

# Windmill Road

Investigation into the circumstances surrounding  
police contact with Mr Louis De Zoysa on 25  
September 2020

> Independent investigation report

## Investigation information

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Investigation name:	<b>Windmill Road</b>
IOPC reference:	<b>2020/142987</b>
Investigation type:	<b>Death or Serious Injury (DSI)</b>
IOPC office:	<b>Croydon</b>
Director General delegate (Decision Maker):	<b>Catherine Hall</b>
Status of report:	<b>Final</b>
Date finalised:	<b>23 June 2021</b>

**Please note that this report contains language that some people may find offensive.**

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# Introduction

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## The purpose of this report

1. I was appointed by the IOPC to carry out an independent investigation into the Metropolitan Police Service's (MPS) contact with Mr Louis De Zoysa in the early hours of 25 September 2020. Mr De Zoysa was initially stopped by two officers from the MPS, Police Constable (PC) A and PC B. Mr De Zoysa was searched and arrested for possession of cannabis and ammunition. He was transported to the custody suite at Windmill Road in Croydon. Whilst he was in custody he produced and discharged a firearm. Shots hit and killed Police Sergeant (PS) Matiu (Matt) Ratana and Mr De Zoysa received a gunshot injury. The IOPC investigation encompasses the police contact from the moment Mr De Zoysa was stopped by police officers on London Road North, Norbury, until he received a gunshot injury whilst at Windmill Road Custody Centre. The MPS are conducting a murder investigation in respect of the death of PS Ratana. This came to the attention of the IOPC on 25 September 2020 as a Death or Serious Injury (DSI) referral.
2. Following an IOPC investigation, the powers and obligations of the Director General (DG) are delegated to a senior member of IOPC staff, who I will refer to as the decision maker for the remainder of this report. The decision maker for this investigation is Operations Manager Catherine Hall.
3. In this report, I will provide an accurate summary of the evidence, and attach or refer to any relevant documents. I will also set out the evidence available relating to:
  - the nature and extent of the police contact prior to the serious injury, and
  - whether the police may have caused or contributed to Mr De Zoysa's serious injury.
4. I will also provide sufficient information to enable the decision maker to reach a decision as to whether:

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- there is an indication that any person serving with the police may have committed a criminal offence or behaved in a manner that would justify the bringing of disciplinary proceedings. If so, those matters will be investigated.
  - to make a recommendation to any organisation about any lessons which may need to be learned
5. If the decision maker determines there is no indication of criminality or conduct, the MPS who will have been sent the report, must then advise the IOPC whether or not it considers the performance of a person serving with the police to be unsatisfactory, and what action (if any) it will take in respect of any such person's performance (if required to do so by the decision maker).
6. The decision maker will then consider whether the MPS's determinations are appropriate, and decide whether to recommend that:
- (i) the performance of any person serving with the police is or is not satisfactory; and
  - (ii) that specified action is taken in respect of any unsatisfactory performance
7. The decision maker can ultimately direct the MPS to take steps to comply with its recommendation.

## Other investigations

8. Mr De Zoysa was arrested on 13 November 2020 on suspicion of murder following the death of PS Ratana, who was fatally shot in Windmill Road Custody Centre in Croydon, on 25 September 2020. The MPS investigation into this murder was ongoing at the time of writing this report.

## The investigation

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### Terms of reference

9. Operations Manager Catherine Hall approved the terms of reference for this investigation on 1 October 2020. The terms of reference can be seen in full in appendix two. In brief they are:
10. To investigate:
  - a) the actions and decisions of the MPS officers who dealt with Mr De Zoysa during the stop and search on London Road;
  - b) the transit of Mr De Zoysa to custody and his time in the police van;
  - c) the actions and decisions relating to Mr De Zoysa whilst he was in Croydon custody;
  - d) whether the response of the MPS was relevant with national and local policies and procedures.

## Summary of the evidence

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11. During this investigation, a volume of evidence was gathered. After thorough analysis of all the evidence, I have summarised that which I think is relevant and answers the terms of reference for this investigation. As such, not all the evidence gathered in the investigation is referred to in this report.

### Evidence gathered during the investigation

#### Video footage of the police contact with Mr De Zoysa

12. Four of the five officers present at London Road North during the interaction with Mr De Zoysa had body worn video (BWV) cameras which were switched on, this included PC A and PC B, who initially stopped him, and PC C and PC D who

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stopped to assist. PC E, who arrived to transport Mr De Zoysa to custody, did not have BWV. PC E arrived last with the police van and did not interact with Mr De Zoysa during this time. The interaction of the other officers with Mr De Zoysa and the arrival and actions of PC E were captured by the four activated BWV cameras.

13. CCTV footage was also obtained from two premises on London Road which captured the stop of Mr De Zoysa; Shurgard Self Storage and an adjacent residential building called Anderson Heights.
14. The police van which transported Mr De Zoysa to the Windmill Road Custody Centre was equipped with CCTV cameras which were working and recording throughout the journey.
15. CCTV was also in operation throughout Windmill Road Custody Centre. A MPS digital forensic specialist enhanced the audio captured on the custody footage to aid clarity of speech, and the audio files created have been relied upon in addition to the visual footage.
16. The entire interaction between the MPS and Mr De Zoysa was captured on video and therefore the summary below relies on the available footage unless otherwise stated. The timings have been taken from the BWV and police van footage which was accurate at the time, and the timings for custody footage and private CCTV have been adjusted appropriately for use in this report.

### **Witness evidence**

17. Witness accounts were obtained from approximately 60 police officers, police staff and experts during this investigation. Only those which provide relevant information which was not captured on the video footage have been referred to in the report. There were no non-police eyewitnesses identified during the investigation.
18. Several key police officers and staff made two or more statements in relation to this incident. A shorter account of the basic facts was provided first, before more detailed accounts were provided following a period of rest and a review of some of the available footage.

## Chronology

### **Stop and search of Mr De Zoysa on London Road North, Norbury**

19. At 1.33am on Friday 25 September 2020, PC A and PC B were on duty together in a marked police car. PC B was driving along London Road North, Norbury when PC A said “*Oh, there he is*” and directed PC B to pull over and stop the car outside Shurgard Self-Storage. At this point, no persons outside the car can be seen on the BWV footage.
20. In his statements dated 28 September 2020 and 8 October 2020, PC A stated his attention was drawn to a man walking alone along this road, wearing dark clothing, and carrying what he believed to be a soft tool bag. He said it was unusual to see anyone walking alone at night in the area. PC A recalled the man wore a thick winter hat and bulky winter clothing, although the night was not cold. PC A suspected the man might be using his clothing and surgical face mask to obscure his identity and conceal items from view.
21. PC A said he was aware the area had an issue with burglaries, and he had heard over his police radio there had been a burglary earlier that evening.
22. PC A stated he did not recognise the man and had not dealt with him before. In her statement dated 20 October 2020, PC B stated she had never seen the man before. The man was later identified as Mr De Zoysa. He is therefore referred to by name throughout the remainder of this report.
23. PC A said Mr De Zoysa paid close attention to the police car and turned his head to face the car as they drove past. PC B turned the police car around and headed back along London Road in the direction of Mr De Zoysa. PC A recalled Mr De Zoysa watched them again as they passed. BWV footage did not capture Mr De Zoysa as he walked along the road.
24. PC A said he decided he had grounds to conduct a stop and search of Mr De Zoysa under Section 1 of the Police and Criminal Evidence Act (PACE) 1984. This



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legislation governs the police powers of stop and search; see section on '*Policies, procedures, guidance and legislation*' below for more information.

25. The BWV shows once PC B had parked the car, PC A got out and walked towards Mr De Zoysa, who was carrying a brown holdall and wearing dark clothing including trousers, a formal dark coloured coat, and a woollen hat. PC A said "*hello*" and then asked where Mr De Zoysa was going. Mr De Zoysa said he was going home and provided details of a local address. Following this, PC A told Mr De Zoysa he was detained to be searched under Section 1 of PACE because there were a lot of burglaries in the area and he was walking down the road in the early hours with a bag which PC A said he suspected of containing items for going equipped to carry out a burglary.
26. Whilst PC A explained why he stopped Mr De Zoysa, Mr De Zoysa interrupted and told PC A he had identification in his pocket. He reached his right hand into the front right-hand pocket of his coat. PC A requested Mr De Zoysa kept his hands out of his pockets and said he would take his identification in a minute.
27. In his statement, PC A said Mr De Zoysa could not maintain eye contact with him and his speech was shaky. It is not possible to see Mr De Zoysa's eyes clearly in the footage due to his hat resting low on his face and casting a shadow over his eyes. The footage shows Mr De Zoysa did appear nervous in his speech. PC A stated he suspected Mr De Zoysa might have been ill because of his nerves or suffered with autism or something similar.
28. Mr De Zoysa removed his woollen hat before he passed the brown holdall he carried to his right hand and dropped it to the floor along with his hat. He then raised both arms up and out to his sides with palms facing forward toward PC A.
29. Mr De Zoysa indicated to the front left-hand pocket of his coat and said his identification was in there. He put his left hand into the pocket and pulled out a face mask. PC A told him not to put his hands in his pockets. Mr De Zoysa reached in again and pulled out a mobile phone. PC A told him again not to put his hands in his pockets and asked if Mr De Zoysa was okay.

