recoil and cycle, so it will continually fire blank ammunition. You don't get that with pistols or revolvers.

Turning to another matter altogether, we know that the 1988 legislation did not include handguns in its prohibition of semi-automatic weapons? - That is correct.

Can I explore with you just for a moment some of the characteristics of a semi-automatic handgun, and perhaps more generally, so far as short-barrelled weapons are concerned, are they more easily concealed than longer-barrelled weapons? - Oh yes, yes.

And the shorter the barrel of the weapon, perhaps the less awareness the user might have as to the precise direction in which the barrel is pointing? Would that be fair? - In general terms, the shorter the barrel, the less accurate the weapon will be. Minor movements of the hand with a short barrel will cause greater deviation at a target range, but in very loose terms, yes, what you suggested/

suggested would be accurate.

And in terms of changing the direction in which the barrel is pointing, the shorter the barrel, the less movement would be required to do that? - No; you would still have to move it exactly the same number of degrees. If you were moving from left to right, the aim under the barrel would move the same number of degrees. The muzzle of the barrel would move further if you had a longer barrel, but the actual movement of your hand and the weapon would be the same.

It may not matter terribly much for all practical purposes, but in terms of operating at close quarters, is a handgun, a semi-automatic handgun, a more potent weapon or a more deadly weapon than a semi-automatic rifle? - That has to depend on the user, but theoretically, the pistol would be the better weapon to have in a close encounter situation.

BY LORD CULLEN: In what sense? - It would be easier to use single-handed, therefore easier to move from target to target, whereas with a rifle you would be using it with two hands. You would probably have to use it held more securely to absorb the recoil of the rifle firing, and in all probability you would have to move your body as well as your hand when moving from target to target.

Very broadly, how do they compare in weight? - A pistol would normally be about 2 lbs and a rifle could weigh about 8 lbs.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: You were asked some questions last week about the definition of a handgun? - Yes.

And still in the context of semi-automatic weapons, we have the prohibition in the 1988 Act of automatic and semi-automatic rifles. Does it follow from that that there must be some method of establishing when a weapon is or is not a semi-automatic rifle? - Basically, yes. If a weapon has a shoulder stock or is designed to be used with a shoulder stock, i.e. be held against the shoulder when being fired, it would be a rifle or a carbine, and if it does not have that facility, it would/

would be a pistol.

BY LORD CULLEN: Does that apply even though the stock had been removed? - If the facility for a stock was there, it would be a carbine or a rifle.

You mentioned an example of that on Friday? - That is correct, yes.

CROSS-EXAMINATION CONTINUED BY MR.

CAMPBELL: I take it it would follow that if there was a prohibition on all automatic and semi-automatic firearms, then these questions of definition would cease to arise? - That is correct.

You gave some evidence last week concerning the separation of working parts from the main body of a firearm, and I think we followed very clearly what you were saying in that connection. Would you see any method in consideration of providing that all working parts -- rather the possession of all working parts should be subject to a Firearms Certificate? - Personally speaking, I would say yes. Providing something is unique to firearms, then it should be a component part of a firearm, irrespective of what part is to be used.

Putting it into context, one of the suggestions which has been put to the Inquiry is that there may be some merit in separate storage of the working parts of a weapon from the main body of the weapon itself, possibly even in different buildings. Now, one concern, or one comment which has been made in that regard is that the unscrupulous owner may possess illicit spare parts? - Under the present situation, he could have a number of spare parts which would not easily be termed component parts. The way that I would differentiate -- there are obviously certain parts which are not unique to firearms like screws or pins or springs, and I would not class them as component parts of a firearm, but other parts such as a trigger or hammer or firing pin or various parts of the mechanism of a semi-automatic pistol, I would consider that to be component parts, and I see no reason why they could not come within the Section 57 definition of a component part, and therefore subject to the Firearms Certificate regulations and conditions./

conditions.

Might there be another additional possibility, not necessarily an alternative possibility, but perhaps an additional possibility, namely that if buying a new part for a weapon, one required to hand in the old part? - I hadn't thought of that question. It may be a possibility, but on the other hand the part may be broken, and if it has fallen out of the weapon, the person may not have it. I'm not sure.

In general terms, would you expect the owner of a firearm to be able to strip his weapon, assuming it is capable of being stripped down? - That is a difficult question to answer. Personally speaking, I would say yes, but I have no doubt there are people who are less mechanically minded than I am who may not be able to do that.

If/

10.20 a.m.

If a person is not able to strip his weapon is he someone who should be entrusted with that weapon? - I don't know. I can't answer that question.

We understand that there are some weapons which may not be capable of being stripped down; is that correct? - All weapons are capable of being stripped down. There might be one or two that would require a gunsmith to do that, or require some technical knowledge of the equipment or skills which might be beyond the normal firearms holder.

Again I take it another possibility would be to render any weapon which could not be stripped down a prohibited weapon? - That is a possibility, yes.

So far as the possibility of a national database of weapons is concerned, do all manufacturers of weapons provide individual serial numbers upon them? - The answer to that is no. The major ones or the more reputable ones do, but I have no doubt there are others which do not.

Presumably however it would be possible to make provision if every weapon required to be stamped? - Yes, that would be possible.

You were asked certain questions relating to the home loading of ammunition? - Yes.

Again please tell me if this is not something of which you have knowledge or experience: but is there any good reason for permitting the home loading of ammunition? - For a firearms owner who is using a lot of ammunition it would be probably cheaper in the long run. Plus he could experiment with different ammunition combinations to produce the most acceptable ammunition for one particular firearm.

Yes? - He could also guarantee the consistency of his particular ammunition. When you are buying commercial-grade ammunition there will be minimal variances in the ammunition. Manufacturers actually produce a batch grade ammunition for use in very/

very high powered or high level target shooting. If you are loading your own you are in a better position to maintain the same consistency, at a cheaper price than with a commercial grade of ammunition.

What it means is that an individual is able to create ammunition without that being known to the police? - That is correct.

You gave evidence concerning various types of ammunition and the different characteristics, and you explained to us the effect on a human body of certain types of ammunition, hollow nosed ammunition and the like? - Yes.

So far as the type of ammunition which does cause maximum damage to the human body is concerned, is such ammunition necessary for the purposes of target shooting? - I do not target shoot, but I cannot think of a viable reason for it, although there may be something technical known to those conversant with this discipline that I am unaware of.

At the outset of your evidence-in-chief you were discussing the four weapons which Hamilton had in his possession on the 13th March? - Yes.

You told us that one of them had a muzzle weight on the weapon? - Yes.

Am I right in understanding that that is a piece of metal on the top of the end of the barrel of the weapon? - It fits round the end of the barrel.

All the way round? - Yes.

Now, obviously if his lordship wishes to look at the weapon he can readily see which weapon possesses that characteristic? - Yes. It is the longer of the two pistols.

You discussed the oddity of one of the magazines which was recovered in that different types of bullets were loaded in the magazine? - Yes.

The bullets which were towards the top of the/

the magazine, in other words the ones which would be fired first: were they more harmful or powerful than the ones below? - These were the round nosed full metal jacket, such as this one here, and these were the ones with the most penetrative power. The middle ones, the semi-wadcutter, were the ones which would penetrate to a medium extent; and the hollow ones would penetrate to the least, but would cause the most damage.

So the most damaging were the last? - Yes.

You described to us some of the differences between a single shot pistol and a semi-automatic handgun, and in particular the need to reload the single shot pistol after each shot? - Yes.

We understand that both single shot and self-loaders are used for target shooting? - Yes, they are.

For the purposes of target shooting would I be correct therefore in understanding that the main difference relates to what might be described as a matter of convenience, in that if you want to fire a number of rounds of ammunition at a target it is more convenient to do so with a self-loader rather than a single shot pistol, to avoid having to reload between each shot? - No, I don't think that is the reason. They are designed for different competitions, or rather different competitions are designed for these particular weapons.

Yes? - To take an analogy in relation to motor racing, you can go motor racing in a normal production car, or you can go up through the Formulae to Formula I, and each one determines its own type of car.

Yes? - It is the same with a pistol. The competition determines what kind of pistol you use in it.

There are some forms of competition which proceed on the understanding that participants will be using a semi-automatic weapon? - Yes.

Because it is of the essence of the competition/

competition that a number of bullets are able to be fired rapidly? - Once you are into the rules of competition you are outwith my sphere; but that is my understanding.

Presumably there are certain types of competition where a single shot is a perfectly satisfactory weapon? - Yes.

Forgive me if you covered this in your evidence-in-chief, but are there a variety of calibres of single shot pistols? - Yes. This is the range which is most extensive, and you go up from an 0.2 to an 0.308 Winchester.

Is it possible to convert a single shot weapon to a multiple shot weapon? - No, not without some very extensive engineering. You would really have to manufacture a new pistol.

CROSS-EXAMINED BY MR. GIBB: You were earlier talking about types of bullet. There is no requirement in the firearms certificate to specify the shape of the bullet, is there? You can buy round nosed, hollow nosed or semi-wadcutter as long as you have permission to hold that type of bullet? - The 1992 Regulations do have a slight restriction on the availability of the hollow nosed type, which they term as expanding ammunition. If you have a firearm certificate to allow you to possess ammunition of that type you are exempt from the terms of that Section.

You are saying the round nosed is most lethal in that it goes through the body? - No, I wouldn't say it is the most lethal. It will penetrate the furthest, which is not the same thing.

Is the hollow nosed most lethal of the three? Does it cause more damage than the other two? - In general terms yes, it would, because the nose cone would mushroom, and you would have a larger diameter nose to the hollow point, therefore you are more liable to get more damage within the body.

Yes? - At the same time, that bullet would expend all its energy within the body and would not penetrate right through, whereas with the full metal jacket round nose it is more likely it will/

will go right through the body, and it will still have energy left, and that energy is wasted, if you like; it is not expended within the body.

You talked about the hollow nosed being used for the likes of deer shooting. I think there is specific provision in the Deer Order, 1984 for that? - The actual wording is "Expanding ammunition".

Is there any reason in your view why hollow nosed bullets should be permitted to be held at all for those who only target shoot? - As I have said, no, I cannot think of a valid reason for that point.

BY LORD CULLEN: On that point, can you distinguish hollow nosed from expanding? - Hollow nosed bullets in this country, where there is not a cavity in the centre of the nose of the bullet -- soft point is one where the nose cone is complete, but the copper jacket does not completely cover the nose cone. You have a soft lead front to the bullet. The content is the same, but the hollow point still tends to mushroom more quickly and easily than the soft nose. Soft nose usually has to travel faster, at a higher velocity, to mushroom as well as this.

Would the use of a rifle have that effect? - Yes.

Presumably that is why it is used in a deer context? - Because it has not a cavity in the centre of it it is more aerodynamically efficient at longer distances, shooting from 400 or 500 yards; it will be better.

You get the best combination of characteristics? - Yes.

CROSS-EXAMINATION CONTINUED BY MR. GIBB: I think we have had evidence of the bullet striking parts of the human body, that there will be a significant difference in relation to the part it strikes: but in your view would a hollow nosed bullet inevitably result in a fatality? - No, it depends where it hits. If you are shot in the foot, unless you bled to death it would not kill you.

You/

You have no logical explanation as to why in 1988 semi-automatic rifles were outlawed but not semi-automatic pistols? - No.

Do they have the same characteristics? - They have the same characteristics, but their efficiency over longer ranges is different. Whereas a pistol is limited to within a 50 to 100 range maximum, really, for the normal person it would be less than that, whereas a rifle will have a usable range of 400 to 600 yards, and much longer by competitive shooters.

It may be Lord Cullen has investigated this, but it may be Hungerford was a situation in which semi-automatic rifles were used as opposed to semi-automatic pistols? - From vague memory, I understand he used both, although the semi-automatic rifle was the most common weapon used.

RE-EXAMINED BY MR. BONOMOY: Can you explain more fully how you envisage a fatality resulting from the use of a blank round? - The only way I could really see a blank round causing a fatality is if it was fired into the eye or possibly directly into the ear, where you got a jet of high powered gases going straight into a sensitive part.

How would you envisage gases causing death? - Either by penetrating through the ear into the brain cavity or through the eye possibly the same way, or just the shock of such a thing happening.

You were asked some questions about the requirements of a person who wants another spare part for his weapon to hand in the old part, and you mentioned the possibility of the old one breaking or being lost? - Yes.

In relation to firearms, is that a usual occurrence? - I am sorry, I just can't answer that question. I don't know how common it would be. What I am envisaging here is the likes of a semi-automatic pistol, if the hammer broke in the course of being fired the recoil would still take place, and with the gun slamming back at high speed it may take the hammer right off and throw it yards behind the shooter, where it may not ever be found. There would still be part of it there; there would still be/

be parts of the broken item of the weapon, but the main body of it would be gone.

We are talking of a broken, unusable piece of metal, are we? - Yes.

So we are not in that situation envisaging someone who has removed the working part and gone and bought another one? - No.

You were asked also some questions about the longer barrelled Browning. Can I take it that that is a weapon which has been custom-built with a longer barrel? - Yes, it is.

And not one that Hamilton would have tacked a wee bit on to the end of the barrel? - No.

Would it be custom-built with the muzzle weight, or could that have been added by anyone later? - It could have been added by anyone later.

What is the most likely? - I would say it has been custom-built with that part on it.

We have heard of that weapon already having been sold to Hamilton in that condition, and that would make sense, from what you are saying? - Yes.

You were asked about the relationship of single shot weapons. Do you get large calibre single shot handguns? - Yes, you do.

Up to a .308? - In fact it may even be more than that; that was just an example I was using. Those weapons have a similar range to a rifle, a maximum range.

You were asked a question about the distinction between understanding hollow point ammunition and you described hollow nosed and soft point. I take it you were describing two forms of expanding ammunition when you did that? - Yes.

ALEXANDER WILLIAM DALGLEISH (40) Sworn

EXAMINED BY MR. BONOMOY: I am a registered/

registered firearms dealer.