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30. In his statement PC A recalled he thought Mr De Zoysa looked visibly frightened and PC A thought he might cry.
31. The BWV shows, PC A explained to Mr De Zoysa he would be searched but was not under arrest. PC B and PC A both commented they perceived Mr De Zoysa was nervous.
32. In her statement dated 5 October 2020, PC B described Mr De Zoysa as nervous and fidgety. She said he was behaving unusually by keeping his arms and elbows tucked into his sides, whilst showing his hands palms facing out and waving his hands around.
33. Mr De Zoysa asked to call his parents and PC B told him they would not be long. PC A stepped toward Mr De Zoysa and reached his hand out for Mr De Zoysa to pass him the mobile phone and mask. PC B also held her arm out and offered to take the items from Mr De Zoysa. Mr De Zoysa put his right hand to his forehead briefly. He looked distressed and he was audibly breathing fast, shaking slightly and stuttering.
34. PC B told Mr De Zoysa it was alright, and he was not in trouble and Mr De Zoysa nodded. PC B explained they would quickly search Mr De Zoysa and then he could leave. PC B also told him the search was being recorded on BWV and he would be entitled to a copy of the paperwork.
35. At 1.35am, Mr De Zoysa told the officers he was going to confess and said he had around three grams of cannabis in his holdall.
36. In his statement, PC A said he was pleased Mr De Zoysa had told him what was in the bag, but he was concerned Mr De Zoysa may have ingested cannabis causing what PC A perceived to be paranoid behaviour.
37. PC A told Mr De Zoysa he would still have to search him and took Mr De Zoysa's mobile phone and mask from him before passing them to PC B. Mr De Zoysa raised his hands to cover his face before lowering them to around chest height and holding them palm facing out toward PC A. In his statement, PC A described Mr De Zoysa as raising his hands in a '*surrender*' motion.

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38. PC A told Mr De Zoysa he was concerned about whether Mr De Zoysa had anything on him that would hurt either of them. PC A asked Mr De Zoysa if he had any needles, razor blades or anything like that and Mr De Zoysa shook his head in reply.
39. The BWV shows PC A told Mr De Zoysa he would have to put him in handcuffs for the search because he had admitted to having drugs on him. Mr De Zoysa nodded and then said "*oh please*" in reaction to being told he would be handcuffed. In his statement, PC A recalled Mr De Zoysa opened his mouth and eyes wider and made an "*eeesh*" sound when he mentioned handcuffs. PC A said he understood from Mr De Zoysa's reaction he did not approve of the decision to handcuff him, which contrasted with his earlier nervousness.
40. The BWV shows PC A asked Mr De Zoysa what the matter was and stated the handcuffs were necessary because people tried to hurt themselves and officers when searched. Mr De Zoysa straightened his arms out in front of him to bring his wrists out of the coat sleeves. PC A applied rigid handcuffs to Mr De Zoysa's right wrist first and then PC A used his right hand to guide Mr De Zoysa's left hand toward the handcuffs. Rigid handcuffs have a solid bar between the two cuffs.
41. The BWV shows Mr De Zoysa asked PC A to take him into the police car and appeared to push his left hand against PC A's hand. PC A told him not to resist. In his statement, PC A said as he used his right hand to control Mr De Zoysa's left wrist he could immediately feel Mr De Zoysa stiffen his arms.
42. During this interaction, PC B bent down and picked up Mr De Zoysa's holdall and hat. PC B agreed to put Mr De Zoysa in the car once he had handcuffs on. Both officers asked Mr De Zoysa why he wanted to be in the car and Mr De Zoysa said he was worried. Mr De Zoysa appeared to be visibly shaking.
43. On the BWV, a rattling metal sound was heard, and PC A appeared to be locking the handcuffs. PC A recalled he double locked the handcuffs before checking them for tightness.
44. PC B stated Mr De Zoysa's erratic behaviour raised her concern and she felt something was not quite right with him. PC B recalled she felt Mr De Zoysa was trying to be evasive and was not listening which made her anxious. She said she

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agreed Mr De Zoysa could go in the police car for his safety as he appeared nervous and scared. PC B said she felt Mr De Zoysa was withholding information and would open up to them and tell them if he was in any danger once he was in the car.

45. PC A asked Mr De Zoysa why he was worried and when Mr De Zoysa did not answer right away, PC A told him to get in the police car.
46. Mr De Zoysa thanked PC A and walked around the back of the police car to the rear nearside passenger door with PC A walking behind. PC B followed with Mr De Zoysa's belongings. PC B unlocked the car, PC A opened the door and Mr De Zoysa sat in the vehicle sideways facing out with one foot on the pavement and the other rested on the doorframe. PC B then opened the front nearside passenger door and placed Mr De Zoysa's belongings inside on the seat. In her statement, PC B said she went to this door so she could watch Mr De Zoysa.
47. At 1.37am, PC A used his police radio to contact the MPS control room to request a computer aided dispatch (CAD) record be created for the stop and search. A CAD is a log that records the initial police response to any incident and is updated as an incident evolves. PC A moved around and faced the direction of the road whilst using his radio.
48. On PC B's BWV footage, in the gap of the open car door between her and Mr De Zoysa, Mr De Zoysa is seen to move his hands. His right cuffed wrist is seen to move forward, but the door and camera angle obstructs the view of the full movement. Mr De Zoysa said, "*I've got my...*" before he was interrupted by PC A who stepped toward him and told him not to put his hands in his pocket. At the same time PC B walked around the open door to Mr De Zoysa saying "*don't, don't.*" In her statement dated 5 October 2020, PC B said she saw Mr De Zoysa try to go into his pockets and she went to try and stop him.
49. PC A's BWV shows, following the radio transmission, he turned to face Mr De Zoysa. Mr De Zoysa appeared to move his hands toward his left side. The BWV footage of Mr De Zoysa is not very clear whilst he is sat in the vehicle as the area is dark. PC A told him not to put his hands in his pockets, stating it was the third time he had done so when told not to. Mr De Zoysa nodded; his hands were now in front of him. Mr De Zoysa held a small light-coloured object in his left hand. It was later

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established this object was Mr De Zoysa's card wallet. PC A took the wallet from Mr De Zoysa and told him next time he would be handcuffed to the back. PC A told him again to stop putting his hands in his pockets.

50. In his statement PC A said when he saw Mr De Zoysa reach into his pocket, PC A reached in to grab the rigid centre of the handcuffs. This is not visible on the BWV footage.
51. PC B was now stood to PC A's right, beside the open door where Mr De Zoysa was seated. She leant toward Mr De Zoysa and told him the request was also for the officer's safety as they did not know what he was reaching for in his pocket. Mr De Zoysa responded stating his identification was in his pocket which had his address on.
52. PC A told Mr De Zoysa he was doing him a favour by letting him sit in the car, but due to Mr De Zoysa ignoring his instructions and admitting possession of drugs, PC A said he would conduct the search stood up outside the vehicle. PC A explained to Mr De Zoysa he did not know what else Mr De Zoysa might have on him and PC A said he believed there was more than Mr De Zoysa was letting on. PC A put the item taken from Mr De Zoysa onto the car roof. He then asked Mr De Zoysa to stand up, which he did, facing PC B.
53. PC B said if Mr De Zoysa had identification, she could do a '*name check*' on him. A '*name check*' refers to a check of a person carried out on the Police National Computer (PNC). Mr De Zoysa indicated with his head toward the top of the police car, where PC A had placed the item taken from him and told her his name was in there. PC B held her police radio in front of her and appeared to be using it as the screen became illuminated. In her statement, PC B said she went on to her radio to complete a '*name check*' on Mr De Zoysa. Her BWV shows she told PC A she had gone onto the wrong radio channel and a PNC audit showed no record of a check completed at this time.
54. At 1.38am, PC A's BWV shows PC A started to search Mr De Zoysa, whilst PC B used her radio, by first reaching his right hand toward Mr De Zoysa's left side. The full movement was not captured on BWV due to the positioning of the camera, but

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the footage appeared to show PC A put his hand into the left outer pocket of Mr De Zoysa's coat.

55. In his statement, PC A stated he placed his right hand into Mr De Zoysa's right outer coat pocket once Mr De Zoysa stood up.
56. PC B asked Mr De Zoysa if he was known to police and he said he did not believe so. PC B then asked if he had ever been arrested and Mr De Zoysa confirmed he had been for fighting but stated he had not been charged.
57. PC A removed a small red item from Mr De Zoysa's left outer coat pocket and appeared to hold it up to look at it before he placed it onto the car roof. PC A appeared to check the pocket again and removed a small blue object which he also placed onto the roof of the police car. Photographs taken later of Mr De Zoysa's property indicated these were lighters.
58. PC B asked Mr De Zoysa if he had any drug offences against him and he replied he did not. PC B explained they could do a community resolution form with him if he had identification and was eligible. Mr De Zoysa confirmed his identification was in his wallet.
59. PC A then appeared to use his right hand to search the left-hand side of Mr De Zoysa. It is not clear on the footage exactly where on Mr De Zoysa was searched at this time although PC A's hand first went to the area of Mr De Zoysa's left outer pocket or waist. PC A then raised Mr De Zoysa's arms by lifting the handcuffs. Mr De Zoysa subsequently raised his left elbow and PC A's right hand moved underneath to feel briefly around the middle area of Mr De Zoysa's side and/or torso over his coat. Mr De Zoysa's arm partly obstructed the view of this part of the search. PC A then took hold of Mr De Zoysa's handcuffs with his right hand and moved to stand at his right side.
60. PC A's left hand was not visible at this time and did not come above the height of Mr De Zoysa's right elbow, which was the area captured on BWV. This part of the search was not visible on either PC A's or PC B's BWV.

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61. PC A then moved forward in front of Mr De Zoysa and only Mr De Zoysa's left shoulder, upper arm and right hand was visible on the footage. It was not possible to see what PC A was doing at this time during the search.
62. PC A recalled as PC B spoke to Mr De Zoysa, PC A continued to search Mr De Zoysa by placing his left hand into Mr De Zoysa's left outer coat pocket.
63. PC A appeared to place another item on the car roof and passed PC B Mr De Zoysa's card wallet from the roof of the car, which she opened to look inside. Inside was Mr De Zoysa's driving licence.
64. PC A moved back to Mr De Zoysa's right side before leaning across him to put another silver coloured item on the car roof. PC A asked Mr De Zoysa why he wanted to go into the police car and Mr De Zoysa responded he was anxious. PC A asked if he had been smoking drugs.
65. PC A continued to move around Mr De Zoysa's right side, but his BWV did not capture what was being searched. Only Mr De Zoysa's upper body was visible on the BWV footage during this time and he went out of frame occasionally due to PC A's movement. PC B's BWV also did not capture this part of the search.
66. In his statement PC A said he ran the palm of his hand firmly up and down Mr De Zoysa's back under his coat and could feel the contouring difference between his spine and the musculature of his back.
67. PC B asked Mr De Zoysa for his age and appeared to check it against Mr De Zoysa's identification. PC A placed another item onto the top of the police car.
68. PC A lifted Mr De Zoysa's right elbow and appeared to feel the area underneath. PC A then appeared to run his hand down Mr De Zoysa's back before running his hands down his right side starting under his armpit. PC A moved to stand diagonally to the front right-hand side of Mr De Zoysa, facing toward him.
69. PC A's hands moved to the area just beneath Mr De Zoysa's hands which were around waist height, but the BWV footage did not capture his movements. This was also not captured on PC B's BWV as she moved behind PC A to use her radio. After

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a moment, PC A opened the right-hand side of Mr De Zoysa's coat, before pushing his right hand into an internal coat pocket.

70. PC A asked Mr De Zoysa if he had anything sharp on him and Mr De Zoysa said he did not.
71. PC B used her radio to inform the control room they would not be able to assist with other enquires because of their stop and search. Following this she walked to the police car and stood leaning against the back of it, facing Mr De Zoysa. She also spoke to PC A about their assignments.
72. PC A pulled some cash notes from Mr De Zoysa's pocket which were folded in half. PC A searched the same pocket again, this time not removing anything further. He asked Mr De Zoysa what the money was for and Mr De Zoysa said he carried loose cash on him sometimes in case he wanted to buy food.
73. At 1.40am, PC A opened the left side of Mr De Zoysa's coat and used his left hand to reach inside. PC A pulled a small dark coloured item out from within Mr De Zoysa's coat. In his statement, PC A said he searched Mr De Zoysa's left breast pocket and pulled out a small black drawstring bag. PC A put the cash on top of the police car and asked Mr De Zoysa what was in the bag.
74. After a pause, Mr De Zoysa told PC A it was "*militaria.*" When questioned further by PC A, Mr De Zoysa said "*it's like show off*" before stating "*you'll see what it is. It's not real.*"
75. PC A untied the bag and poured the contents into his right hand. PC A said in his statements he knew immediately the objects were bullets. In his statement dated 5 October 2020, PC A stated he did not know whether they were real.
76. PC B approached PC A and asked how many canisters there were. PC A said they were not canisters and held his right hand out towards her. PC A held what appeared to be several shiny, gold-coloured bullets. Upon seeing the bullets, she exclaimed "*Oh, oh!*"



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77. PC A arrested Mr De Zoysa, telling him it was for possession of what PC A believed to be bullets. Mr De Zoysa nodded and said he understood. PC A proceeded to give Mr De Zoysa the criminal caution.
78. PC B took hold of the rigid middle section of the handcuffs with her right hand. In her statement dated 5 October 2020, PC B said she did this as she was concerned Mr De Zoysa might try to escape due to the seriousness of the offence. In her statement dated 20 October 2020, PC B said she held the handcuffs under Section 117 PACE because she feared for the safety of herself, PC A, and members of the public due to Mr De Zoysa's unpredictable behaviour and the ammunition found. PC B said she had never come across ammunition before during her seven years policing and this had shocked her. PC B said she wanted to restrict Mr De Zoysa's movement so PC A could continue to conduct a safe search.
79. PC A put the bullets back into the drawstring bag which he placed on the roof of the police car.
80. PC A then searched Mr De Zoysa's left internal pocket again before reaching into the right-hand side of Mr De Zoysa's coat. PC A used both hands to search around the collar of Mr De Zoysa's jumper before he bent down and pulled open the front right side of Mr De Zoysa's coat. PC A looked underneath before standing to use his radio. In his statement, PC A recalled he lifted the tails of Mr De Zoysa's coat so he could search underneath up Mr De Zoysa's back whilst he used his radio.
81. At 1.41am, PC A radioed the control room and requested a police van and space in custody for a man arrested for possession of what he believed to be bullets. PC E recalled in his statements dated 28 and 30 September 2020 he heard this request over his radio. Whilst using the radio, PC A was stood to Mr De Zoysa's right, facing out toward the road before turning to Mr De Zoysa, he lifted the coat tails again and bent down.
82. PC A next searched Mr De Zoysa's right trouser pocket. PC A put what appeared to be coins onto the roof of the car. PC A then searched Mr De Zoysa's right pocket again before moving to Mr De Zoysa's left hand side. PC A recalled he continued to search Mr De Zoysa by pushing his hand into Mr De Zoysa's right trouser pocket, then his left trouser pocket.

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83. PC A took hold of Mr De Zoysa's handcuffs and told PC B they needed to search the back of him. PC A then turned Mr De Zoysa so he faced the police car. PC A said he did this so they could lift his coat and search his back more thoroughly and the waistband of his trousers. PC A said as he turned Mr De Zoysa around, the control room responded to him.
84. At 1.42am, the control room informed PC A a cell had been allocated at Croydon custody on Windmill Road.
85. PC A appeared to lift the left tail of Mr De Zoysa's coat and put his right hand underneath the coat. From the movement of the coat it appeared PC A moved his hand underneath the back of Mr De Zoysa's coat from left to right.
86. PC A then lifted the coat tails up to around the middle of his back Mr De Zoysa's back and asked PC B to hold them up. PC A stated he asked PC B to do this so he could search Mr De Zoysa's back and the full circumference of his waistband. PC B commented that Mr De Zoysa's waistband needed a good check.
87. PC A reached forward with his right hand and appeared to take hold of or search the middle area of the back of Mr De Zoysa's waistband before moving round to Mr De Zoysa's left side and then his front. PC A then held the handcuffs with his right hand and appeared to use his left to search the front of Mr De Zoysa's waistband.
88. In his statement, PC A said he was able to push his hand into Mr De Zoysa's waistband to feel the inside of his trousers. PC A said he was concerned Mr De Zoysa might have a concealed firearm which could fire the ammunition found. PC A said he thought if a firearm was not in his waistband, it might be strapped somehow to Mr De Zoysa's thigh or up the centre of his back, which he had already checked.
89. The BWV shows PC B told PC A they would change Mr De Zoysa's handcuff positioning so his hands would be behind him once the police van arrived and PC A agreed.
90. PC A asked Mr De Zoysa whether he had one pair of trousers on and Mr De Zoysa responded that he had a second pair of thermals. PC A then searched Mr De

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Zoysa's waistband area from Mr De Zoysa's left side and back, round to his right side.

91. PC A recalled he searched again around the rear of the waistband and up his back as far as he could go, given Mr De Zoysa's coat was restrictive. PC A said he did this to confirm to himself it had been done as he believed if Mr De Zoysa did have a firearm in his possession, those would have been the most likely places he would conceal it.
92. The BWV shows PC A then told Mr De Zoysa he was going to search the inside of his legs and asked him to spread his legs, which he did. PC A ran his hands down Mr De Zoysa's right leg and seemed to hesitate when he got to Mr De Zoysa's feet.
93. PC A recalled he stopped to look closely at what Mr De Zoysa was wearing on his feet and saw Mr De Zoysa was wearing military issued boots.
94. PC A stood and asked Mr De Zoysa where he got the boots from. As he stood a stationary police car is visible on the road. PC A said "*yeah all good*", toward the occupants of the car before bending down to run his hands down Mr De Zoysa's left leg. Mr De Zoysa said he was given the boots by cadets. The police car drove away.
95. PC A untied the laces of Mr De Zoysa's left boot and felt inside around the top with his fingers. PC A then stood, turned Mr De Zoysa around and repeated the process with Mr De Zoysa's right boot.
96. Whilst PC A searched Mr De Zoysa's boots he asked him which cadets supplied the boots and Mr De Zoysa told him it was the army cadets. When asked where his station was Mr De Zoysa said it was ages ago and it was Balham. He hesitated before replying and PC A asked if Balham was a guess by Mr De Zoysa.
97. At 1.43am, PC A finished searching Mr De Zoysa and asked PC B to keep hold of him. In her statement, PC B recalled Mr De Zoysa had kept his elbows drawn into his sides during the search.
98. Following the search, PC A stood and walked to the open front passenger door of the police car where he picked up Mr De Zoysa's holdall from the seat. PC A walked to the rear of the car and dropped the holdall onto the pavement in front of and to the

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right of Mr De Zoysa. PC A bent over and unzipped the bag. Mr De Zoysa stood stationary with PC B holding the handcuffs whilst the bag was searched.

99. PC A first removed what appeared to be a large black bag which was folded. He dropped it to the ground and then removed a clear plastic water bottle containing a clear liquid. PC A opened the lid and smelt the contents. After a pause he asked Mr De Zoysa if it was water and he replied it was. PC A replaced the lid and put the bottle on the pavement. PC A then removed a black fabric item and white plastic bag which appeared to be wrapped around something. After turning the bag over in his hands, he asked Mr De Zoysa if it was the cannabis, which Mr De Zoysa confirmed.
100. PC A squeezed the white plastic bag believed to contain cannabis and put it down on top of the holdall.
101. PC A next removed a small black item from the holdall, turned it over and dropped it back into the holdall.
102. At 1.44am, PC A updated the control room Mr De Zoysa had also been arrested for possession with intent to supply class B drugs.
103. PC B asked PC A if he wanted to check the contents of the white plastic bag and he lifted it to his face and smelt it. Mr De Zoysa told them the cannabis was in several containers. PC A put the white bag down and continued to search the holdall. He found an apple and continued searching the holdall.
104. PC B and PC A briefly discussed the need for a section 18 search to be conducted following authorisation being sought upon arrival at custody. A section 18 search under the Police and Criminal Evidence Act (PACE) 1984 is the search by a constable of any premises occupied or controlled by a person who is under arrest, when there is reasonable grounds for suspecting there is evidence relating to the offence or another similar or connected offence.
105. PC A began to search the black holdall, going through all the pockets and zipped areas. Nothing was found. PC A then rolled up the black holdall and placed it back into the brown one before he also replaced the other items he had removed, except the white bag. PC A recalled when he finished searching Mr De Zoysa's bag, he

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began re-packing his personal property, keeping the cash, ammunition and drugs separate.