And that is part of your business; is that right? - Yes.

And you conduct business in Eaglesham? - Yes.

What is the overall nature of your business? - We have a retail shop where we sell new and second-hand firearms, rifles, shotguns, pistols. We also have a workshop where we make and repair and renovate guns.

Do you also deal in other sporting equipment, or are you just a gun dealer, basically? - Yes, I'm just a gun dealer.

How long have you been doing this? - 20 odd years. I have served an apprenticeship first, then I worked as a gunsmith with Mr. Brown, and I have been on my own for just over 10 years.

You actually do the repairs and maintenance work yourself, do you? - Yes.

I know this is not why you are here; but there is one thing I might ask you beyond the subject of your report, and that is the extent to which you stock handguns. Do you stock them regularly? - Yes, we have always got mainly second-hand ones for sale. At the moment we have approximately 20 handguns, 20 pistols, for sale.

Is that the sort of average? - For me, yes.

Is there much of a turnover in handguns.....? - No.

.....as contrasted with longer barrelled weapons? - No, it is a very small proportion. The sale of pistols is a very small part of our business.

Now, you have prepared a report, partly in conjunction with work done by the witness Mr. Paton? - Yes.

Could you have your report in front of you, /

you, please? I think it will be given the number R46. Now, you were specifically asked to look at the question of how difficult it might be to convert self-loading or semi-automatic pistols so that they can fire only one shot before being reloaded? - Yes.

Your report sets that out in the first two pages? - Yes.

Then you were asked to look at the same question in relation to revolvers, and you also deal with that on page two; is that right? - Yes.

Could you also have Mr. Paton's first report, which must be R44, before you? - Yes.

If you go to page 16 of that, on pages 16, 17 and 18 you will see comments he has made about old pistols and revolvers being converted in this way? - Yes.

Now, he mentions in relation to pistols three separate matters, because he sees in general terms three separate types of pistol requiring particular action? - Yes.

I/

10.40 a.m.

I think you have concentrated largely on the first of these? - Yes.

So can I ask you now that you have just had a glance at the report to tell us in general terms first of all how a commonly held automatic pistol might be converted so that it would only fire one shot at a time? - The magazine, which is the housing that the bullets go into, would obviously normally hold about ten rounds, up to 15 rounds. There would have to be a spacer or a blockage put into the magazine so that it only has the capacity to accept one round. This spacer would have to be fixed in the magazine and then the magazine would have to be secured into the pistol so that it could not be removed, to avoid using the magazine without the restriction. That operation is very straight-forward. The magazine could be restricted and secured to the gun with these. The only problem arises on the subsequent loading of the magazine which is normally done outwith the pistol and then added to the pistol. If the magazine was secured into the pistol it would have to be loaded in from the top when the slide is in the back position. Many pistols have a hold-open device and the slide would be kept clear and the bullet could then be placed down on top of the magazine, the slide released and the gun would be fired, one shot. A lot of pistols don't have the facility to hold the slide open so that would have to be done manually and that is where I would envisage problems coming where you are holding the pistol and physically holding the slide back and dropping a round to engage it into the top of the magazine. It is not just a case of dropping it into the area. It has to be engaged into the magazine or it will not feed properly.

So accidents might happen in that situation? - I can envisage that happening, yes.

Now, you have set out in the report details of the method for conversion that you have just described in general layman's terms? - Yes.

We don't need to go into that in any more detail, but can you now identify for us how difficult or easy it might be to undo it again? - Well, a replacement magazine would certainly undo any/

any work. The magazine that was altered could be thrown away and a replacement magazine fitted in which which would undo any work.

The question is how securely could you fit to the magazine so that it cannot be removed and replaced by another? - Well, it could be pinned and screwed and/or welded. The magazines themselves are very fine gauge steel and are prone to mal-function if bent, twisted or even dropped so if there was much effort put on to removing the screws or the welding, the chances are it would be distorted and not fit back into the pistol but a bolt or pin could be redrilled out and the base of the magazine removed and removing the blockage.

Does welding not ensure that it is more difficult to do that? - You are very restricted to the amount of welding you can do because the tolerance fit of the magazine back into the pistol is that fine that you would not have the luxury of having a lot of welding. You would have to dress it and trim it. So it is secure but it would not be excessively strong.

Is there any other way of doing that, such as rearranging the area where the round is inserted by manufacturing something that will take it on its own and perhaps then filling the stock and the barrel with something that definitely could not be removed from it? Filling the stock, rather? - Yes, filling the magazine hole.

Yes? - Yes, you could feed a single round straight into the chamber on most semi-automatic pistols which would eliminate feeding. It would eliminate the round having to be placed on the top of the magazine for correct feeding. You could feed it straight into the chamber and then slam forward or release the slide so that would be possible. A total block.

Let's assume you do that. Can you then fill up the handle or the stock of the gun with something that could not be removed? - Yes, the magazine would be altered in such a way that it would just fill up the space or weld it in place. The top of the magazine would have to be relieved because it has to be removed to disassemble the gun but if the magazine is not going to be required to fill or load the gun, the top of the magazine can be removed./

removed. In other words, if you are then loading it by putting a bullet straight into the chamber, the facility for the magazine can be taken away altogether and it is blocked at the bottom of the butt.

Could that be done in a way that could not be undone easily? - You could be much more liberal with your welding as you do not need your magazine to come in and out. So, yes.

Do you know a replica firearm is a firearm if it can be readily reconverted to use? - Yes.

I am talking of a situation where it cannot be readily reconverted. Have we reached that situation in what you are describing at the moment? - Yes.

Now, are there any increased risks or dangers from having to load a round straight into the breach of the weapon? - The immediate one comes if the gun uncocks as the slide goes forward. The firing pin would be in the forward position and therefore would detonate the cartridge the instant the slide came forward.

So is that a significantly increased risk overloading into the magazine? - Yes.

Now, Nos. B and C in Mr. Paton's report are slightly different, is that right? - Yes.

What are the significant differences there? - He is referring to be able to take the gun to bits, disassembly of the weapon. On many guns the magazine needs to be removed.

Now, you have dealt with that part. That is the part you have just dealt with? - Yes, in the previous statement. If we remove the top of the magazine that would eliminate that problem.

That is No. B? - Yes.

And No. C is the situation where it is an integral magazine rather than one you drop into the handle? - Yes.

What differences are there there? - Well, that would actually be simple to block and the magazine/

magazine would never need to come off anyway. A block could be fixed in there and secured so that would be an easier one to restrict.

In a way that could not readily be undone? - Yes.

Now, if we go to page 2 of your report. You have talked about one disadvantage on page 1 which is the ability to undo your work where it is not a fixed magazine and then you talk about a second and more significant disadvantage which would be the operation of the pistol converted in this way and that is the hold open device problem you have mentioned, is that right? - Yes.

Have we now covered all conceivable situations in relation to pistols or is there such a variety of these weapons that you can't really cover all eventualities? - There are many, many hundreds of different types of semi-automatic pistols so for me to say that to take it as read, that is impossible because there are so many variations.

Now, does the method that you are describing of welding an alternative or a magazine in place or something else in place cause any difficulty in the stripping and cleaning or repairing of guns? - Certainly for repairing and extensive stripping. Yes. The main springs are housed in the channel, they are behind the channel in the magazine and also the sear springs so again it will vary from manufacture or type of pistol to type of pistol.

Could it be cleaned without having to undo the whole business? - The term field stripping, which is just rough stripping, perhaps removal of the slides to get in about the striker or the extractor but you would not be able to go right into some of the springs or the trigger mechanism so it would hinder the complete stripping of the gun.

So what would have to be done to get into these parts? - Well, some parts, if you weld a blocker into the magazine capacity you would not be able to get into these parts.

Would that mean the gun would eventually not function as well? - Well, if the springs got tired/

tired and needed to be replaced you would not be able to get to these parts.

Unless you undid what you had already done? - Yes.

And by doing that you could get to them?

- Yes, that is correct.

Now, if for any reason it was decided that this should happen to guns, semi-automatic guns, I take it you would need to have a method of verifying that that had been done properly? - Yes.

Which has happened in the past in relation to rifles? - Yes.

How is that verified? - It was shotguns as well when they were converted from five shot to three shot. The work was done to restrict in the case of the shotgun down to two shots in the magazine. It was then sent to the Proof House which is a Government run body. There is one in London and one in Birmingham. They check the work, stamp the gun with their proof stamp and also issue a certificate to say that the particular gun with a gun number had been converted.

And in the ordinary situation, just to be clear about this, how many shots can you fire from a shotgun? - In a shotgun, a total of three. This is a semi-automatic or pump action shotgun. The alteration left only room for two cartridges in the magazine and one also in the chamber which makes a total of three.

If these conversions had to be made in semi-automatic or self-loading pistols in the way you have described, what sort of cost is involved? - Again, it will vary but initially, as I read out in my report, welding and restricting of the magazines and the proof charge and postage and carriage, we would not foresee that to be more than £100 per pistol.

You say slightly more for stainless steel guns. Are we now talking about over £100? - Marginally. It is just that the welding has to be different and not every gun shop would have the facility so that would have to be put out to the correct/

correct welding facilities.

If we can turn now to revolvers. Can you tell us how you would envisage restricting the capacity of revolvers so that they could only fire one shot? - Yes, much simpler. The revolver has a cylinder which houses, well normally six shots and there are revolvers with five, some up to even 12 chambers in their cylinder but a standard revolver today with six chambers in the cylinder and it is a relatively easy job to weld in carbon rods into the cylinder with the exception of that chamber so easily eliminating the use of the other five chambers, or whatever number, to leave one free.

To fill in five of the six holes? - Yes.

Now, do you also have to stop the revolver revolving? - No, you would just have five blank chambers and when you open the gun to load it you can index the cylinder to close where you want or would have one prefix before the striker because as you cock the gun it would then index correctly. If you indexed it wrongly you would just fire nothing.

So the gun would still turn as you pulled the trigger, is that right? - Yes, it has to.

And fire that one shot and you would have to open it and reload it and put it back to the place you started it from and do the same again? - Exactly. You would have to index it correctly, yes.

Now, one other method of converting being suggested is to cut out the other five holes? - That is possible but you are going to weaken severely the whole cylinder. There is very severe pressures in there. You could be talking, depending on the calibre, of 18 tonnes per square inch and if you have a five cylinder gun you would blow it. It needs a spring and I believe I made the comment on the welding that tests would have to be done and it would certainly have to be Argon welding because if you weld you would be changing the molecular structure and you could make it very brittle and with the explosion you would blow off the cylinder.

So should we dismiss that as unrealistic? - To cut away the remaining chambers, most certainly, yes.

To/

To go back to the one viable method, that is filling the various parts, the five chambers. If you do that, could you do it in a way which is difficult to undo? - Certainly an engineer with the right facilities could redrill it out. If you had angled high-carbon rods welded into place, a normal hand drill or a Black and Decker drill would go off the harder steel placed in there and tend to follow the softer steel of the cylinder so it would be very difficult for the handyman to take it out but a professional engineer with the right equipment could redrill it out.

Is that a major exercise? - Yes.

Are we talking then about something which is more secure than we were talking of in relation to pistols? - Yes.

Would the cost be significantly different from dealing with pistols? - Very similar.

As a gunsmith, and looking at this from the purely technical and practical point of view and forgetting any views you may have for or against the whole idea? - Certainly.

As a gunsmith, would you be happy that a secure situation had been reached if pistols, self-loading pistols, were converted in the way you have described in your report and to us this morning? - I would be very concerned about the safe loading of the weapons and also the restrictions that there might be in dismantling the guns from a servicing point of view or a renovating point of view but the main worry for me would be the safety of loading a semi-automatic pistol with a single shot without accidentally discharging the gun before you were ready.

What about the question of the facility of reconversion? Would you be satisfied that what you would be expected to do would be secure and would prevent general reconversion of such weapons, bearing in mind that they can get into criminal hands? - Yes, I think that would be very difficult just to say at the moment. Any welding could be ground off. You know, in the criminal element if you wish, not caring about the wellbeing of the gun, just removing the restriction with grinders etc. and undoing/

undoing the welding or files, drilling it out, albeit at the expense of the magazine but at the moment they are very readily available.

Are you talking about something which is fairly easily done then? - It is not easy, no. It would not be easy but it would still be possible.

It would not be a readily convertible weapon in your opinion, is that right? - That is correct.

It would not be readily convertible? - It would not.

Turning then to the revolver. Do you have any anxieties on the safety front about the conversion you have suggested of the revolver? - Only that checks would have to be done. You would have to do it and then check the make-up of the cylinder itself, that the welding did not anneal the cylinder too much but I think with Argon welding etc. the heat is minimal so I would be quite happy with that method.

So far as the prevention of reconversion is concerned, would you be happy that the method you have discussed would prevent reconversion? - Yes.

CROSS-EXAMINED BY MR. GIBB: If I could just ask you something about the buy-back position that I think occurred after the 1988 Act, is that correct.

And I think what happened was that weapons which were outlawed by the 1988 Act were bought back? - Yes.

I think we have also heard that Hamilton tried to get ammunition bought back but that was not part of the scheme? - Yes.

What sort of volume would be involved perhaps in buying back semi-automatic pistols as opposed to revolvers compared to the buy-back of semi-automatic rifles in 1988? - I am sorry.

Just in terms of your customers presumably semi-automatic pistols are a lot more common nowadays than semi-automatic rifles were in 1988? - Yes, /

Yes, I know of thousands of pistols with my customers but some customers have five or six and some of the pistols are only £50 or £100, but I have customers who have pistols that are several thousand pounds.

So perhaps it is unrealistic to have a buy-back position for semi-automatic pistols given the difficulties you have advanced? -
Yes.

JAMES/

11.00 a.m.

JAMES RICHARDSON (53), Sworn:

EXAMINED BY MR. BONOMY: Are you James Richardson? - I am.