106. At 1.48pm, PC C arrived at the location with PC D and asked if the officers needed help. PC B said they might need help for the section 18 searches. In her statement, PC C said on her arrival, she believed Mr De Zoysa had been arrested and searched.
107. PC A stood and placed Mr De Zoysa's belongings and the cannabis onto the car roof.
108. PC A began collecting the items placed on the roof earlier. As he did, he informed the newly arrived officers that Mr De Zoysa had been arrested for being in possession of bullets and also cannabis with intent to supply. PC A began putting the items from the roof into the holdall.
109. As PC A turned, PC B could be seen leaning against the police car resting her head on her left hand and facing the direction of the road whilst holding onto Mr De Zoysa's handcuffs with her right hand. Mr De Zoysa was stood facing the car.
110. PC A asked PC C if they had some exhibit bags. PC C found one and held it open for PC A who deposited the seized cash into it. PC D went to retrieve more from PC A's car.
111. PC A put some of Mr De Zoysa's belongings into the holdall before taking bank cards back out, looking at it and asking Mr De Zoysa for his surname. Once given, PC A returned the card to the holdall in addition to another item.
112. PC A then put the suspected cannabis into an exhibit bag held open by PC D.
113. PC C handed PC D the exhibit bag containing the cash.
114. At 1.50am a police van, driven by PC E, arrived and parked on the road alongside the officers.
115. At the same time, PC B guided Mr De Zoysa away from the police car holding her handcuff keys in her right hand. She told Mr De Zoysa not to make any sudden movements stating she was going to handcuff him to the back because he was

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going to go in the police van. Mr De Zoysa did not understand and questioned what he was being handcuffed to the back of. PC A explained it was to the back of his body.

116. PC C stood to Mr De Zoysa's right side holding onto his arm and PC B unlocked the left handcuff and commented the handcuffs were stiff. Once Mr De Zoysa's left hand was released from the handcuff, PC B took hold of Mr De Zoysa's left arm and PC C held onto his right. Both arms were brought behind Mr De Zoysa and PC C assisted PC B to guide Mr De Zoysa's left wrist back into the handcuff. Mr De Zoysa's hands were positioned so his left hand was above his right.
117. In her statement, PC B said she asked PC C to assist with moving Mr De Zoysa's handcuffs to his back due to the discovery of ammunition and drugs and, in addition to, his erratic behaviour and concern that he was not following instructions to remain still.
118. PC B explained to Mr De Zoysa he was being handcuffed to the back because others in the past have been known to swallow drugs or other things in their possession.
119. PC C remained behind Mr De Zoysa, adjusting the handcuffs. She told Mr De Zoysa to let her move his hands so they would be more comfortable. She then appeared to do this and asked PC B for her handcuff key. PC C bent low and appeared to lock the handcuffs before returning the key to PC B. In her statements dated 28 September 2020, PC C stated she checked the handcuffs for tightness and tightened them so that she could only fit one finger in the gap. PC C stated she then double locked the handcuffs to prevent them from becoming tighter.
120. During this time, PC A put the black drawstring bag containing the bullets in another exhibit bag held by PC D. He then appeared to run his hand over the roof of the police car before bending and leaning toward the rear passenger seat where Mr De Zoysa had previously sat. There was nothing visible on the seat. PC A recalled he checked where Mr De Zoysa was sat to see whether he had dropped anything in the car and he could not see anything.
121. At 1.51am, the police van driver PC E exited the van, walked to the rear and opened the external and internal van doors leading into the caged prisoner transport area. In

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his statement PC E recalled he had checked the rear of the van before attending to transport Mr De Zoysa and it was empty. PC E then walked over to join PC D who was stood behind the first police car.

122. PC A shut the rear passenger door of the car and collected Mr De Zoysa's hat, mask and mobile phone from the front passenger seat. He put the hat and mask into the holdall but kept hold of the mobile phone. PC A asked PC B and PC C if they could keep Mr De Zoysa out of the van for a moment so PC A could get the IMEI number for Mr De Zoysa's mobile phone. An IMEI number is a unique code which identifies a phone.
123. PC A then approached Mr De Zoysa and asked if the mobile turned on. Mr De Zoysa said PC A could get the IMEI number from the back of the phone inside the cover if he pressed a lever. PC B advised PC A not to press anything and he said they would leave it until they got to custody. In her statement, PC B said she thought due to Mr De Zoysa's behaviour it could be a Taser phone, or by pressing a button it could delete important evidence.
124. PC C walked to the open doors at the back of the police van. She appeared to look inside before stepping away, facing Mr De Zoysa and pointing at the van. The BWV shows the van was empty. In her statements, PC C recalled checking the van which she found was empty.
125. At 1.51am, PC B held onto Mr De Zoysa's left arm and escorted him to the police van. Mr De Zoysa stepped up into the van and sat on a bench within the prisoner transport area. The police van footage shows his hands were in the same position behind his back as placed by officers, with his left hand above his right. The footage shows his hands appeared to be empty upon entry to the van.
126. At 1.52am, PC B turned and walked toward PC A. She said she did not trust Mr De Zoysa and therefore advised PC A not to press anything, referring to the mobile. PC A agreed he did not trust Mr De Zoysa at all as he had lied to them non-stop. PC B then turned off her BWV camera.
127. PC C closed the internal van doors behind Mr De Zoysa and then turned off her BWV camera. PC D also turned his BWV camera off at this time.

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128. In her second statement, PC C stated she watched Mr De Zoysa and his hands for movement whilst he sat in the van, but there was nothing noticeable or memorable about the way he sat in the van. She commented Mr De Zoysa had been calm and compliant throughout her time with him. PC C said she did not feel Mr De Zoysa was under the influence of drugs or alcohol and although she found his behaviour was strange and very calm, she did not think Mr De Zoysa was suffering from any mental health issues.
129. In his statement dated 28 September 2020, PC D recalled Mr De Zoysa was compliant whilst being escorted to the police van. This was also the opinion of PC E who stated Mr De Zoysa was compliant with officers and did not offer any physical or verbal resistance.
130. At 1.52am, PC A picked up what appeared to be loose coins from the roof of the police car and put them inside the holdall. He asked PC D to check the roof to see if there was anything else up there and PC D was seen to complete this task before handing PC A the three exhibit bags containing the bullets, cannabis and cash.
131. PC E shut the external van doors and PC A turned off his BWV camera as he walked towards the van. At 1.53am, the van footage showed PC E drove the van away from the scene at London Road with Mr De Zoysa and PC A also travelling inside.
132. PC C recalled once the police van had left, she said to PC B it was strange to have ammunition without a weapon. PC C stated PC B informed her they were planning to search Mr De Zoysa's home address as the weapon must be there.
133. PC C said she asked PC B where she had seen Mr De Zoysa before stopping him and what direction he was walking in. Following PC B's response, PC C said she suggested they search the bushes nearby in case Mr De Zoysa discarded anything upon seeing police. PC B's recollection of this conversation and the subsequent search is consistent with PC C's. All BWV cameras had been turned off by this point.
134. At 1.54am, CCTV footage from Shurgard Self Storage and an adjacent residential building called Anderson Heights, shows once the police van left, the three remaining officers walked around to the front of PC B's police car and one officer



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appeared to shine a torch or light into the hedges which ran alongside with pavement around the area Mr De Zoysa had been stopped.

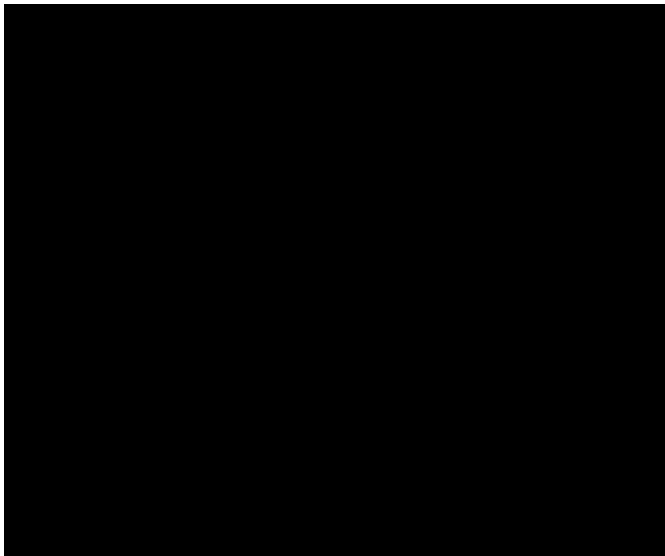
135. In his second statement, PC D stated he and PC C shone their torches in the nearby bushes and stated they found nothing. PC B recalled they did not find anything during the search and so she made her own way to custody in the police car she arrived in. PC C said she and PC D followed a short distance behind in their vehicle but were delayed in getting to custody.
136. At 2.03am, the footage from the premises showed PC B got into her vehicle and drove away from the area, followed closely by PC C and PC D in their vehicle.

### **> Mr De Zoysa's journey to and arrival at Windmill Road Custody Centre**

137. The van footage shows, at 1.52am, shortly after entering the van and sitting down, Mr De Zoysa appeared to look at his surroundings, including the corners of the cage and the CCTV cameras. He also looked toward the external van doors and into the officer transport area. Mr De Zoysa positioned his body at an angle, so his hands were not visible on the cameras. Mr De Zoysa looked directly up at the CCTV camera in the corner in front of him twice more whilst he was alone in the van.
138. At 1.52am, PC A opened the side door to the van and placed Mr De Zoysa's belongings on the floor inside. PC A then entered the officer transport area holding the exhibit bags and sat in a rear facing seat directly opposite Mr De Zoysa.
139. Mr De Zoysa leant toward the Perspex screen of the cage and appeared to watch PC A, before twisting to look again at the CCTV camera with wide eyes. Mr De Zoysa turned to face PC A and then lifted himself slightly and adjusted his seating position, pushing himself further back on the bench, before making small movements of his shoulders.
140. Mr De Zoysa intermittently continued to make small movements of his upper body throughout the journey to custody, whilst regularly looking towards PC A. Only movements identified as of key potential significance have been included below.

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141. At 1.53am, PC A removed his pocket notebook (PNB) from his Met vest and opened it to write something inside. In his statement, PC A recalled writing Mr De Zoysa's details in his PNB. PC A's PNB was misplaced following the incident and was not available for review by the IOPC, however an image of the PNB from CCTV and the circumstances in which it was completed are consistent with his account.
142. After writing in his PNB, PC A bent over forward and appeared to focus on the property or exhibits on the floor by his feet, before sitting up a few seconds later and putting away his PNB. He bent forward once more for approximately 30 seconds whilst having a discussion with PC E around identifying the correct legislation concerning Mr De Zoysa's possession of bullets.
143. At the same time, Mr De Zoysa moved towards his left shoulder and lowered his chin until he faced down and left, towards the inside area of his coat. Immediately after this, Mr De Zoysa opened his knees wider, leant forward and raised himself slightly off the bench, shifting forward and slightly to his left.
144. Mr De Zoysa's left knee contacted the cage which made a noise. Mr De Zoysa looked towards PC A and told him he was just moving himself. Mr De Zoysa then looked at the CCTV camera momentarily before lowering his gaze. He grimaced for a few seconds and then his right shoulder made a small movement.



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145. Mr De Zoysa turned to his left and bent low and forward toward the Perspex window until his face was very close. He appeared to watch PC A. Mr De Zoysa then straightened slightly and moved his fingers, which had become partly visible behind his back, before he bent forward again and looked toward PC A. He then straightened his body and turned his face to look at the CCTV camera.
146. At 1.54am, PC A sat up holding an exhibit bag. He removed Mr De Zoysa's driving licence from the bag and retrieved his PNB which PC A rested on his lap as he leant forward to write something inside.
147. During this time, Mr De Zoysa alternated between looking at PC A and the CCTV camera as he bent forward. Keeping low, Mr De Zoysa leant over to his left and moved his right arm up and down several times behind him. Mr De Zoysa appeared to straighten slightly, before he bent forward towards his knees again. His left hand and cuff were visible at this time and appeared to be positioned above his right hand, which could not be seen. This was the same position as when Mr De Zoysa entered the van. Mr De Zoysa appeared to clench his empty left hand and twist his wrist anti-clockwise, bringing his thumb closer to his back, before sitting up again.
148. At 1.55am, Mr De Zoysa looked toward PC A again, leant slightly towards his left shoulder and looked up at the CCTV camera before turning to look again at PC A. At the same time, PC A took hold of his police radio and used it to contact the control room. The recording of this communication shows PC A requested assistance in completing a PNC check. There was no one from the control room available to assist, but another officer responded and offered to help. For approximately two minutes and 40 seconds, PC A bent forward and leant on his knees as he appeared to refer to Mr De Zoysa's driving licence and write in his PNB whilst obtaining the PNC check.
149. The radio channel was changed so PC A spoke with the officer away from the main despatch channel. A communications supervisor in the control room, Mr Q, has explained officers often switch channel so as not to tie up the main despatch channel. As not in constant use, the alternate channel was not recorded. However, the van CCTV shows PC A informed this officer of Mr De Zoysa's name, date of birth, sex and perceived ethnicity. The officer informed PC A Mr De Zoysa was

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known to the police but had no warning signals and no known operational information. PC A told the officer Mr De Zoysa stated he had been arrested before for fighting and the officer said he did not think Mr De Zoysa was previously charged. PC E also recalled this PNC check and the result. A PNC check and audit conducted during this investigation confirmed the check was completed as requested and the information provided and recalled by the officers was accurate.

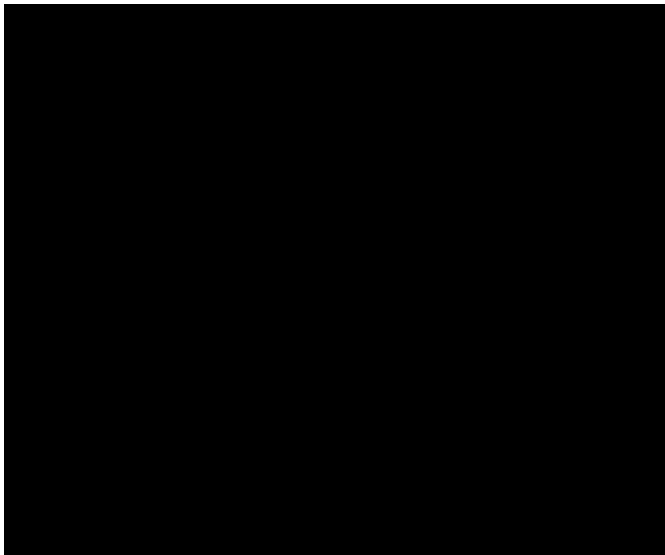
150. During this time, Mr De Zoysa made several small movements with his arms, elbow, back and shoulders. He looked between the CCTV camera and PC A as he moved.
151. At 1.56am, whilst PC A used his police radio, Mr De Zoysa sat straighter and said something which could not be identified before he pushed himself slightly further back on the bench. He then lowered his head and appeared to look into the left-hand side of his coat. Mr De Zoysa started to shake his head continually from side to side for several seconds as he sat up and leant back against the wall. Mr De Zoysa then repeated the action of bending forward and looking left to the inside of his coat twice more, hunching further forward and to his left in the process. He also turned his face and looked toward the CCTV camera and then PC A during these movements.
152. Mr De Zoysa raised his arms behind his back and his left hand and cuff was partially visible. He moved his hand and thumb and then brought his hands round towards his left side. Mr De Zoysa appeared to shuffle forward and back on the bench before he leant over to his left and looked up at the CCTV camera.
153. At 1.57am, Mr De Zoysa looked towards PC A before he leant far over to his left before sitting straight again. Mr De Zoysa appeared to move his right arm before he leant to his left again and forward as he raised his right arm high behind his back. Mr De Zoysa then lifted himself off the seat momentarily before sitting again.
154. Mr De Zoysa brought his right arm tight to his side and his left elbow became visible to his left as he leant to the right, indicating he had brought his arms round to his left side. Mr De Zoysa leant to his right and against the cage wall, his left shoulder raised as he looked down.

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155. Mr De Zoysa moved his left arm out to his side and the left side of his coat came out from underneath him and flicked out suddenly to the side.



156. Mr De Zoysa then immediately straightened up slightly and moved his right arm and shoulder forward and back before raising his right elbow behind him. Mr De Zoysa moved his right arm and shoulder again before he leant over to his left, lowered his chin and grimaced as he pushed his right arm down. Still grimacing, Mr De Zoysa continued to move his right arm in three deliberate, jerky movements.

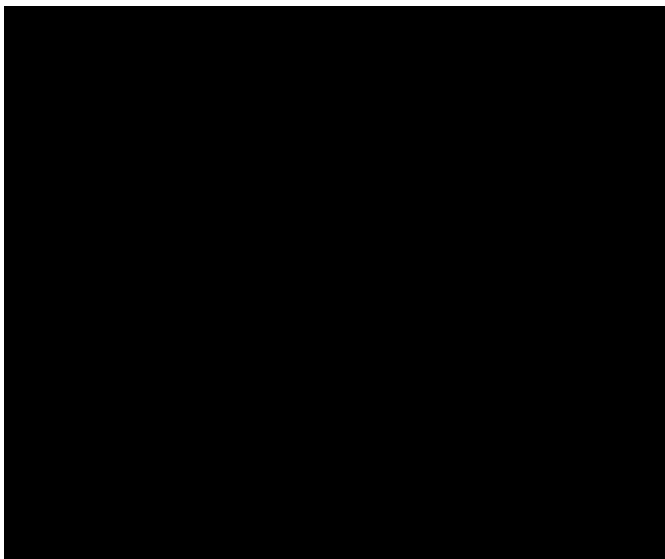


157. Mr De Zoysa then raised his right arm again, before moving it further behind his back. His upper body and head jolted as he made several small, jerky movements behind his back. Mr De Zoysa moved his right arm, torso and shoulders in small

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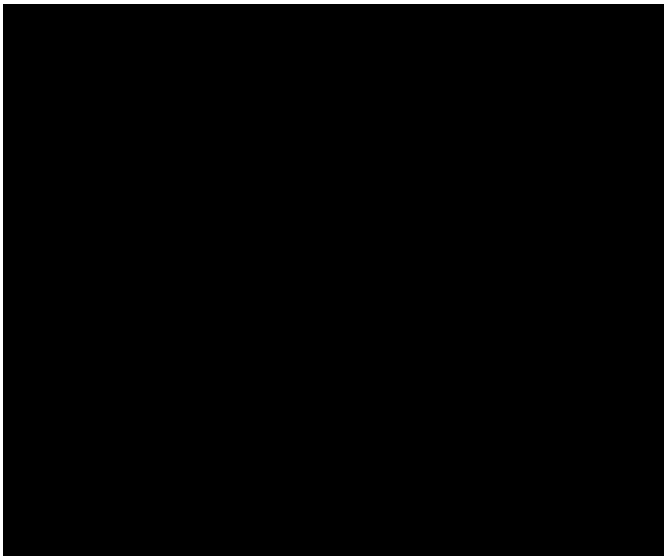
deliberate movements for several seconds until he slumped back against the wall behind him. Whilst in this position, Mr De Zoysa twice arched his back and pushed out his chest, before returning to the original, slumped position.