And are you the Deputy Chief Constable of Strathclyde Police? - I am.

What age are you, Mr. Richardson? - I beg your pardon?

What age are you? - I am 53 years of age.

How long have you been a serving police officer? - Over 30 years.

And how long have you held the rank of Deputy Chief in Strathclyde? - Almost two years.

As a Deputy Chief Constable, you will be a member of the Association of Chief Police Officers in Scotland? - That is correct.

And you are therefore one of a group who have made submissions to the Inquiry? - That is correct.

You are not here to deal with the submissions, but to deal with a matter of fact that you yourself investigated; you appreciate that? - I understand that, yes.

Could you have before you Production R47, and can you confirm to me that that is a report you prepared? - It is. It was prepared on my behalf and under my direction.

And you have signed it as the officer responsible for its final form? - I have.

And that was prepared following instructions you received from the Deputy Crown Agent to look at the procedures and actions followed under these procedures in the Central Police Force, dealing with firearms applications by Thomas Hamilton? - That is correct.

I/

I think the best way to deal with this will be to go through parts of your report with you, and if you feel that I omit something of significance as I ask you questions, please feel free to make comment and to butt in, but what I am trying to do is give a fair representation in your oral evidence of any points of difficulty or criticism you encountered as you went through the papers that were provided to you? - I would appreciate his Lordship's permission to refer to my own report which I have in my case with me?

Is that something different from the report.....? - It is the same report, but I have highlighted parts of it.

MR. BONOMY: There is no objection to you doing that.

LORD CULLEN: Please proceed. That is quite acceptable.

EXAMINATION CONTINUED BY MR. BONOMY: The first thing I want to ask you about is your consideration of the Force Standing Orders which you deal with on Page 3 of the report, and you report there of a difference between Standing Orders in 1977 and Standing Orders as revised in 1990, and there are significant differences; is that right? - There are, yes.

And these are undoubtedly greatly improved by 1990? - That is correct.

And can I take it that that is something you would have expected to find? - Yes. Following 1988 and the issue of the new Act, I would have expected that the Force's orders would have reflected the Act and guidance given.

I think if you look at the foot of Page 3, you set out there what the guidance was to officers in the Standing Orders in relation to a firearms application enquiry as at 1977, and you are referring there to Paragraph 2.2 of the Standing Orders, and can you just read that paragraph please? - Yes, beginning Paragraph 2.2 -- "In dealing with such an application (firearm certificate application) the enquiry officer will examine the application form thoroughly and ensure that the information/

information provided is accurate. All necessary enquiries will be carried out and form RL3a (annex 6) completed and submitted through the chain of command to the Firearms Department, Headquarters".

You can take it that the Inquiry has heard direct evidence about how this system worked, and indeed works up to the present time. What I am more concerned about at the moment is what you saw as perhaps the short-comings of that particular direction, and you make comments on Page 4, and can I take it that essentially you are saying there that that is a fairly skeletal direction on how to carry out such an enquiry? - I took the view that all parts of the system must be in place and be equally supportive of the overall purpose of the system, and in respect of the Order and the form which was required to be completed by the officers, I felt that they were not adequate in their form.

Now, the form, the guidance given there is put into effect by an enquiry officer by using the document RL3a? - Yes.

And if you go to your annex 6, is it, we have the RL3a that was then in use; is that right? - That is correct.

Now, you have a number of comments to make about that because obviously the guidance in the Standing Orders has to be viewed in the light of the fact that this additional guidance is clearly given to officers in the form of six questions? - That's right.

What concerned you about the format of the RL3a at that stage? - Principally that it was a yes/no format. It didn't encourage the attachment of any documentary evidence that was adduced from the enquiry made the police officer. It wasn't specific in terms of regulating particulars of a Club where an individual was to be shooting, and overall, from the examination I made of the documents, I felt that it didn't support the police officer in making enquiry, since such enquiries demand some additional knowledge.

When you talk about documents, can you tell me what documents you envisage a form encouraging an officer to attach to it? - There may/

may be documents confirming membership of a Gun Club for example.

There may be other documents concerning whether or not there was information in the Scottish Criminal Record Office concerning convictions for example. Another issue with the RL3a is that it doesn't speak of ammunition which, within the Act, permission has to be gained for the firearms and the ammunition.

Can you give us any assistance of what the position was in 1977 about checking on criminal records? - I wouldn't be certain. To be helpful, I would expect an enquiry officer, an enquiry officer who is a police officer, to check criminal convictions when making an enquiry into an individual, but I would expect him to receive the guidance to do that.

Now, I think you do mention towards the foot of Page 4 that, just before the various points that are marked, "In particular, information is not elicited to satisfactorily explain", and one of the items you mentioned there is "Why an applicant has or continues to have 'good reason' for possession or wishing to possess or acquire the firearm or ammunition"? - Yes.

And can I take it that that is because, although no reason is mentioned clearly on the form, it is the yes/no provision for the answer that caused you concern? - That is correct. The answer isn't assisted by the form in defining good reason in terms of for example legitimate and regular opportunity to use the weapons at a Gun Club.

In 1990's Standing Orders dealt with on Page 5, you identify a number of significant additions to what was in 1977? - That is correct.

And can I take it that the most significant ones are the ones that you have identified and set out in the Pages 5 to 7 of your report? - That is correct.

And one of the points that is now specifically mentioned is that a summary of Section 27/1 of the Firearms Act is recorded in the Standing Orders? - That is correct, yes.

And/

And that covers a number of the issues that an officer is supposed to be looking into; is that right? - Yes, that is correct.

And also, you mentioned specifically that there is a direction that an officer is responsible for carrying out a check on the police national computer and Scottish Criminal Record Office computer? - Yes.

And/

11.20 a.m.

And then specifically if we go to the foot of the following page, page six, you mention that there is guidance given where information comes to light in between renewals about a person who holds a firearms certificate? - Yes.

What was that guidance? - Principally at the foot of page six, are you referring to?

Yes, sir? - This is where a Scottish Criminal Records Office check in respect of the person who holds the certificate indicates a new conviction or a pending case which may be serious enough to warrant revocation of a firearms or shotgun certificate, the Division where the person resides will be sent an RL3A, a Central Scotland Police Enquiry form, asking for enquiry to be made into the matter, and whether or not the certificate should be revoked.

So if this renewal has come up and something has happened between the renewal, and that specific matter has shown up, the enquiring officer will be instructed to deal with it when he carries out his RL3A enquiry? - Yes.

On page seven is there a further direction which applies even where there is no application being dealt with by the Force at all? - The last paragraph?

The last marked one? - This is the comment in the Force Standing Order which requires all police officers to bring to the attention of the Chief Constable any information in respect of a firearms or shotgun certificate holder which would suggest that revocation of the certificate would be warranted.

In other words, any officer who is alerted to something that might affect the suitability of an individual who holds a firearms certificate to hold a firearms certificate has a duty to tell the Chief Constable? - Yes.

You do make a note of the material kept in Hamilton's file in that record. What was the note you made? - The note I made, based on paper evidence/

evidence only, was that the firearms file only contained information concerning the firearms applications.

You then refer to one additional Force Memorandum which is of particular significance in relation to these applications, and that is the direction to carry out a Criminal Intelligence check. You can take it we have heard evidence on that already. You then make the point that that firearm form should be amended? - Yes.

Was it amended? - No.

Not to take account of that point, which was the check for Criminal Intelligence, but if we look at Annexe 7 there we have there an MR3a significantly amended from the one which appears in the 1977 Standing Orders? - Yes.

Do you know when the new one came into operation? - I am not certain. I think it was 1990.

Did you discover there was an interim period when there were two forms used? - One was a supplement to the basic RL3a. I understand it was a holding situation which was put in place until the amended RL3a which is referred to in that regard was brought into place.

Now, the amended one is still in operation at Central Scotland Police? - Yes.

Have you looked at similar forms in your own Force? - We have had a look at the form which police officers in Strathclyde are asked to complete when making enquiries into firearms certificate applications, operations and renewals.

Is there any significant difference? - I believe the form used in Strathclyde is more comprehensive, and encourages more enquiry.

Yes? - However, can I just say that I do not believe that the form in a Force should be looked at in isolation. As I said at the start, I do believe that the whole system must work properly, and there must be support for the police officer doing enquiry on firearms certificate holders in local/

local areas.

Yes, I take the point, but what I would like to know from you is the way in which you feel the form we are looking at in this case does not give the support you feel the officer should have in the course of the enquiry? - There is more direction in attaching documentary evidence, there is more direction and encouragement to check gun clubs to confirm membership; there is direction to check the Criminal Intelligence file to determine if anything is known of the applicant.

Yes. The form is obviously quite different from the previous one? - It is quite different. I have a copy here that I would like to glance at, if there is no objection.

That is.....? - The Strathclyde Police form.

Oh, were you speaking just now of the differences you can identify in the one you have there from the Central Scotland one, or were you telling us what the ideal style of form should be? - I was comparing it with the Central Scotland form and pointing out the additions in the Strathclyde form.

Can you tell me these again, please? I had misunderstood what you were doing? - Within the Strathclyde Police enquiry form there is an encouragement to officers to attach documentary productions. Additionally, there is a comment that Divisional Intelligence offices must be checked to determine if the individual is known there: and there is encouragement within the form to check with gun clubs.

Now, if you look at Annexe 7 you will see that certainly with the computer and SCRO checks there is encouragement to attach a print-out? - Yes.

We do know that Intelligence checks are supposed to be made by Central Scotland police officers because of the Force memorandum; is that right? - Yes.

And the third one you mention is attaching/

attaching documentary evidence of club membership? - Any documentary evidence is encouraged to be attached to the report form when it is submitted.

All right? - It may be helpful if I say to you that in relation to the possession of firearms the Strathclyde form does ask the officer to ensure that each firearm has been shown to be needed for good reason, and for example it specifically mentions if the firearm is required for target shooting then membership of a club should be confirmed.

Did you find in your consideration of the papers in this case, though, that the Central Scotland police officers did in fact do something to check on the membership of a club? - I could not confirm that that was done.

Not on every occasion? - Not on every occasion; or that it was not done.

That is because the form does not provide the necessary direction to make the appropriate entries? - That is one reason, yes.

Again we can take it the Inquiry has heard from a number of officers about whether or not they did make checks. I take it part of the difficulty you had was the same one we had, that officers are being asked to speak about events a long time ago, where no specific record was made on the form? - Yes. There was no information we had which could clearly show whether or not checks were made as a matter of course. Some enquiry officers do not recollect making checks, but clearly say in their statement that they thought they probably would have made the necessary checks. I think there is an occasion where an officer remembers making the checks.

Now, I suppose the form becomes important because when we look at page 12 of your report and you refer to the six questions in the form you discovered that they were the process for the investigating process, and there was little deviation from the line of questioning set out on the form? - That is what I am assuming from the paperwork that was examined.

What/

What was discovered of course is that it was an officer in a particular Division who was on duty on the day and available for the purpose who got the enquiry to make? - Yes.

And you would expect such an officer to follow the guidance in the form; is that fair? - I would expect the officer to make the necessary enquiry to be able to answer yes or no. Having said that, the police officer has training and experience to allow them to expand enquiries if they feel it is necessary, and also to bring some assessment to the individual that they are making enquiry of.

Yes? - So although the form is limited insofar as what it asks the police officer to do, I would imagine, depending on the answer, there would have been further enquiry made, for example at gun clubs.

I have taken you slightly out of order there, and I don't want to lose the thread of the report. Could you go back to page 10? You are talking in that section about the actual operation of the Central Scotland Firearms Department, again something about which we have heard direct evidence? - Yes.

You make the comment in the second last paragraph that there is no evidence to suggest that Hamilton's firearms file had been consulted by investigating officers or Divisional Commanders prior to making a recommendation for approval. Did that concern you? - I have to preface this remark by saying this was from written evidence produced to me in terms of statements and so on.

I think you can take it your understanding is accurate? - There is nothing to suggest that anyone did consult the firearms file. Having said that, I would have expected that the whole system would be thorough, that the Firearms Department would be pro-active in that when information came to them by virtue of a police officers enquiry form, application form as a result of the enquiry, they would then pro-actively look at the firearms file, check previous information, history of ammunition purchased and so on, in a pro-active way which supported the system of enquiry.

I/

I think I should also make it clear to you at this stage that the evidence so far before the Inquiry suggests that the man who had to make the decision on these applications is Mr. McMurdo generally, or someone standing in for him on one occasion more recently, and that he was well aware of all the information that you have identified in the report that might have been in the firearms file. Now, that may be something that you did not appreciate, was it? - I was aware Mr. McMurdo in his precognition had said he was aware of all the information relating to Hamilton.

But your concern here was about the system and the place that perhaps material should be noted within the system? - Yes.

And your concern was that the firearms file should have more than simply the applications and the certificates in it? - Yes.

One of the things you observe on page 12 at the foot is that the investigating officer will have possession of or at least viewed the certificate. Was your finding that the old certificate which had been held and was about to be renewed or otherwise was actually passed to the investigating officer? - My understanding of the system is that the investigating officer would take to the individual whose certificate had to be renewed for example an application form for renewal, and the guidance to the police suggests that that should be done by prior appointment; and that at the same time it would be useful if the visit could also incorporate an enquiry.

Yes? - So when the officer went to the house he would be able to hand over the application form, perhaps make enquiry into the security of the guns, and thereafter my understanding is that the individual who was requiring the renewal would hand the form and certificate into the local police office. Could I say that the procedure is just a little confused, when I read the paperwork.

The/

11.45 a.m.

The evidence already has suggested that in some instances the old certificate is handed in either with the application or to the enquiry officer but that is not the universal practice because there is no obligation on a person to hand over his existing certificate.

Now, do you see anything that is wrong with that statement? - My understanding is that individual may keep their certificate to allow them for example, as well as the renewal being pursued which may be for four weeks ahead, they may keep their certificate to buy ammunition so that it can be recorded or whatever.