158. Mr De Zoysa looked toward PC A and then appeared to make several small movements with his left arm before slumping back against the wall once again and fidgeting, by tapping his left heel on the floor and puffing out his cheeks. After a pause, Mr De Zoysa appeared to move his arms behind his back, indicating his hands moved towards his left side. He then slumped back in his seat again.
159. At 1.57am, the PNC check was complete, PC A sat straighter and put away his PNB. He then removed his work issued tablet from his trouser pocket, before bringing it to his lap, partly removing the glove from his right hand and looking down to use the tablet. Mr De Zoysa looked towards PC A at this time. PC A remained focused on his tablet and approximately one minute later, PC A turned to his left, looking in the direction of PC E and told PC E the offence relating to the bullets was possession under section one of the Firearms Act. PC E asked if PC A had looked it up and he confirmed he had, whilst referring to his tablet.
160. Whilst PC A used the tablet, Mr De Zoysa sat largely still for approximately 40 seconds. He then arched his back forward and raised both shoulders as he grimaced momentarily before lowering his left shoulder.



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161. For the next 15 seconds, Mr De Zoysa made minimal movements, other than to look around. Then whilst looking toward PC A, Mr De Zoysa bent over forward and back in a single quick motion before lifting himself off the bench briefly and readjusting his position. Mr De Zoysa then appeared to adjust his positioning by moving his legs and he continued to watch PC A, at one point by leaning over to the Perspex until his face almost touched.
162. Mr De Zoysa then straightened and sat back against the wall for a moment before his began to arch his back forward.
163. At 1.59am, PC A opened the internal cage door and Mr De Zoysa sat up straight in response and looked toward PC A. PC A informed Mr De Zoysa he was being arrested under section one of the Firearms Act 1968. PC A referred to his tablet as he spoke and then looked up at Mr De Zoysa as he cautioned him and told him the arrest was necessary to allow for a prompt and effective investigation by way of taped interview and to prevent physical harm.
164. Mr De Zoysa lowered his head and bent forward in the direction of the open door. At this point, it was possible to see his hands had changed position from when he first entered the van. Mr De Zoysa's right arm was now above his left and his right hand was not visible. The footage showed a possible bulge beneath the back of Mr De Zoysa's coat. Mr De Zoysa's left had was partially visible and appeared to be slightly open with his palm and fingers facing upwards.



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165. Mr De Zoysa sat straighter and moved his right arm out to his right in a small sudden movement and the bulge moved with it. A very quiet 'pop' sound was heard on the footage and Mr De Zoysa immediately lowered his right arm again.
166. Mr De Zoysa leant forward and nodded several times in response to what was being said by PC A. He started to say something to PC A, but was interrupted as PC A went on to tell Mr De Zoysa he was also under arrest for possession with intent to supply class B drugs before providing the same caution and grounds of arrest as before. PC A appeared to be distracted by a noise from outside the van and looked left in the direction of the source, before looking down and leaning to his right to put his tablet away. Mr De Zoysa nodded his head once more and PC A then shut the internal door between them. By now, PC E had arrived at Windmill Road Custody Centre and was driving slowly through the car park toward a secure van dock.
167. PC A put his glove back on before he turned to his left to tell PC E which two offences Mr De Zoysa had been arrested for.
168. Mr De Zoysa turned his whole body to his right until he was sat on the bench with his body, head and legs facing the wall directly opposite. He then exhaled and slumped down in his seat.
169. At 2.00am, PC A opened the internal cage door again and asked Mr De Zoysa if he had any symptoms of coronavirus. Mr De Zoysa shook his head and responded he did not think so. PC A shut the door and relayed the information to PC E who in turn passed it on to another unknown person, along with details of the offences and result of the PNC check. At this time the van had come to a stop just outside the van dock.
170. In his statement, PC E explained he spoke to custody staff via intercom to provide this information prior to gaining access to the vehicle dock.
171. PC A looked around and to his left whilst the van was stationary. Mr De Zoysa lowered his chin and inhaled and exhaled deeply before he pushed his chest and stomach out and moved his arms behind his back and out the sides several times. These movements continued for approximately 20 seconds.

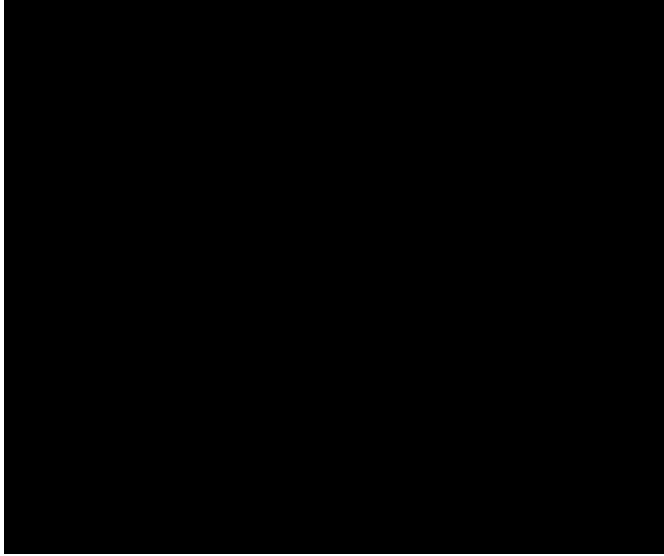


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172. At 2.01am, PC E drove the van forward and turned into the secure van dock immediately outside the custody entrance for detainees. At each end of the dock were roller shutters. As the van came to a stop, PC A opened the side door of the van and leant to his right to look outside. Mr De Zoysa looked toward PC A.
173. PC E exited the van and walked round to the rear of the van. PC A bent forward, collected the exhibits and Mr De Zoysa's belongings before he also exited the van, shut the door and walked to the rear.
174. PC E said in his statement, in relation to the journey to custody, he had a view of Mr De Zoysa on a monitor screen within the rear-view mirror of the van. PC E recalled during the journey he glanced at the monitor to see Mr De Zoysa, and each time Mr De Zoysa was sat on the bench, compliant and not moving. PC E said he had no concerns about Mr De Zoysa and believed PC A would have carried out a thorough search.
175. Following arrival at the secure dock and whilst inside the van alone, Mr De Zoysa moved his upper torso, arms, shoulders and chest whilst he bent over forward and looked toward the back doors. Mr De Zoysa then turned his head to look left and a small sound such as a 'pop' or 'click' was heard from within the van. Immediately after this noise, Mr De Zoysa lowered his gaze and leant back against the wall behind.
176. Two seconds later at 2.02am, PC E opened the rear van doors and PC A opened the rear internal cage door. PC A asked Mr De Zoysa to stay inside.
177. PC A put Mr De Zoysa's property on the floor and stood next to the open van door on the opposite side to where Mr De Zoysa sat. PC E stood by the other door and both officers faced each other and had a general conversation, unrelated to this incident. Mr De Zoysa appeared to watch the interaction between the officers. In his statement, PC A said he had a clear line of sight to Mr De Zoysa from where he stood.
178. In his statement, PC E recalled Mr De Zoysa was not causing any problems and was not acting in a manner to cause him concern. He said Mr De Zoysa sat mostly still while they waited.

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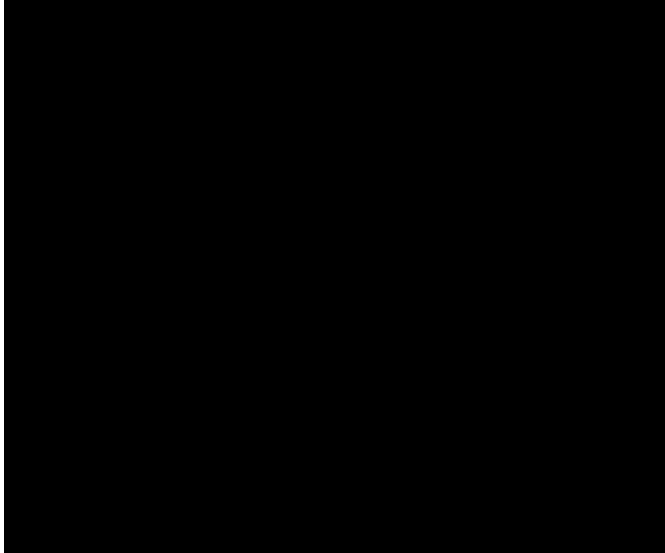
179. At 2.03am, Mr De Zoysa interrupted the officers and told them he *'required an adult'* because of a vulnerability. He also stated he wanted a duty solicitor and PC A said they could sort them out for him once they were inside custody. Mr De Zoysa nodded in response. In his statement, PC A recalled he understood Mr De Zoysa wanted an appropriate adult, which he described as a service for children or adults with mental health issues, to assist them in custody. PC A said Mr De Zoysa's request did not come as a surprise because he suspected Mr De Zoysa might have learning difficulties or a mental health issue. PC A recalled he thought Mr De Zoysa looked pale and slightly green as though he might vomit.
180. PC A asked Mr De Zoysa if he had any medical conditions and after a short pause Mr De Zoysa told him he had "ASD". This is short for autism spectrum disorder. In his statement, PC A said he had never heard of ASD before. PC A asked if he needed medication and Mr De Zoysa told him no, before stating the cannabis was his medication. PC A asked if Mr De Zoysa has any medication prescribed by a doctor or from a pharmacy and Mr De Zoysa said he had nothing prescribed by a doctor, but he did have over the counter medicines which were not with him. PC A asked if he needed it in the next 24 hours and Mr De Zoysa said he did not. PC A and PC E then resumed their conversation.
181. At 2.05am, Mr De Zoysa appeared to make several small movements with his arms and shoulders for approximately 15 seconds before he stopped and remained still for ten seconds. Following this, Mr De Zoysa looked up at the CCTV camera and began to take several deep breaths and nod his head. A few seconds later, Mr De Zoysa lowered his chin, closed his eyes and grimaced as he leant backwards and moved his right arm.



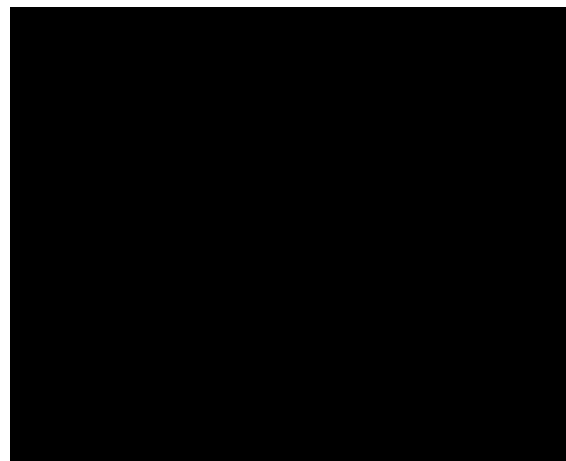
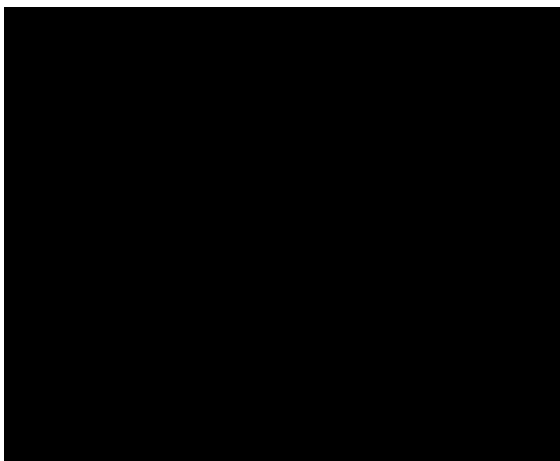
182. Following this, Mr De Zoysa's expression relaxed and he sat largely still either looking down or toward the officers.
183. During this time, PC A placed the exhibit bags on the floor beside Mr De Zoysa's holdall, retrieved his PNB from his Met Vest and appeared to write in it whilst PC E was talking. The PNB had Mr De Zoysa's driving licence rested on the open top page. PC A wrote in the PNB before returning it to the pocket on his Met Vest. In his statement, PC A said he kept Mr De Zoysa in his peripheral view as much as he could whilst writing in his PNB.
184. At 2.06am, Mr De Zoysa asked the officers what they were waiting for. Both officers turned to face Mr De Zoysa and PC E informed him they were waiting for the sergeant to come out and went on to say the sergeant would 'zap' him to check he did not have a temperature. Mr De Zoysa questioned the word 'zap' and PC A said the sergeant would point 'it' to his wrist or something and that it goes it goes 'click' and takes his temperature. PC A demonstrated this with his hand and told Mr De Zoysa it was to make sure he did not have any coronavirus symptoms.
185. PC A and PC E turned toward each other once more and continued their conversation. At 2.07am, both officers stepped away from the van. PC A removed his PNB from his vest and appeared to be reading from it.

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186. Mr De Zoysa looked toward the officers and then began moving his right arm out to his side, then down and in toward the middle of his back, before coming out to his side again. Next, Mr De Zoysa moved his right arm further behind his back and appeared to lower his left shoulder slightly, moving his left arm at the same time. Mr De Zoysa grimaced during this movement.

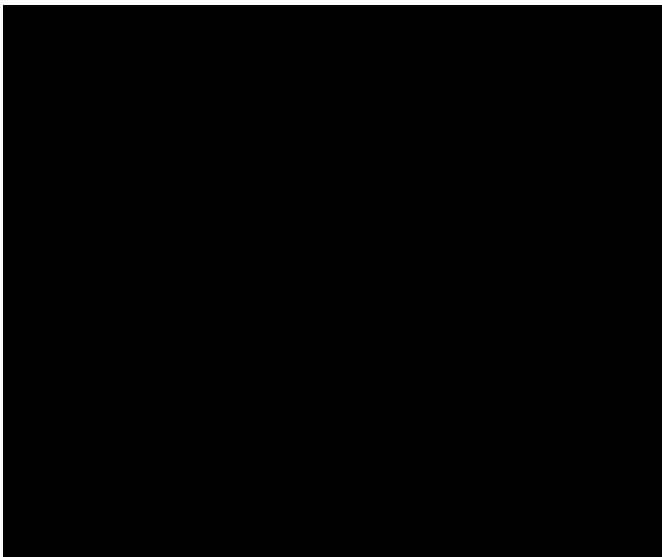


187. The bottom of Mr De Zoysa's coat and the front right-hand side moved independently of any visible corresponding movement of Mr De Zoysa's body. It appeared to flap out to the side and back again. Mr De Zoysa kept his face low and looked toward the officers during this movement.



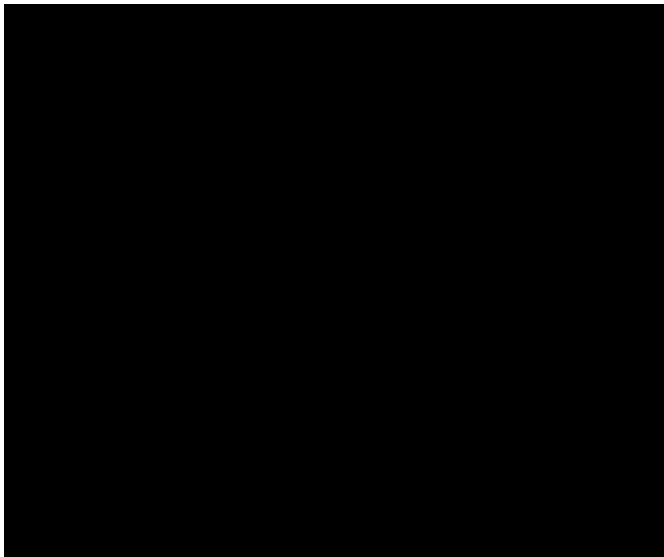
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188. Two seconds later, PC A asked Mr De Zoysa how to pronounce his surname and Mr De Zoysa responded. PC A then closed his PNB and put it away before leaning against the van door and facing away from the cage. Approximately 30 seconds later PC E returned and leant against one of the open van doors, facing away from the cage. Shortly after, they resumed their conversation. In his statement, PC A said throughout the time he stood by the open van door, he did not notice any unusual movements or sounds from Mr De Zoysa and he remained conscious Mr De Zoysa may fall ill. PC E recalled he watched Mr De Zoysa intermittently during the wait and described him a quiet and compliant. PC E said he considered Mr De Zoysa to be of low threat due to his compliance and being handcuffed.
189. Over the next two minutes, Mr De Zoysa did not appear to make any significant movements with his upper body. He continued to look around, focusing mostly on the officers. He altered his position once by raising his left leg whilst leaning to the right, before immediately repeating the same on the opposite side.
190. At 2.09am, Mr De Zoysa leant over to his left and lowered his chin to his chest as he raised both shoulders and upper arms behind him. At 2.10am, Mr De Zoysa moved his right arm out in two small, sudden movements. Mr De Zoysa continued to look in the direction of the officers as he appeared to lift and move his arms behind his back. He continued to make small movements of his arms and shoulders over the next 30 seconds and during some of these movements, Mr De Zoysa looked down and grimaced.



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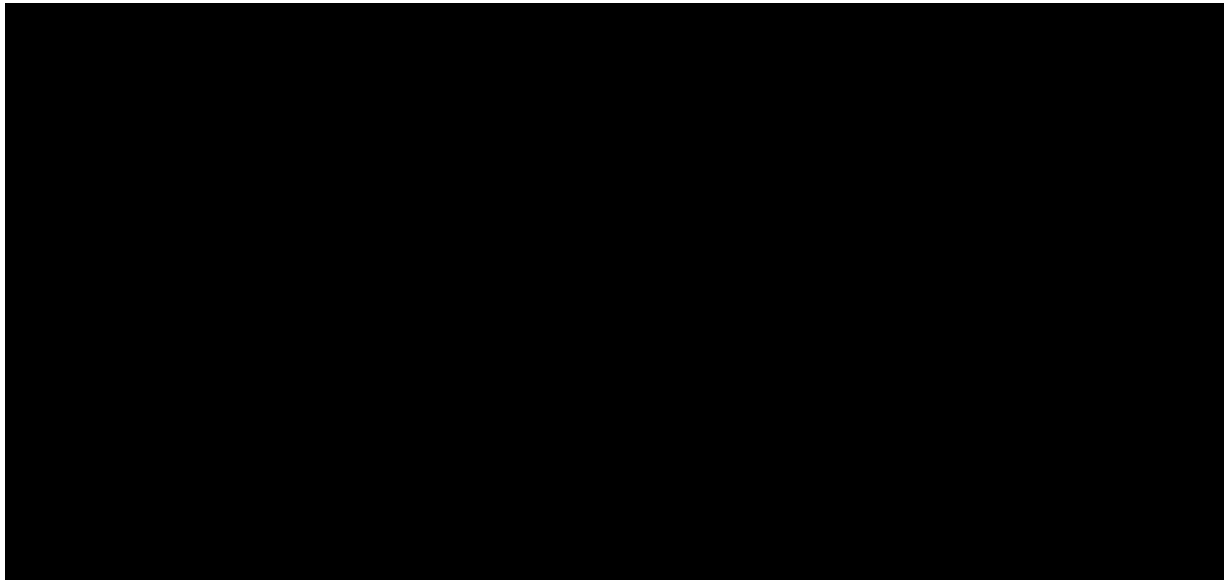
191. At 2.10am, the custody footage shows PS Ratana opened a door to the van dock from custody and asked them to come inside.
192. At 2.11am, PC E looked towards Mr De Zoysa and told him to come out of the van. PC A also gesticulated for him to come out. Mr De Zoysa stood and moved toward the open van doors. PC E asked if Mr De Zoysa was able to step down on his own and Mr De Zoysa confirmed he was. As Mr De Zoysa left the van, his left shoulder and the back of his coat was visible on the footage. Mr De Zoysa's hands were no longer visible on the outside of his coat.
193. PC A walked over to the exhibits and Mr De Zoysa's holdall and bent down to pick them up.
194. As Mr De Zoysa stepped away from the van, his entire back was visible. The van footage from the rear camera produced reversed images. The image therefore showed Mr De Zoysa had his right arm placed above his left which is opposite to how he entered. The image also showed Mr De Zoysa had placed his right hand inside the back of his coat. The fabric of the coat appeared to bulge in this area.