Yes, there is no obligation to hand over the old one and therefore there must be some means of ingathering that information and that can only be done by the enquiry officer? - That is my understanding, yes.

And the enquiry officer, if he has no experience of firearms, would he know from the form, the RL3a Form, to perhaps look at the question of ammunition purchased, just to take an example? - I think that would depend on the experience of the officer and his inquisitiveness but the certificate, when it belongs to someone who has been involved in purchasing ammunition and guns, can be quite complicated, albeit a police officer could go through it and glean information. I took the view that it would be more appropriate if the Firearms Department at Headquarters made sure that that part of the enquiry had been thoroughly done. For example, to check the certificate for ammunition usage, considering that they already had the previous certificate on file which would contain a previous history of ammunition purchased.

It is obviously your opinion that ammunition usage is something that should be checked in the course of one of these enquiries? - Yes, absolutely.

I think it is fair to say it has not previously been identified as a matter that should be clearly investigated but that is your opinion, is it? - It is, yes.

If I can ask you now just to look briefly at page 13. You comment there on the question, in the first full paragraph there, of enquiry to confirm/

confirm membership of an organisation or a club and the making of regular and legitimate use of the weapon? - Yes.

And you comment that the form has no space for recording people who could confirm these factors, is that right? - That is correct, yes.

Is it your view there should be some guidance on the form for the officers to point them to these particular factors? - it would be helpful to the officer to be given guidance either on the form or separately so that he or she understood there was a necessity to make enquiries at gun clubs.

You referred a number of times in your report to that phrase, "regular and legitimate use of weapons in his possession" and your source of that is the Home Office Guidance but when we read the Home Office Guidance carefully we see it refers to "regular and legitimate opportunity for the use of the weapons". Do you see a difference there between these two expressions? - My interpretation is that the opportunity must be taken. Having read that part of the Act which says that an individual must have good reason to possess firearms and ammunition, part of that good reason I believe would be the use of firearms or ammunition else they should not possess it.

I think it also concerns you when you went through the whole system that there may have been an expectation by some of the investigating officers that all the factors that should be taken into account should be looked at by someone further up the tree. Can you tell us what you discovered on that? - I haven't discovered anything concrete but I believe from the reading of the statements that there perhaps has been an impression in the Firearms Department that enquiry was being made at gun clubs to determine for example membership and regular opportunity for use and the possibility is if that has not been done, which I have not been able to confirm as definite, that the enquiry officer may have considered that that work was being done at headquarters, perhaps expecting it to be more proactive than it perhaps was.

I think you can take it from the evidence we/

we have heard that that part of the checking was done by the enquiry officer, whether it be Mr. Lynch in relation to certain renewals or a constable in one of the divisional areas but I was more concerned at the moment at the way in which the system operated. When information was gathered in, were you not concerned about the stages at which officers were looking at it and looking at it in a limited way and I think you deal with that actually on page 14 in the first full paragraph there? - Yes. From the statements that have been read in relation to the police officers, there is no indication that the file was referred to as a means of assessing the applicant. In other words, there was no historical enquiry done in relation to the individual. The enquiry pertained to that application for renewal at that time.

I think in the end of that paragraph you refer to the function following between two stools. Now, what is the function you have referred to? - I am referring to the function of assessing whether he was a suitable person and had good reason and using his membership at gun clubs and so on.

And what would be the two stools that the function was falling between? - I believe that it was falling between the operational officers and the Firearms Department at Headquarters.

I think you say there that each one was assuming the other was doing certain things? - That is my understanding from enquiry that has been done in Strathclyde, yes.

Now, I appreciate the comment you make in the next paragraph that all this centres on the failure to consult the firearms file as a matter of routine if you are an investigating officer. However, you did discover the firearms file did not contain anything that would have impinged on anyone's consideration of Hamilton's application anyway, is that right? - That is correct.

And as I explained to you already, the evidence suggests the man who made the decision was well enough informed, albeit he never had the file in front of him? - My understanding is that, yes.

Now, are you suggesting that nevertheless good/

good practice ought to be to have all the information in the file and the file with each officer who is to either make the enquiry or a recommendation right up the tree? - I am suggesting that the whole system must be sound. For example, that the enquiry officers make good enquiry under guidance and that the Firearms Department are proactive in checking the firearms files so that they can play their part in providing good information as the certificate progresses up the tree as you say. Everyone has to play their proper part in the system.

Is there a need for all the information to be considered by more than one person? - I believe that the Firearms Department or someone in administration should have the skills and the experience to check everything in the firearms file, to check the incoming application, to identify any problems that there may be apparent, for example non-usage of ammunition, so that that can be brought to the attention of the senior officers and especially in this case to the attention of the Deputy Chief Constable.

That suggests that the way the department and system at Central is evolving is the right direction. In other words, using a civilianised Firearms Department to make the investigation and carry out the administration and then refer the matter to one officer at a senior grade to make the decision? - So long as there is a system in place and my understanding is with the system that was in place people worked within that system, albeit the system I believe was not adequate.

Do you consider that the engagement of civilian firearms enquiry officers with a knowledge of firearms and practice in relation to firearms is a good move? - I have no experience of that. If I could give you a gut reaction. I haven't thought about it but if I could give you a gut reaction. There is a soundness about having a police officer making enquiry if he or she is given sound direction because they have a lot of training in assessing individuals, assessing people, in the light of all the other enquiries they do. Nevertheless, set against that, if there are civilian enquiry officers who are well trained and who have a system in place that they have to satisfy which ensures that all things/

things are done properly then there is nothing to say that that would not be a very good system and it would certainly allow certain individuals to build up expertise. There is a hint of that in Strathclyde just now in each Division. There are administration units where there are police officers located and in the urban areas it would generally be the case that that unit would take a close interest in firearms applications for renewal etc. and would make enquiries so they would build up the expertise but, nevertheless, if you then move to rural areas you then have to have another system in place where local officers make enquiries.

I am certainly hesitant to ask you very much about Strathclyde for various reasons, one of which is of course the different size of Force that we are talking about from Central? - Yes.

And I have tried to confine the questioning to things like form for example where you might more easily see some sort of comparison. What you say is very helpful but in Central the development has been towards a civilian enquiry officer and perhaps the addition of another one in due course on the basis that his knowledge of firearms is an important element in securing the type of information you are talking about and paying attention to, things like types of weapons involved and the use of ammunition. Now, are you saying that even in those more technical areas you are better to rely on a policeman? - I am saying that I have not given it a lot of thought. What I am saying is that there are advantages in both.

The real secret is to combine the advantages of both into the one creature? - The real secret I believe is having an efficient system in place.

I take it, though, you would really go beyond that and agree that good training is required also for officers who are investigating matters like that so that they have the necessary knowledge? - There either has to be training specifically directed at those enquiries if the system has to be improved or else the information that they are given to help them make a thorough enquiry is much more comprehensive.

Now, /

12.00 p.m.

Now, you then, from Page 14 onwards, deal with the various applications of which the Inquiry has heard evidence so far, and you do identify certain things that -- at least, you point up certain things we have heard evidence about. I take it that what you were trying to do there was focus the Inquiry's attention on any points of significance that you could derive from a consideration of the various applications themselves and how they appear to have been dealt with?

- That is correct. That was one of the requirements placed on me by the letter from the Depute Crown Agent, to look at Hamilton's Firearms Certificate throughout its term.

Could I then take you on to just a few particular issues I want to raise with you in that connection, if I can take you to Page 22, and you are dealing there with an application to vary in October 1984?

- Yes.

And at the foot, towards the end of the page, you have highlighted the words "There appears to be no questioning of Hamilton's possession of duplicate calibre weapons". Which duplicate calibres were you referring to there? - Sorry, could you direct me to the paragraph you are referring to again?

Do you have Page 22? - I have, yes.

And if you go to the bottom section, "Observations"? - Yes.

And if you go halfway through the thick black writing, "There appears to be no questioning of Hamilton's possession of duplicate calibre weapons". Now, do you know which duplicate calibres that refers to? - I'm sorry I can't be certain there. I was just checking the annex, which is helpful, but I believe it was a .22 rifle, but.....

You have got an annex which summarises these various applications? - Yes.

And on Page 6 of that annex, you have got the reference to the one of the 27th October 1984?/

1984? - Yes, that is correct.

And it seems to have been an application where he held a .22 rifle and a .357 Smith and Wesson, and was wanting a .223 rifle and a 9 mm pistol. That is when Hamilton begins to move further -- 1994 generally is when he moves into 9 mm or larger calibre revolver? - Uh-huh.

Are you referring there though to the possible similarity between the .22 Anschutz rifle and the .223 rifle? - Yes; that is the reference, yes.

It is simply to be clear what the particular point is in the Report? - Reading in the annex at Page 6, if it is helpful, it shows that he holds a .22 Anschutz rifle, a .357 Smith and Wesson revolver, and was requesting permission to purchase or acquire a .223 rifle.

If you just give a moment, there is one thing I want to check to make sure of the facts of this. Yes, I think that is the factual position -- I think a number of times going through the individual applications, you had expressed concern about the extent to which his good reason for continuing to hold weapons was considered by the enquiring officers? - That is correct.

And that is a theme of the Report. However, you do, if you go to Page 24, you do there identify one occasion where a particular query was raised about Hamilton's request for a duplicate calibre weapon, and you refer to that in the middle of the page? - That is correct.

And a specific further enquiry was instructed and carried out by the officer enquiring into the application; is that right? - That is correct.

And further justification was provided? - That is correct. It says that I understand from the paperwork that Hamilton gave the explanation that it was an advanced design incorporating a weighted handle for greater accuracy.

I think it may also have provided that he was active in target shooting and competitions. Is/

Is that the one that said he was active all over the country in competitions? - There is a reference. I don't think it is particularly that one which says that he was active all over the country, and that was his explanation for requiring another gun, but there was no confirmation of that found. That remark is in fact at the top of Page 25, and I should say that there is no evidence that he was engaged in competition shooting throughout the country.

At least, you haven't seen it? - That's right.

Nothing has been provided to you? - There is nothing been provided to me.

You also mention on Page 26 something which has again emerged in the course of the other evidence, that for a number of years, he had authority to have a 7.62 rifle which he never bought, and he also held ammunition without ever having a weapon that would fire that ammunition? - That is correct, yes.

Again, just to clear the factual position as best I can, if you go to Page 27, you refer there to an incident in August 1988 where Doreen Haggar claimed Hamilton had been at her home making veiled threats and was alleged to have adopted a body stance with one hand in his jacket pocket as if he had a weapon, and you go on to say the matter was allegedly reported to Lothian & Borders Police. In fact, there is no evidence before the Inquiry or indeed, I think, in the statements, that it actually was reported. There is no claim even. I think Mrs. Haggar was unsure whether she had reported it or not; is that right? - That is correct.

And indeed, nothing was said in her evidence to indicate she had reported that particular one, but that was a different one where she claimed Hamilton actually had a gun which had been pointed in her direction; is that correct? - Yes; I think that is the one where he arrived in a vehicle.

Can I now take you to Page 31 where you have identified something which may, you may wish to say/

say something else about -- right in the middle of that page, one of the observations you make is that "There is no notification as to whether Crime Intelligence staff were aware that Hamilton was indeed the holder of a firearms certificate". If you have Criminal Intelligence Officers, should they know who have firearms certificates? - If they raise a file in respect of an individual, from a check of the SCRO computer, you would be able to determine whether or not that individual was a firearms certificate holder, yes.

And are you saying that that information was missing from Criminal Intelligence records at Central? - I could find no evidence that it was available in Criminal Intelligence. I would have been happy to have made further enquiry in Central Scotland, had time allowed, but I had to restrict myself to the papers that were delivered to me.

You are looking at this matter really from the point of view of an officer investigating who is carrying out a police investigation without a particular expertise himself in firearms? - That is correct, yes.

Did you make use of Strathclyde Police Firearms Officers to assist you at all in your enquiry? - No, I didn't. I chose not to do that deliberately other than at the end of the enquiry.

And for what purpose did you do that at the end of the enquiry? - Because I was asked on Friday to make some enquiry into Strathclyde Police procedure so that I could be helpful in this Inquiry.

Now, one of the matters you have mentioned already, but you highlight on Page 37 at the foot, is that a check of Gun Club would have verified membership and may also have provided evidence that Hamilton was not a regular shooter -- may have provided evidence.

As/

12.20 p.m.

As an enquiring officer with the task you were given in this case, does it strike you as something that could be done in relation to each application for the grant, renewal or variation of a firearms certificate that the club at which the handgun holder claims to be a member should be asked to confirm his membership and the regularity of his shooting? - Absolutely. If my interpretation of "Regular and legitimate opportunity to use" is correct, to satisfy good reason that must be part of the enquiry.

That would no doubt be a lot of work? - Well, it seems to me that if gun clubs set themselves up to provide facilities for recreation with firearms then the responsibility must fall on them to properly run their clubs and ensure that the people who use the clubs satisfy the law, and the law does require good reason.

Did you establish whether or not there was a recognised maximum amount of ammunition that a person should be permitted to hold at home? - I have read the guidance which was issued in 1969, and.....

That was from the Home Office? - That was the Home Office guidance to the police. You will see that there are maximum amounts recommended of 1500 rounds to be possessed at any one time and 1,000 rounds to be purchased at any one time.

Yes? - When the guidance was issued in 1989 these maximum amounts were not transported to the 1989 guidance.

What is the 1989 guidance? - The new guidance that was issued?

What guidance was given about quantity? - My recollection is that it says that no arbitrary limit should be set in relation to the amount of ammunition that a certificate holder should have.

Can I take it the 1969 guidance was talking about maxima applicable to each calibre? - That is my understanding. There was a qualification that people who shoot internationally may require those/

those amounts. But it didn't appear to be a guidance that anyone should have that amount of ammunition in their possession.

We have heard evidence of people in the Central area who hold certificates allowing 1500 of individual calibres to be held at any given time. Is that the only guidance you have discovered which refers to that quantity? - This is the only guidance I have found referring to 1500 rounds and 1,000 rounds of ammunition, yes.

Can I ask you to look at your concluding remarks on page 39? Again I do not intend to go through any of this with you, but to clarify certain points. In the second paragraph you say "Chief Constables have an unfettered discretion in deciding to authorise the grant or renewal of a firearms certificate"? - Yes.

What do you mean by "unfettered"? - I believe the Chief Constable is the person and the only person who can apply the requirements of the law in determining whether or not an individual should have a firearm certificate. Perhaps it is unfettered, but yet if an individual does fulfil the requirements of the law of being of sound mind and of temperate habits, not prohibited by the Act, having good reason, then the Chief Constable shall issue a certificate. So it is his responsibility to take the decision as to whether or not the certificate should be issued.

Obviously a decision against an applicant is subject to appeal? - Yes.

And to that extent the Chief Constables are fettered by the intervention of the Court if necessary? - In exercising his discretion I am sure he would be required to show if he appeared before the Sheriff to justify an appeal against revocation, refusal to renew or refusal to grant: I would imagine he would have to show he had acted in a reasonable way.

In the next paragraph you say "Public safety is therefore a factor of paramount importance in any decision to grant a firearms certificate", and to emphasise in furtherance of that point that that places a duty on Chief Constables/

Constables to put in place administrative procedures which will ensure that precise and accurate records are held, as the keeping of such records facilitates the collection of information and provide ready access to enquiry officers on the history of the certification process insofar as each applicant is concerned? - Yes.

Now, this is part of what you have been saying to us about the system today, that is precise and accurate records? - Yes.

You then go on to deal with the other part of what you have been saying about the system. Could you read the next point? - Perhaps, Mr. Bonomy, you should allow me to say that I say on page 39 is that there must be efficient procedures.

Yes. Could you read the sentence saying "Moreover....."? - "Moreover, the keeping of records will apply to each firearm, allied to the concomitant amount of ammunition the applicant may possess or purchase at any one time".

And then the next page? - "A number of main issues have emerged from the review of procedures in place within Central Scotland police. Insofar as instruction and in guidance or administrative procedures is provided to officers, the source is found in Force Standing Orders, and a related pro forma report (form RL3a)".

You then give details of the Standing Orders, and you have told us something about that? - Yes.

And the things that were missing in 1977; is that right? - Yes.

And you summarised the position in 1990, and you relate both of these to the terms of the pro forma RL3a? - Yes.

If you look at page 42, you make various points about the changes between the 1977 and the 1990 forms; is that right? - Yes, that is correct.

Now, could you just summarise these improvements for us? - In relation to the RL3a form?

Yes?/

Yes? - The RL3a form which is in one of the annexes, the new one, did give instructions to check SCRO and PNC, if I recollect correctly. It did ask the officer to list the firearms held. There was a place provided for comments, as was the case previously.

I think you also mention there that any trace brought out on one of these searches had to be attached? - That is correct.

And that there was a specific question added dealing with the details of the reason given by the applicant as to why he held or sought to hold a duplicate calibre firearm; is that right? - Yes.

So these are all changes obviously for the good; is that correct? - Yes.

You then mention certain shortcomings? - Yes.

Can you deal with these? - "It is of significance, however, that apart from requiring the enquiry officer to attach a computer print-out in circumstances where the applicant was traced on the PNC/SCRO computer, the administrative procedures do not require or encourage the enquiry officer to attach with the report any written confirmation he may have obtained in respect of the good reason the applicant had for requiring the firearm or ammunition."

Allied to that you make a point about ammunition levels? - Yes. The form does not require information about ammunition levels.

Or indeed any reason the applicant has to seek to increase the number of rounds held; is that right? - That is part of it.

Now, on page 43 you deal with the Headquarters Firearms Department? - Yes.

I think your position is best summed up in the third paragraph of that section. Could you read that out? - Yes. "It is essential that Divisional Enquiry Officers are in possession of sufficient information to enable them to carry out a proper and thorough enquiry into all the circumstances/

circumstances surrounding the application. In Central Scotland police, it would appear that the information held at the Firearms Department on such matters as ammunition purchase, ammunition usage, the date permission was sought to purchase/acquire additional firearms was not routinely transmitted for the benefit of Divisional officers in conducting their enquiries. There are a number of specific examples where no record is maintained in the firearms file in respect of issues that required to be the subject of enquiry. It may be that such enquiry was carried out by Divisional officers, but nonetheless there is no record maintained on the file".

Then you give examples? - Yes.

I think it is fair to say that in some instances we have heard a little more about the application than you have gleaned from reading the paperwork. You are dealing with it on the basis of what you can read? - Yes.

BY LORD CULLEN: When you talk about Divisional officers conducting enquiries are you talking about the officer who goes round making the enquiries or someone else? - I am speaking about those officers who go round making enquiries.

EXAMINATION CONTINUED BY MR. BONOMOY: That means officers in a Division rather than the officer in charge of the Division? - That is correct.

I think after thee various examples you deal at the foot of page 46 with the processing of certificate applications? - Yes.

I'm sorry, I think I have missed one section. You deal with a number of examples, then you deal at the foot of page 46 with the processing of certificate applications? - Yes.

And you make the point that the form RL3a does not require a Divisional officer to carry out a Criminal Intelligence check, although the memorandum does? - Yes.

And again you are summarising various matters we have been over in evidence; is that right?/

right? - Yes.

So can I take it that that report in your understanding of 48 pages, with the various annexes, is an accurate account of the independent enquiry into the operation of the firearms licensing procedures in respect of Thomas Hamilton carried out by Central Scotland police? - That is correct. I have to say in response to that that thorough and professional enquiry would also have entailed interviews, valuations, visits and so on. However, as you are aware, the time did not allow for that. This is the best report I could produce in the time available from the information made available to me.

I am sure the Inquiry is grateful to you for carrying it out at such short notice. You are also aware that the Inquiry has heard direct evidence from many witnesses, and your report will be taken along with the direct material that we have heard? - Yes, sir.

CROSS-EXAMINED BY MR. GIBB: You talked about the ability of police officers to carry out the enquiries, and you stated that you had not formed any view as to whether it should be civilianised or not. In this case while it is true Mr. McMurdo was aware of all the facts, Anne Anderson, the enquiry officer, was not aware, but had a gut feeling, and if she had known all the facts she might have qualified her report upwards. Is there not something to be said for some degree of specialisation of police officers carrying out these enquiries, so that some of them know how to open a gun and check guns properly? - I think if a police officer is properly supported by good guidance then there is no reason why a police officer should not carry out a thorough and satisfactory enquiry.

Yes? - As I said also there is this great benefit to be gained by having the same people doing it continually, so that they build up a greater level of expertise.

Yes? - I think if you provided the police officer when he makes the enquiry with some memorandum of guidance, each time you give him the information to allow him to check guns you produce serial numbers and so on, and he can do the enquiry equally well, provided the individual who is requiring/

requiring the certificate is able to point out to him the serial number on the gun.

We have heard evidence that in relation to gun clubs there is a Range officer when shooting takes place, and presumably members of a gun club can simply keep a personal record of their use of ammunition. That would not be very difficult? - I believe if an individual gets ammunition and purchases it, whether at a gun club or a shop, an ammunition record should be maintained, because it does help to show whether or not regular and legitimate opportunity is being taken, and it allows us to find out about the ammunition being used by an individual who was using it regularly.

But of course home made ammunition would create a problem, and that appears to be quite common? - That is correct. That would have to be dealt with within any new procedures if it was not acceptable.

BY LORD CULLEN: On that last point, as I understand it what you are saying is that an officer who goes round should be supported in the first instance by general guidance; is that right? - That is correct.

And you have also indicated he or she should be supported by information of the particular case? - Yes. I believe that if there is any difficulty at all with that particular case then the Firearms Department should be able to support him or her. Nevertheless, in addition to that I do believe that an officer should have -- it may only be a sheet of paper or two sheets of paper printed out every time an enquiry is being undertaken regarding the grant, renewal or variation of a firearms certificate, on that form to allow the officer the fullest of information or direction, so that further enquiry is made at gun clubs and so on to satisfy that.

I suppose up to a point a certain amount of direct guidance about the particular case might be given if there was something in the firearms file which merited enquiries; is that right? - That is correct.

But when the officer sets out he won't yet/

yet have seen the current certificate? - Yes, that is correct.

And I suppose that when he sees that, looking at it might provoke him to further questions? - It may do, but it may also be very difficult to interpret, because they can become complex documents.

Yes? - I think what I was trying to convey earlier was the real need for a Firearms Department which pays particular attention to an examination of all the information previous and current in relation to a certificate being held, and carried out each time.

How is the officer who carries out the enquiry going round to be assisted by reading the existing certificate? Is he going to be given enough instructions to enable him to ask questions, or should he in some way have referred back to the Firearms Department for further consideration? - I think both are equally relevant. I think the Firearms Department should be instigating further enquiry if the officer does have particular difficulty.

That might mean he might have to go out a second time for a follow-up visit? - Yes; or alternatively the Firearms Department could start to undertake the enquiries centrally, for example there was nothing to hinder the Firearms Department at Headquarters telephoning the secretary of a gun club and asking specific questions, or writing for specific answers to questions.

CROSS-EXAMINED BY MR. TAYLOR: I wonder if you could clear up one point. You have made your criticisms of the procedures adopted by Central Scotland police as you perceive them to be very clear. But what I would like to know is the standard against which the judgements are being made? - As I have said earlier, I did not use an officer from our Licensing Department as part of the team assisting me in making the report, and that was deliberate. I set up a team which comprised a Chief Superintendent who was a Divisional Commander, a Chief Superintendent who was a member of Complaints and Discipline, a Detective Superintendent and an officer who had a law degree and who had had some experience/

experience in our Legal Services Department. What I tried to achieve, combining all of that, was satisfying the law and satisfying good police procedures and the need for public safety to be paramount.

So could these be thought to be the ideal procedures against which the judgement has been made, as opposed to any current set of procedures? - I don't think within my report I laid down procedures that should be put in place. What I took the opportunity to do was, as required by the Lord Advocate's instruction, to identify whether procedures have perhaps been inadequate.

Yes? - If the report was to be extended by making a recommendation, on new procedures in relation to the administration, enquiry and guidance in relation to firearms, I think that is a much more onerous task, and I have not been able to do that, unfortunately.

I understand exactly what you say there, and the difficulties in relation to the timescale: but if one is going to say that something is inadequate it follows one must first of all have a definition of what is adequate, and what I want to get from you is whether or not the adequate standard which you have set is a standard which is adhered to in Strathclyde or if it is a standard you have come up with in the course of the past two weeks. If I have understood your evidence correctly, it is the latter, although please tell me if that is so? - No, the comments I have made are based solely on the evidence that has been produced over the last two weeks when we were making our enquiries.

Yes,/

12.40 p.m.

Yes, I understand you have judged Central Scotland Police according to what you have seen on the documentation and we will look at that in a minute but the adequacy of what is done or otherwise has to be tested against something, doesn't it? - I think it has to be tested against the requirements of the Act and it has to be tested against the requirement for an efficient procedure which satisfies the requirements of the Act.

Well, may be we should return to that one in a minute. Mr. Bonomy touched upon one aspect in his examination-in-chief in relation to the difference in size between Strathclyde and Central Scotland Police Force. I wonder if we could just put a little bit of flesh on to these bones. As I understand it, the population of Central Scotland Police Force area is in the order of 273,000. Does that ring true to you as roughly what you would expect Central Scotland to be? - I would accept your assessment.

Do you know how many people come within the Strathclyde Police area? - Approximately 2.3 million.

My understanding is that Central Scotland Police Force have some 658 officers in total. Again is that the order of magnitude you would expect? - Yes.

Do you know how many officers there are in Strathclyde Police Force? - We have an authorised establishment of 7,212 and an authorised civilian establishment of 1,800 or thereby, support officers.

So there is really quite a dramatic difference between the Forces? - Yes, very much so.

Am I right in thinking that Strathclyde is the largest Force in Scotland on these figures? - It is, yes.

And would it follow that the culture which there would require to be in one Force would differ quite significantly perhaps from the culture which there might be in another Force? - What do you mean by culture?

The/

The environment in which the officers have to operate. The general environment in which they work? - Okay. Thank you. I think that Strathclyde contains all environments that are apparent anywhere else in Scotland because it polices the rural areas of Argyll, Ayrshire and Lanarkshire as well as having to police the urban mass in the West of Scotland of Glasgow, Motherwell, Wishaw, Paisley and so on and throughout the spectrum of population and so on in Strathclyde, probably we mirror more or less every other culture in some way or another that is in Scotland.

Yes, that is using culture in the sense of geographical spread. I was meaning culture within the Force itself which impinges upon how an officer goes about his function. It might be different in smaller Forces than in larger Forces? - No, I think the same observation applies. If you look at for example officers in Argyll, they police places like Oban, Lochgilphead, Campbeltown and so on, Rothesay and Dunoon and perhaps a parallel could be drawn there with smaller Force areas and the type of rural aspects that have to be policed in smaller Force areas so the officers would develop perhaps, depending on the training they received and how that would be compared, a similar type of policing skills to be able to work with the local community in the best way to ensure that a high quality of service is delivered to them.

As I understand it, Strathclyde has a centralised Licensing Department, is that correct? - That is correct, yes.

And they look after both liquor licences and firearms licences? - Yes, that is correct.

And am I correct in thinking that all of the firearms files for Strathclyde are contained in that one Department? - Yes, that is correct.

Now, when a police constable goes out to make enquiry upon an application for a grant or an application for a renewal, he might be in an area quite distant from where the files are kept which I assume is in Pitt Street, is it? - Yes, that is correct.

What is it that that constable will have with/

with him or her when the enquiry is being made? - He will have with him or her the application form submitted by the individual and he would have his notebook. I don't know whether or not he would, but he may, take a copy of the report form that he is required to submit and he should have.....

That would be the Strathclyde equivalent of the RL3a? - Yes, that is correct.

Sorry, I interrupted you? - Yes, and if the individual who was applying for the renewal of a certificate had also handed in the certificate that would be with him but that would be unlikely. You would probably find that at the home of the person in the application.

And he would be able to check the certificate upon making the visit? - Yes.

And you would expect him normally to do so? - Yes, I would.

But he would not have the firearms file as such, would he? - No.

And would the constable require to make a visit on renewal or has Strathclyde gone over to the system of postal renewal? - Strathclyde has not and won't go on to the system of postal renewal.

You made some comment in relation to criminal intelligence? - Yes.

I wonder if you would be able to tell us a little bit about the criminal intelligence system which operates within Strathclyde Police Force? - I will try to be helpful. There is a Central Criminal Intelligence Unit at Headquarters and in every Division there is also a Criminal Intelligence Unit. It is staffed normally and run by a detective sergeant who is also assisted probably it will be by a constable and they are field intelligence officers as well as office intelligence officers. They will be assisted by a crime intelligence analyst and there is a system in place where by the officers in the Force are encouraged to continually submit information which may be useful in helping the Force to solve crime and to prevent crime. The information is graded when it goes into the/

the criminal intelligence system to show that intelligence which can be based on evidence or full information as against information which appears in the system which is not backed up in any way. So that intelligence is graded dependent upon its quality.

Is there any attempt made in Strathclyde to concentrate their intelligence gathering efforts in relation to particular individuals?
- Yes.

And is that something which has come into being in recent times or has it always been such that you know of? - It has always been the case that police officers have gathered intelligence on the individuals who are most likely to harm society by criminal acts, violence or whatever.

Following the events of the 13th of March, did Strathclyde do anything in relation to reviewing its own procedures? - I am not aware if the Assistant Chief Constable, who has the function of dealing with licensing, has instigated a review. I have certainly found information in the Central Scotland enquiry which will be helpful to apply to all procedures in Strathclyde to ensure we meet the standard. I think, though, what will happen is that Forces will generally look to see if there are any short-term changes that had to be made in the light of the events of the 13th of March but I would expect them to wait until such times as Lord Cullen has reported to help them to form a system which meets all the evidence and investigation that is carried on at this Inquiry.

You made reference to the form which was used by Strathclyde as being equivalent to the RL3a? - Yes.

Do you know if that is the same form as has been used prior to the 13th of March? - It is, yes. As far as I am aware it is.

You were asked to look at the terms of Section 27 in relation to the issuing of Firearms Certificates and the need for good reason. I think it is fair to say that good reason is also required in respect of a shotgun, is that correct? - As far as I am aware, yes, it is.

Can you indicate what constitutes good reason/

reason for requiring a Firearms Certificate? - Without an in-depth knowledge, my assessment would be for clay pigeon shooting, for husbandry of land and for the control of vermin as examples.

Perhaps sporting purposes on land? - I'm not aware other than clay pigeon shooting of sporting purposes on land.

When I was referring to sporting purposes I was meaning grouse shooting and suchlike? - Yes, game shooting.

Yes, game shooting? - Yes, that of course would be a sport.

If I was a farmer and wished to acquire a shotgun for controlling vermin for example, that would constitute good reason, would it not, to have a shotgun? - No, not solely that. Your character, your habits would all have to be conducive to you being able to have a shotgun without danger to public safety or the peace. You would not have to be a prohibited person by virtue of convictions. You would not have to be of unsound mind or intemperate habits and the shotgun would have to be able to be used on that land without danger to the public. For example, if it was a parcel of land which bordered a road and it was so small that there would be a danger to the public then you would not have good reason.

Well, does it not come down to two things; the good reason established by the intended use to which I seek to put the weapon? - Yes.

And after that there has to be some assessment as to the individual's stability but the good reason is really just in relation to the use to which the gun is to be put, is that not so? - Yes.

And so the good reason would be constituted or could be constituted by shooting vermin or similar? - Yes, in fact I think I am correct in saying that the guidance in the Act when it speaks about smooth bore guns, which are shotguns, refers to the fact that no one should require to have a gun, a smooth bore gun, other than one which only has a maximum of two shot capacity. The guidance then goes on to say of course there are instances/

instances where you could have more than two shot capacity and the reasons given are for vermin control and pest control. So, yes, obviously.

And if I did acquire such a certificate and subsequently acquired an appropriate shotgun, I would not normally keep a record of the occasions on which I have shot, would I? - No, not at all.

And I would not keep a record of the number of rats or rabbits which I had managed to kill in a particular period, would that be correct? - That is correct.

And when my certificate came up for renewal, what sort of enquiry would you expect to be made? Would I have a visit as for a Firearms Certificate? - I have to say I have not made enquiry into the procedures for shotguns so, therefore, I can't be helpful. I'm sorry.

Now, would it be fair to say that the inspection which you have carried out has focused on the main procedures which were adopted by Central Scotland Police in relation to the granting and the renewal of Firearms Certificates? - That is correct.

If a Police Force in Scotland was to ascertain what was good practice in a particular area of policing, where would you expect them to go to ascertain good practice. If they wanted guidance? - I would probably expect them to make enquiries with other forces to see where they were with their development in any area of policing. I would expect them to be reading publications, perhaps from the Research and Development Branch. I would expect them to look internally within their own Force for good practice to try and help it be mirrored throughout the Force and I would expect that if the Inspectorate of Constabulary carried out a thematic inspection in relation to any issue that a Police Force has to deal with then that too would provide some information concerning recommended good practice.

Would it be fair to say that the report which you have provided has been reasonably critical of Central Scotland Police in a number of areas to do with their procedures? - I have to say that I believe/

believe the report is as accurate as I could make it as a professional police officer and in that there are criticisms of the adequacy of procedure and the systems in place in the Force.

Now, I don't know if you have had a chance to look at the transcripts of any of the evidence. Have you had a chance to look at any of the transcripts? - I haven't read the transcripts other than Mr. McMurdo's transcript.

And apart from Mr. McMurdo's transcript, am I right in thinking you have based your opinion on the statements which were circulated in advance of the Inquiry? - Yes, the report is based on the statements and it is also based on the team that was working with me reading the transcripts, relevant transcripts, to determine whether or not those transcripts would mean that the report would have to be altered but having read the transcripts we decided there was no need to alter the report.

So whilst you have only read Mr. McMurdo's transcript, other members of the team who were assisting you have read transcripts from other witnesses? - Yes, that is correct.

In having read Mr. McMurdo's transcript, I think you would have ascertained that he was quite open in indicating that certain information ought to have been in the firearms file which was not there. Is that fair to say? - Yes, I read it very briefly yesterday when it was made available to me.

But save for that I don't think he admitted to too many other deficiencies in the procedures? Would that be so? - Well, I think he answered the questions as best he could. I cannot recollect all that is in the transcript but he had views in relation to certain procedures.

MR. TAYLOR: Sir, this may be an opportune time to break.

LORD CULLEN: Yes, very well. We will resume at 2 o'clock.

After an adjournment for lunch.

CROSS/

2.00 p.m.

CROSS-EXAMINATION CONTINUED BY MR.

TAYLOR: Mr. Richardson, I wonder if you could have Chapter L in Volume 7 before you? At the beginning of that file which you have before you, Mr. Richardson, you should see a letter addressed to Mr. Wilson from Mr. Boyd, Her Majesty's Chief Inspector of Constabulary; is that right? - Yes.

And if you move in to the document, we see that there is the thematic inspection and the administration of the firearms licensing system. Is that what you have? - Yes; I have the letter from Mr. Boyd to Mr. Wilson.

And if you turn over a few pages, I think you then get to the actual thematic inspection which I referred you to a minute ago? - Yes.

If we look first of all please at Paragraph 1.9, that is under the heading "Methodology", do you see that? - Yes, I do.

And we see in the final sentence that the inspection focused on the main procedures in relation to the granting and renewal of firearm and shotgun certificates, and it then goes on to deal with matters which are not of such primary concern to us. Now, it would appear therefore, would it not, that the inspection which you carried out mirrored to some extent the inspection carried out by Her Majesty's Inspector of Constabulary? - I don't know the criteria of the terms of reference under which their enquiry was conducted. Their enquiry, I would imagine, would look at the practices across Forces, and from those practices and other knowledge that they had, make an assessment of what was good practice of the Forces in the Scottish Police Service. My enquiry specifically was based on paper information that was provided in respect of the Central Scotland Police Licensing system, and statements of individual police officers.

I appreciate that, but the same forms would have been used, or would have been seen by both yourself and the Inspectorate carrying out the report? - I would assume that the Inspectorate would see the forms that have been available to me.

And/

And the same procedures would have been followed, assuming that the procedures adopted in relation to Mr. Hamilton were fairly typical of the procedures adopted in other files? - I would imagine they would examine procedures, but I can't speak directly to that.

If we then turn and look at the letter which we referred to a few moments ago, that is the letter of the 22nd November, we see in the first paragraph and the final sentence there that the purpose of the letter is to briefly highlight some of the main issues raised by the scrutiny of your own Force? - Yes.

I take it you won't have had an opportunity to see this letter until just a few minutes ago; is that right? - That is correct.

The principal points which the Inspectorate make in relation to this scrutiny of the Central Scotland Police Force files and procedures centres principally upon the lack of permanent clerical support, which we see in the second paragraph. Do you see that in the second paragraph in the final sentence of the letter? - Yes, I do.

If we go on to the third paragraph, there is comment made about the role of the firearms examiner, and it being unfortunate that his role is restricted to renewals and not to initial grants, and they go on at the end of the third paragraph to indicate that there hasn't been a suitable means of communication available for the firearms examiner. Is that roughly what is said there? - Yes, it is.

In the next paragraph, the author of the letter talks about the level of technology which has to be made available, and then in the next paragraph there is discussion about a national package being prepared to assist applicants in the certification procedure; is that right? - That is correct, yes.

The next paragraph deals with the practice in Central Scotland Police whereby, if there be a refusal to renew or to grant, the statutory fee is not returned; that is so -- yes? - Yes.

And then in the next paragraph, which is the/

the fourth complete paragraph in the page, the comment is made that an examination of a random sample of files revealed that the recorded details of security arrangements were excellent overall. The next paragraph relates to target times for completion of application for grant and renewal -- yes? - Yes, it is.

The final paragraph on the page then deals with postal renewals, and then encouragement to adopt that; is that so? - That is correct.

And the final paragraph in the third page concludes by commending the Force on its development towards a fully civilianised unit, and an assurance is given that the Inspectorate will support the provision of a further firearms examiner and appropriate clerical support, and then it is signed by Mr. John Boyd, who is Her Majesty's Chief Inspector of Constabulary; is that right? - Yes, that is correct.

And we saw there that there was a sample of files taken that, if they had been at all like the files that you saw, would have contained RL3a -- yes? - Probably.

But yet the Inspectorate doesn't seem to make any comment upon the use of the form or its format. Do you find that at all surprising? - I had to make comment after examining the procedures in relation to Thomas Hamilton's certificate, and my conclusions are based on examining those procedures.

But if those procedures were the same as the procedures which had been adopted in the other files, and if the Inspectorate had seen these other files, as it would appear he did, do you not think that if he found the RL3a to be deficient, he would have made reference to it in his report? - I would have expected him to have made reference to it in the letter to Mr. Wilson at least, if he found it deficient.

Would it be a reasonable conclusion to draw that the didn't find it deficient? - That is a reasonable conclusion, yes. Also the Inspector could have discussed one or two issues of some detail with a Chief Officer in the Force following an inspection.

There/

There is of course one difference in that the Inspector's report was prepared before the 13th March whilst yours has been prepared after the 13th March. Do you think that there is any possibility that in the preparation of your report, you have been to some extent influenced by the events of the 13th March? - My mind has been greatly influenced by the events of the 13th March because now there is hindsight available. However, I must say that I would have been greatly disappointed if my professional judgment hadn't drawn similar conclusions if I had examined the situation pre the 13th March.

You told us of the manner in which you interpreted Section 27 of the Act in relation to the definition of "good reason", and did you have occasion to address that issue prior to having done so on this occasion for the preparation of this report? - Do you mean in my professional capacity as a police officer previously?

Yes? - I did, yes.

How long ago would that have been? - In 1981.

And did the interpretation which you have given to "good reason" today conform with the interpretation which you gave then, or can you not remember? - I can't remember well the circumstances of 1980/81. I can clearly remember that the good reason was insufficient, and that the other problem was in relation to public safety at that time.

So that is a particular situation? - It is a particular case, yes.

I wonder if at that stage you could have a look at the Guidance which was issued to Chief Officers of Police, and that, I think, is contained in L2, and the particular passage which I would wish to look at with you is Paragraph 6.8E. It is on Page 69. Do you have it there? - Yes. I am just wondering if I am looking at the correct document?

It should be the very first document in that folder? - Okay; thank you.

And/

And this is what it is said should be borne in mind when considering applications, and it is said in 6.8E that "A certificate for a handgun with ammunition should not be granted (except in very rare cases) unless the applicant has regular and legitimate opportunity of using the weapon e.g. for target practice as a member of a pistol shooting Club". Now, you have taken that passage and interpreted it as being that he must establish that he is a regular user of the Club; is that correct? - That is correct, yes.

And we see that in your report, because we find at Page 4 in your report at the first bullet point on the report, it says "For example, whether the applicant has regular and legitimate opportunity to use firearms", so you have mirrored the wording contained in the Guidance note there; is that correct? - That is correct, yes.

But if we move on in the report to Page 44, and in the second whole paragraph on that page, "Thus, giving rise to question his 'regular and legitimate use' and 'good reason'". You have used the words 'regular and legitimate use' and put them in parenthesis. Is there any source from which that phrase has been taken? - There is no particular source. It is the interpretation of regular and legitimate opportunity.

You see, opportunity to me connotes a chance to do something. It goes beyond that for you, does it? - It does in this instance, because without that interpretation and with the limited information I have just now, in my mind it would probably mean that someone could have many guns for many years and much ammunition for many years without ever using it, so long as they were a member of a Gun Club, and I'm not sure that the spirit of the Act would wish that to happen when the circumstances surround public safety and security of firearms, and it is based on that scenario that my interpretation finds.

I wonder if you could have a document which has been submitted to Lord Cullen on behalf of the Secretary of State for Scotland and the Home Secretary, before you, and the particular page which I want to look at is Page 11, and I think copies are being made available? - Yes.

Page/

2.20 p.m.

Page 11 should contain a passage under the heading "Good Reason for Possessing a Firearm or Ammunition"; is that correct? - Yes.

In paragraph 54 we find the terms of the guidance set out, which we looked at earlier? - Yes.

Can you read paragraph 55 to us? - "This makes it clear to the police that membership of a target shooting club at which the applicant can use a particular pistol or revolver, can be regarded as a good reason for the issue of a firearm certificate to possess it, and the ammunition for it. We understand all police Forces in Great Britain adhere to this advice, and will issue firearm certificates to members of clubs in these circumstances, provided they are otherwise thought to be suitable".

In the first sentence you find again the used of the word "issue" is used. Would you disagree with that? - Not at all. This is directed I think at the granting of a certificate, from my reading of it. There may not be regular and legitimate use of before the grant, but once the certificate is in place and he is a member of a club I would expect him to have regular and legitimate opportunity to use it and take advantage of that opportunity to justify his possession of both firearms and ammunition.

I am not sure that the interpretation that you seek to put on it is necessarily correct, because the Statute refers to the possession of a firearm? - Yes, I see that.

But the possessing of a firearm would be dependent on a grant and a subsequent renewal? - I understand, but it says in paragraph 58 that it can be regarded as a good reason for the issue of a firearm certificate to possess it, and it is perhaps on the word "issue" that I make my remarks.

You do not consider renewal could also be encompassed by the "issuing" description? - Perhaps re-issuing, but not "issuing".

In/

In your view, if we take it for the moment that your interpretation of "opportunity" is correct, that would constitute sufficient use to entitle a user to renewal of the certificate? - The guidance is not clear in relation to "regular and legitimate opportunity to use", and that is perhaps why you are asking me these questions.

Yes? - The guidance is not helpful in defining "regular and legitimate opportunity to use", the number of times you have to use per year or whatever.

Does the guidance say anything at all about requiring to use the firearm? - I don't know the guidance in any great depth, but I would expect someone to use the firearm and ammunition at a range reasonably frequently. To put a figure on it I am not sure I would be able to do that, but if I was pushed I would be expecting them to be using a firearm regularly, perhaps at the very least once a month, once every two months.

Yes? - If I was involved in sport regularly, that would suggest more than once or twice a year.

In your analysis of events, what steps is the enquiry officer supposed to take upon learning of the use of the applicant, what he will be doing with the gun? - I would expect the enquiry officer to ask the question "What use is being made of the weapons?"

I apologise for interrupting you. That is dependent on "opportunity" being interpreted in the manner in which you seek to interpret it; is that correct? - I would expect that the form that the applicant would provide to the police officer could help him with him with his enquiries, would help drive him towards making such enquiries.

Yes? - I think too the form should require the officer to make enquiry at a gun club.

Yes? - I think added to that there is the possibility that if the previous certificate was examined and the current certificate at the Firearms Department or for that matter by the officer, if there was no purchase of ammunition recorded, I think/

think it gives a reason for asking the question "Have you been using the firearm?" Thereafter, further enquiry would be dependent on the answer as to whether or not opportunity was taken to make ammunition or whether the contention was that ammunition was regularly purchased at a gun club which did not record the purchase for the certificate. Both of these answers would allow further enquiry.

You mentioned that the form would direct the enquiring officer to make enquiry at the gun club. Is that what you have in mind? - That would be an option for a form if it was to be re-drafted, so that the officer would be able to determine if the individual's practice at that club was acceptable, if he regularly used the firearm at the club.

Are you suggesting that that is what should be done just now in accordance with standard practice just now? - Yes, I am suggesting that Forces should require to put in place efficient systems and procedures to meet the requirements of the Act. Part of those procedures surrounds regular and legitimate use, surrounds membership in a gun club, which means that enquiry has to be conducted to confirm matters in relation to those issues.

You mentioned before lunch time that you had one of the Strathclyde forms with you, which is the equivalent of the RL3a? - Yes.

Can you say if in that form there is any suggestion made to enquiring officers that they should make enquiries of the applicant's club as to whether he is using his firearm? - There is no direct instruction in the form to require the officer to do that, but he has to identify the club at which the firearm was used, and the form requires that. It also asks "Has membership of the club been confirmed?": so firstly he has to confirm membership, and secondly name the club on the form.

Yes? - Thereafter I would expect either the Administration Unit at Division or the Firearms Section, or both, if there was a difficulty or if there was evidence of non-purchase of ammunition, would cause further enquiry to be made or to make that enquiry ourselves. All parts of the system must/

must operate together for efficient procedures to be in place.

In your view one should go beyond simply identifying with the club that the applicant is a member of that club? - I have to say that post-13th March my mind is clear: enquiry must be made to ensure that regular and legitimate opportunity is being made and the firearm is being used.

Yes? - As I said earlier, I would hope that would be the view I would have taken prior to that date.

You see, we have heard from Mr. Norman Lynch: perhaps that name has cropped up in your investigations? - Yes.

Would it surprise you to learn that Mr. Lynch is a firearms holder and lives in the Strathclyde area? - It would surprise me to know he lives in the Strathclyde area. It doesn't surprise me to know that he is a firearms certificate holder or that he has some expertise in firearms. I have read his statement.

Would it surprise you to learn, if it was the case, that when Mr. Lynch made application for his renewal the only check which was made by the enquiring officer was to telephone his gun club in which he is a member asking if he was a paid-up member of the club? - It doesn't surprise me, no.

Why wouldn't it surprise you if your view of "opportunity" involves making use of the weapon as well? - The fact of the matter is if it was at a renewal he would be re-establishing the information that the individual was a member of a gun club. Thereafter to complement that information there would be examination of purchase of firearms which have been authorised by the certificate, and usage of ammunition.

Yes? - If that is not done locally, because the enquiry officer is not directed to do it or does not do it, other parts of the system have got to combine with that part of the enquiry to ensure that the system is effective and thorough.

Yes? - Therefore I would expect if there/

there is a note that would be carried out at Headquarters and the Firearms Section, where the file would be drawn for each renewal of the firearms certificate.

Would it not be a lot simpler if usage was an essential element to retaining the entitlement to possess a firearm that there be as part of the certificate some form which could be stamped every time the holder of that certificate shot at a gun club? - I agree with you, yes. I think the ammunition should certainly be marked on the certificate, but it would be helpful if gun clubs kept records of when their membership took opportunity to shoot, which would satisfy the "good reason".

And the fact that no such record is put on the certificate might suggest that the interpretation which you are putting on "opportunity" is in fact not the correct interpretation, would it not? - I have to say that I am not of a mind to change my mind in relation to "opportunity" no matter what was in a certificate. I would not want to seem intransigent, but to specify "good reason" someone has to use the guns that they have, that they have applied for, otherwise they have no good reason to have them, other than to look at them.

BY LORD CULLEN: So if stamping was to be used it would have to be stamping such as to show up that particular guns were used, other than simply attendance at a club; otherwise stamping would have to apply to all weapons? - Yes: but if ammunition purchase could be purchased, because the certificate had to be completed in respect of all ammunition purchased at the club or other commercial premises, this would mean that all purchases of ammunition would be known from the certificate: so there would be no excuse able to be levied that someone bought ammunition at a club, therefore there is nothing on the certificate to suggest he has purchased ammunition.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: That would also mean one would have to put some prohibition on the making of one's own ammunition? - Yes.

At/

At the present moment it may be thought that the record of ammunition which is retained on the certificate does not really tell very much about the whole picture, does it, as things presently stand? - It doesn't, because an individual could purchase thousands of rounds of ammunition at a gun club without the certificate being stamped, and you could make thousands and thousands of rounds of ammunition without the number of rounds he made being known.

Yes? - But still within the certificate he could purchase ammunition beyond that which he is authorised to possess at any one time. There is no check made on the quantity of ammunition processed.

Yes? - There has to be some expectation that the individual is going to be truthful about his completion of the enquiry form and the information he provides.

Yes? - There are many loopholes in this system in respect of ammunition, purchase and retention.

You gave some evidence on your view of the RL3a form, and you were fairly critical of it in its unamended state: but if I have understood your evidence correctly, the criticisms carry forward to it even in its state of now being adopted? - There was an improvement in the RL3a in its issue probably in 1989 and 1990, the amended RL3a.

What I would like to know at this stage is whether the view which you are expressing in relation to the RL3a is one which you have formulated yourself and set your own standard by or whether the standard you have adopted is the Strathclyde form? - I have deliberately not adopted the Strathclyde approach. I did not make any enquiries about Strathclyde until after the report was written.

Yes? - My enquiries about the form were whether the form was sufficient to assist the officer making further enquiry, sufficient to allow the officer to ask the questions and make the enquiries that provided without the "good reason" test and the "regular and legitimate opportunity" test and also the character test, assisted by SCRO, DVLA/

DVLA and of course Criminal Intelligence.

It could of course be the case that proper enquiry is carried out notwithstanding the comments you made about the RL3a; is that correct? - I accept that, yes.

At one stage if I have understood your evidence so far correctly you want the RL3a to actually record the names of the persons who can speak to certain facts within the document. I think page 13 of your report is what I had in mind for that? - Which part of that?

The first complete paragraph, where you have a comment "Form RL3a does not accommodate the recording of persons who can speak to these facts", the facts referred to being the use of the weapons and the certificate? - Yes.

You envisage a form going even beyond recording the fact that a particular club is one which the applicant is a member of and going beyond the fact that the officer is enquiring as to the level of usage: you would have the form saying who the witnesses to these facts would be? - I think that would be helpful in doing the overall checks, yes. If the RL3a is going to provide for example information to allow Headquarters Department, which would be taking the overview, helpful information to help them make further enquiry the yes, absolutely: because in the memorandum that guidance does say it will be good practice to provide documentary evidence as part of the procedure, and I suppose providing that information would also be helpful.

Does the Strathclyde form require such enquiry to be made at clubs? - As I said earlier, it requires enquiry which is limited to ensuring that he is a member of a club and also providing the name of the club.

But that is as far as it goes? - Yes.

It doesn't go on to suggest that the membership of the club should be attached to the document or that there should be a letter obtained from the club secretary, or there is no space on the form for recording the usage which there might be at the club; is that correct? - That is correct. But as/

as I said at the start, this form is only part of an integrated procedure, and all parts of the system have to work: so to support the operational officer there is a Firearms Department, who from my limited enquiries withdraws the file when the renewal application comes in, takes the form, looks at the previous certificate for ammunition usage against the current certificate. So it is part of an overall procedure which does not stand on its own. Nevertheless, I am sure there will be improvements which will be able to be incorporated in another revised form.

You/

2.40 p.m.

You talked a few moments ago about ammunition and the difficulties which there were for a number of factors which you gave. Would I be right in thinking that one of the principal concerns in relation to the entitlement to hold ammunition has been the security arrangements in place by the applicant? - My recollection is that the security arrangements relate to the firearms. Whether they relate to ammunition or not in terms of the guidance, I don't know, but it would seem to me that both have to be kept securely and, on reflection, if good practice was to be adopted both would be kept separately.

I can follow that, yes. I wonder if we could look at the guidance again if you still have it before you. That is D1L and this time if we look at page 71 at 6.8(j) and we find there the guidance saying "It is not possible to give firm guidance on the amount of ammunition which may be authorised by a certificate. Each case should be dealt with on its merits. While account should be taken of the fact that it is normal practice to purchase ammunition by batches for consistency of performance and that reloading or buying ammunition in bulk is cheaper, Chief Officers will wish to pay regard to the risks attendant upon unnecessarily large quantities of ammunition being held on private premises. Where large quantities are authorised, particular attention must also be given to the security arrangements". Is that not suggesting that the risk which has been addressed in the guidance is the risk of inadequate security when large volumes of ammunition are held in any one hand? - Yes, there are two elements I see from having heard you read that. One is that the Chief Officers are not discouraged from allowing any large amounts of ammunition. In other words, there are reasons in there why they should allow large amounts of ammunition. So the guidance is taking into account the interests of the people who have firearms but then the guidance, from reading it, is covering an issue where there are large amounts of ammunition, unnecessarily large amounts which is undefined because as I said earlier, the limits which were defined in the guidance, in the 1969 guidance, of 1500 rounds and a thousand rounds are not transported to this guidance and yes, they are saying that there should be special consideration taken/

taken concerning security of the ammunition.

Would it therefore be important that the security provisions are properly recorded on the RL3a Form? - Yes, if public safety is the concern and the fact that no one would wish firearms or ammunition to fall into criminal hands, then it would be an additional check to record the method of security if that was thought appropriate, yes.

Presumably that would be of considerable assistance to those who had to take decisions further up the chain of command? - It would. It may be helpful if you know that in Strathclyde in circumstances like that, where there are large amounts of ammunition or a large number of guns, that the security enquiry is directed to Crime Prevention Officers who have special knowledge of security arrangements.

And just taking up that point, how is a decision made as to whether or not the particular circumstances warrant the specialist knowledge of the Crime Prevention team? - There is no definition in our Force procedures to determine what unusually large amounts are or the numbers of guns, but as I said, there is a Firearms Department at Headquarters where an over-view would be taken and to ensure a consistency across enquiries they would be able to determine whether or not professional advice of the Crime Prevention Officer should be brought into play and whether he or she should in fact undertake the enquiry. I am sorry I am unable to be more helpful.

So that would be a decision made not by the enquiry officer but by the Firearms Department? - They would provide a consistency in interpretation across the Force.

Would it be fair to say that if the interpretation of the good reason aspect was other than that which you are suggesting and more the one which I am urging upon you, that many of the criticisms which are contained within your report would actually fly off? - Is that in respect of regular and legitimate opportunity?

Yes? - No. My report has been based on professional judgment which incorporates the requirements/

requirements for public safety to be addressed. Therefore I, especially with hindsight, would continue to advocate those criticisms. Having said that I understand that the Force acted within a climate where the guidance was very much in place.

I understand what you are saying but if for the moment you accept the interpretation which I seek to put upon the guidance as opposed to the interpretation which you give to the guidance, and I appreciate you don't accept my analysis of it but for this hypothesis accept I am correct. Would it then be fair to say that many of the criticisms which are made of Central Scotland Police in your report actually fly off? - I suppose then police officers would not require to make investigation into whether or not a gun is regularly used. Therefore there would be no criticism about regular and legitimate opportunity. It is fair to say that.

And when one takes that out, am I right in thinking that what one is left with is a criticism of the Form RL3a and a criticism of what one finds on the firearms file and upon which one finds in criminal intelligence? - What would be defined is an inadequacy in the overall system which still failed to satisfy the requirements of the law in terms of good reason.

Yes, but that is again going back to good reason as being judged or being taken as your analysis as opposed to the analysis I am urging? - Yes.

Now, for this little passage of the evidence, if you might indulge me by accepting my interpretation of it, it being good reason, would I be right in thinking that what one is left with is a criticism of the form and a criticism of what is contained in the firearms file and a criticism of what does not find its way on to criminal intelligence? - More or less, yes.

Well, is there anything else left? - There is the sufficiency of the form as you have said. There is the support for enquiry officers so that they can do a thorough job.

Is that not the same thing, the form as well? - Well, they also would have support from their/

their supervisors and they would have support from an over-view being taken by the Firearms Department.

Now, we have heard in evidence that the Firearms Department scrutinises each of the files. Is that not your understanding of the evidence? - I understand that was the point they were making. However, my evidence is that in relation to Hamilton the file was not scrutinised. There is no evidence to suggest it was scrutinised. That was the point I was making.

And how would that evidence have manifested itself? - By the officer, the civilian Mr. Lynch or Miss Johnston outlining any statements that were to be scrutinised with the file because if the file had been scrutinised along with the certificate and with the element of the whole system operating properly the non-use or non-purchase of ammunition for at least six years would have been spotted. The non-purchase of two guns over a period of nine years and eight years would have been spotted because these combine to question good reason and show a demand for further enquiry.

But again that is dependent entirely upon your interpretation of good reason, isn't it? - It is, yes.

So you draw your conclusion on that basis and if the interpretation of good reason is other than what you are suggesting and more what I am suggesting then scrutiny of the file may have been carried out and these items might not have warranted any special mention? - It is difficult to determine what I would have done if my interpretation had been different or the law had suggested to me something different but certainly regular and legitimate use would not have been a factor in the individual's possession of firearms or ammunition. The requirement would solely have been to have been a member of a gun club and so long then if the enquiry satisfied that aspect and confirmed Hamilton's membership and continuing membership of a gun club, that would have been the law satisfied. My report would have commented on that. It may also have said that there was a need and that I didn't agree with it, I hope.

One final point. A relatively minor point./

point. We have discussed what ought to be on the firearms file and I think you have seen from Mr. McMurdo's evidence that he acknowledges certain things ought to have been on the file. Do you consider that it is necessary for there to be duplication of what is contained on the file and also on criminal intelligence or would it be fair if everything was on criminal intelligence and a check made on criminal intelligence at each renewal or variation? - Each item would have to be looked at individually. Any item which referred to possession, use or whatever of a firearm, I would expect that at least to be in the firearms file because at the end of the day that is the source document for any individual thereafter to base decisions on.

And so far as the enquiry is concerned, does it not at the end of the day come down to having a degree of trust in the officer who is carrying out that enquiry and confidence in that officer to do his or her job properly? - That is part of it but that officer deserves and should have a system which helps him with an enquiry which he won't undertake regularly. In addition, it's not only about trust. It is about, as I have said and continually say, it is about the whole system being sound so that thorough enquiry is made and albeit we trust the officer to make enquiry, there are certain aspects of the law which have to be satisfied by that enquiry, hence the reason for pro forma and hence the reason I believe that the officer should receive good guidance.

No re-examination.

MR. BONOMOY: Sir, in such an Inquiry where it is becoming increasingly difficult to forecast exactly when it will be appropriate to call witnesses with professional commitments, as a result of that there is no further oral evidence to be led today.

There is one matter I hope to perhaps deal with at this stage and that does involve giving certain further information to the Inquiry. However, before doing that I would be grateful if you, sir, would allow me another short adjournment. I undertake this one will not extend in the way the one in the morning did and will not be any more than 10 minutes.

LORD CULLEN: Very well.

MR. BONOMOY: I am obliged.

After/

3.00 p.m.

After a short adjournment.

MR. BONOMOY: Thank you, sir. Crown Counsel have now considered the report prepared by the Regional Procurator Fiscal at Aberdeen, Mr. Vannet. That report has now been circulated to parties in order that they can consider it. I wish to now make the Lord Advocate's position in relation to that evidence and to the question of enquiring into decisions taken by Procurators Fiscal clear to the Inquiry.

It is a fundamental principle that prosecution decisions are taken independently of Government and that prosecutors, who act in a quasi-judicial capacity, are accountable for the decisions only to the Lord Advocate. The principle applies throughout the United Kingdom. It is recognised in the establishment of the Parliamentary Commissioner for Administration, or Ombudsman, and of House of Commons Select Committees.

Accordingly, the prosecuting departments and matters relating to the commencement of conduct of criminal proceedings are not subject to investigation by the Parliamentary Commissioner for Administration, in terms of Sections 4 and 5 and Schedules 2 and 3, Paragraph 6 to the Parliamentary Commissioner Act, 1967.

Similarly, the scrutiny of the Lord Advocate's Departments by the Select Committee of the House of Commons on Scottish Affairs it specifically excludes "Consideration of individual cases", in terms of a House of Commons Standing Order.

The rationale for the principle is the importance of finality and fairness to a potential accused, to victims and to witnesses.

The principle was clearly stated by Lord Justice General Clyde in McBain v. Crichton 1961 JC 25, 29: "The basic principle of our system of criminal administration in Scotland is to submit the question of whether there is to be a public prosecution to the impartial and skilled investigation of the Lord Advocate and his Department,/"

Department, and the decision whether or not to prosecute is exclusively within his discretion". His lordship went on "It is utterly inconsistent with such a system that the Courts should examine, as it was suggested that it would be proper or competent for us to do so, the reasons which have affected the Lord Advocate in deciding how to exercise his discretion, and it would be still more absurd for this Court to proceed to review that soundness".

The principle does not prevent an examination of the conduct of prosecutors. In the "Meehan" Inquiry Lord Hunter was able to examine the actions of prosecutors, although his remit excluded both firstly "The guilt or innocence of Mr. Patrick Meehan or Mr. Ian Waddle of the charges contained in the respective Indictments against them", and secondly "The reasons for and justification of any decision taken by the Lord Advocate whether or not to institute, or concur in, any criminal proceedings".

Equally, the Report of the Inquiry into an Allegation of a Conspiracy to Pervert the Course of Justice in Scotland by Messrs. W.A. Nimmo Smith, Q.C., and J.D. Friel made it clear that, although they had been instructed to investigate whether decisions were taken by prosecutors for improper reasons, "There can be no question of our reporting on prosecution decisions in such a way as would facilitate public debate about their correctness".

The principle was reflected in the establishment and operation of the Waters Tribunal of Inquiry, the last Tribunal of Inquiry to be held in Scotland, in 1959. In that case there was a motion before the House of Commons that a Select Committee should inquire into the case of John Waters and advise, inter alia, in what circumstances it was decided that no prosecution should be instituted.

The Government of the day brought forward a motion for appointment of a Tribunal of Inquiry into, inter alia, the action taken by Caithness Police. In explaining why it was inappropriate to examine the decisions of the prosecutor, the then Prime Minister, Mr. Harold McMillan, stated:

"It is an established principle of Government/

Government in this country, and a tradition long supported by all political parties, that the decision as to whether any citizen should be prosecuted, or whether any prosecution should be discontinued, should be a matter where a public as opposed to a private prosecution is concerned, for the prosecuting authorities to decide on the merits of the case without political or other pressure.

"It would be a most dangerous deviation from this sound principle if a prosecution were to be instituted or abandoned as a result of political pressure or popular clamour. In this case, my right honourable and learned Friend the Lord Advocate decided, after considering the evidence before him, that criminal proceedings would not be justified.

"In reaching his decisions the Lord Advocate's duty in Scotland, like the Attorney-General's in England, is to act in a quasi-judicial capacity, whether the person involved is a public functionary or a private citizen": that is a quotation from Hansard.

Finally, in the North Wales Child Abuse Inquiry, which was announced in Parliament on 17th June, 1996, the terms of reference, which are very specific, include examination of "The response of the relevant authorities and agencies to allegations and complaints of abuse made either by children in care, children formerly in care or any other persons, excluding scrutiny of decisions whether to prosecute named individuals", and that is a quotation from the Hansard report of the debate.

Although the considerations underlying the principle against subjecting to critical scrutiny prosecution decisions apply most obviously to the interests of potential accused persons, they also affect victims and witnesses. Prosecutors are required to make judgments on their credibility and on the weight to attach to individual pieces of their evidence. Prosecutors are also entitled to take account of other information placed before them, which may be confidential. There are also related considerations applying to the integrity of the decision-making process itself. If decisions on criminal cases are not taken privately, without the pressure of public scrutiny and on the basis of an/

an independent assessment of the quality of evidence and credibility of witnesses, prosecutors could be inhibited from taking difficult decisions, which they must take in the exercise of an independent discretion.

The Lord Advocate has considered the exceptional circumstances of this case, including the death of Thomas Hamilton, who was the principal subject of reports to the Procurator Fiscal. He has also borne in mind the fact that other persons named in these reports, as suspects, victims and witnesses, are still alive.

In the exceptional circumstances which apply, the Lord Advocate has concluded that it is entirely appropriate that evidence should be put before the Inquiry as to the investigation of the individual cases and that it was appropriate that the actual police reports -- which would normally be wholly confidential to the Crown -- should be made available to the Tribunal. He has also concluded that it is appropriate that the Tribunal should have a detailed account of the inquiries made by the relevant Procurators Fiscal.

He has considered that, in the exceptional circumstances of this case, it is also appropriate that the reasons for the decisions taken by Procurators Fiscal should be placed before the Tribunal, so that it is as fully informed as possible as to the facts surrounding Hamilton.

After Lord Cullen had been appointed to conduct the Inquiry, the Lord Advocate arranged for an independent senior member of the Procurator Fiscal Service -- Mr. Alfred Vannet, the Regional Procurator Fiscal for Grampian, Highlands and Islands -- to examine all the relevant case papers and to interview the members of the Procurator Fiscal Service who were responsible for taking decisions in the cases. Mr. Vannet has never worked in the Procurator Fiscal's Offices at Dumbarton and Stirling. Mr. Vannet had no prior involvement in any of the cases. He has produced a full review, which he had completed under the direction of Crown Counsel, setting out in detail the history of the dealings of members of the Procurator Fiscal Service with these cases and including the reasons for the decisions which were taken./

taken.

The Lord Advocate considers that presentation of this report to the Tribunal should enable the Tribunal to have a full account of the history of these cases and the reasons why decisions were taken.

The Lord Advocate trusts that Mr. Vannet's account will be sufficiently complete for the Tribunal's purposes. If the Tribunal so wishes, the individual members or former members of the Procurator Fiscal Service who dealt with enquiries concerning Hamilton are available as witnesses as to the facts set out in Mr. Vannet's review. It would, however, be incompatible with principle and the practice to which detailed reference has been made for the Tribunal to subject the soundness of the decisions made in relation to Hamilton to detailed examination in evidence or submissions at the Inquiry. For that reason the Lord Advocate's position is that evidence should not extend, so far as decisions are concerned, beyond informing the Tribunal what decisions were taken and what the stated reasons for these decisions were.

The Lord Advocate trusts that the Tribunal and parties appearing before it will understand and respect the position which he has adopted in the exceptional circumstances to enable the Inquiry to have a detailed account of the involvement of members of the Procurator-Fiscal Service with Thomas Hamilton.

Now, sir, that completes the statement of the Lord Advocate's position. It is accompanied by an 18 page report prepared by Mr. Vannet, which I do not propose to read at this stage, since in view of its length parties ought to have some time to consider its contents.

Now, sir, subject to what is said to you by other parties what I have in mind is to read this tomorrow morning, and then parties can make any comment on it they wish.

LORD CULLEN: Thank you for that statement, Mr. Bonomy. That certainly makes clear what the position of the Lord Advocate is.

Now, /

Now, I would not propose to pass any observations on what you have just said, nor would I expect any of the parties at this point to make any response to it. I think the correct course would be to reserve any discussion on this matter till tomorrow morning, and to allow parties to read the statement, look over Mr. Vannet's report, and they can then decide on what their future course of action should be.

MR. BONOMOY: In the light of that ruling, sir, I regret that I have no further evidence to put before the Inquiry today.

LORD CULLEN: That is not altogether surprising, in view of what you said earlier. In these circumstances we will have to adjourn till 10 o'clock tomorrow morning.

The Inquiry was adjourned
until 10.00 a.m. tomorrow
morning.