195. Mr De Zoysa walked toward PS Ratana and PC A followed. PC E remained in the docking area and shut the van doors. PC E then got back into the van and exited the dock area by driving forward through the now open roller shutters. PC E parked the van in the custody car park.

## Actions within the custody centre

196. At 2.11am, as Mr De Zoysa approached, PS Ratana asked if he was okay. PS Ratana held the door open and Mr De Zoysa entered the *'airlock lobby.'* This room had secure doors at either end and was equipped with ultraviolet lighting to detect SmartWater; a traceable liquid applied to valuable items and used to help identify thieves brought into custody. There were two cameras in the airlock lobby, one at each end, which also captured the audio.
197. The diagram below was taken from a larger map of the custody centre, which included the position and direction of all CCTV cameras. Footage from 26 custody CCTV cameras was obtained and reviewed during this investigation. This summary was written with reference to the cameras shown in the diagram only as they captured the relevant area. The route in red was taken by Mr De Zoysa. It depicts his direction and general locality within custody but is not an exact reflection of his positioning at any given time. The descriptions below should be relied upon for more information.



198. Once inside the airlock lobby, Mr De Zoysa turned and stood with his back toward the wall on his right, facing PS Ratana. PC A followed them into the room.
199. Mr De Zoysa asked PS Ratana if he was going to “zap” him and PS Ratana explained he was just going to take his temperature. Mr De Zoysa asked where and

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PS Ratana told him the temperature would be taken from his forehead and asked again if he was okay. Mr De Zoysa nodded in reply.

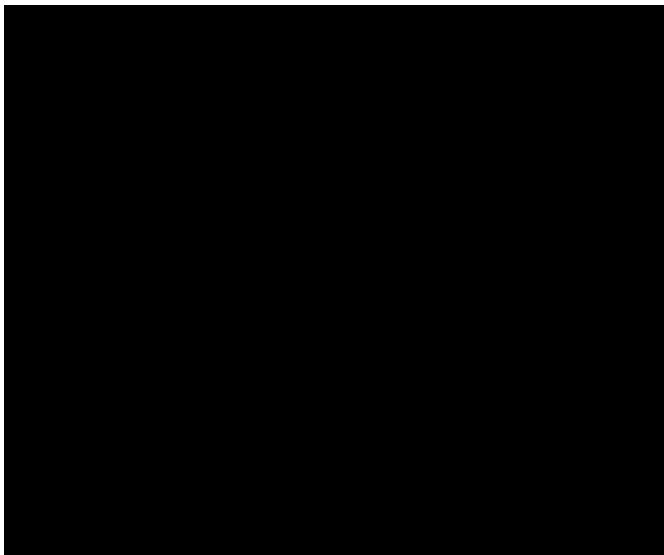
200. PC A instructed Mr De Zoysa to move away from the wall as he was close to a panic alarm strip which ran the length of the wall at mid-height. Mr De Zoysa stepped forward towards the middle of the room and nearer to PS Ratana until his upper back was visible on the camera. PC A was to Mr De Zoysa's left.
201. At 2.11am, PS Ratana took Mr De Zoysa's temperature and stated it was fine. PS Ratana walked to the gated door which led into the custody centre. PC A told Mr De Zoysa to face PS Ratana and Mr De Zoysa turned to face the custody centre, taking two steps forward. At this point Mr De Zoysa's back was visible on the footage. His left handcuff and hand were partially visible, his left hand was positioned lower than his right which was not visible at all and appeared to be completely under the back of his coat.
202. PC A told Mr De Zoysa to walk backwards and show the bottom of his boots. Mr De Zoysa stepped back towards PC A who held his right arm out, making contact with the upper right side of Mr De Zoysa's back. Mr De Zoysa lifted his feet to show PC A the soles one at a time as directed. PC A explained the lighting in the room was to check for SmartWater on his feet.
203. PS Ratana entered the custody centre and held open the door. Mr De Zoysa walked toward the custody centre and PC A followed with the exhibits and Mr De Zoysa's property. By now, PC B had arrived in custody and at this time she held open the door to holding room two which was right beside the lobby.
204. PS Ratana told Mr De Zoysa to come into custody and Mr De Zoysa walked through the open door, following which he walked sideways to his right with his back towards the wall. This was captured on the three camera's which covered the entrance to custody from the custody desk. At 2.12am, Mr De Zoysa turned to his right and walked into the holding room passing PC B.
205. Designated Detention Officer, Mr F was working in the custody centre and sat at the custody desk opposite holding room two. In his statement dated 28 September 2020, Mr F said he found it odd PC A did not have hold of Mr De Zoysa's handcuffs.



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Mr F said he felt very uneasy about Mr De Zoysa so stood to watch the holding room.

206. The holding room was covered by one camera positioned high above the door. Another camera, directly opposite, behind the custody desk also captured the holding room. Mr De Zoysa walked toward the back of the room and stopped short of the bench which ran along the back wall. He then turned his face, feet and body to his right until his back was almost parallel with the wall to his left and looked to his right in the direction of the door.
207. PC A followed Mr De Zoysa into the holding room holding the property and exhibits in his left hand. PC A stopped just inside the room and turned to his right until his back was parallel with the left wall. As PC A entered, Mr De Zoysa turned his body further, so his back was at an angle facing toward the wall and rear left corner of the room by the bench. PC B entered behind PC A and moved to the right side of the room, turning her body to face PC A. PC B appeared to ask PC A about conducting checks on Mr De Zoysa and PC A informed her he had Mr De Zoysa's driving licence. He reached into his Met vest and removed his PNB which he showed to PC B with the driving licence secured inside.



208. Mr De Zoysa watched the interaction between the officers as he raised his right arm up and out behind his back. He made further small movements of his right arm before he looked down and appeared to grimace momentarily.

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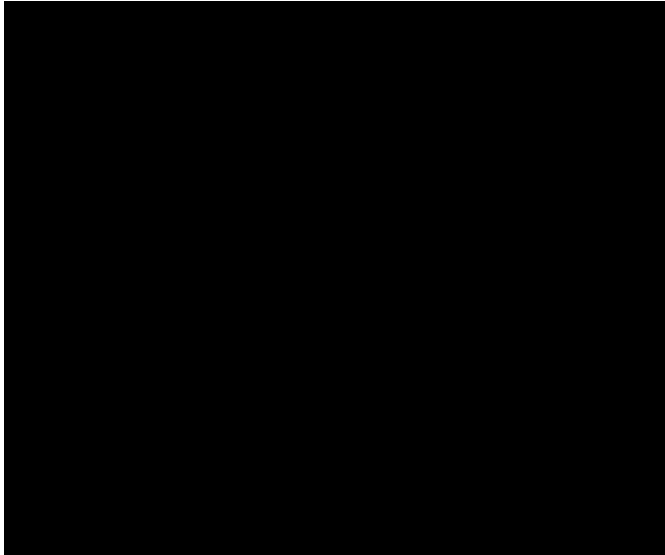
209. PC B took a photograph of Mr De Zoysa's driving licence using her tablet and PC A looked toward Mr De Zoysa and asked him to take a seat on the bench. In her statement PC B said she took a photograph of the driving licence so she could leave the original with PC A.
210. Mr De Zoysa walked backwards to the bench and took a seat toward the middle. He leant back until the top of his shoulders appeared to rest on the wall behind and he sat looking down. After a few seconds, Mr De Zoysa looked toward PC B and brought his right arm slightly out to his side. PC B turned to look at Mr De Zoysa and he lowered his arm at the same time.
211. Whilst the officers were in the holding room with Mr De Zoysa, PS Ratana had walked toward the custody desk and requested a metal detecting wand from a colleague. He set down the thermometer and then took the wand to the holding room, opened the door and stood in the doorway. He asked what offences Mr De Zoysa was in custody for and PC A told him it was for possession of bullets and possession with intent to supply class B drugs. During this conversation Mr De Zoysa moved his right arm slightly out to his side and back twice.
212. PS Ratana asked if the officers would need a further search and both replied they would.
213. PS Ratana stepped into the room and passed the wand to PC A. He told PC A to use the wand on Mr De Zoysa but not to take his handcuffs off. PC A asked PC B to take the property and exhibits from him and take them to the custody desk which she did. PS Ratana then stepped back by the entrance of the room and held the door open as PC B left the room.
214. At the same time, PC A began to turn and move toward Mr De Zoysa and Mr De Zoysa began stuttering and then said "Okay, I..." but was interrupted by PS Ratana who told him to stand up. PC A took two steps toward Mr De Zoysa and then stopped. He told Mr De Zoysa to stand.
215. In his statement, PC A said Mr De Zoysa looked physically sick at this point and his skin appeared pale and green and he was struggling to speak.

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216. PC B was just outside the room with the property and placed it on the floor. Following PS Ratana's instruction to Mr De Zoysa, PC B turned back towards the door and as she entered, she told PS Ratana Mr De Zoysa had previously not understood instructions.
217. At 2.13am, Mr De Zoysa started to speak again and PC A took a step closer and bent over forward directly in front of Mr De Zoysa. Mr De Zoysa said, "*I think this is it now.*" He started shaking his head and asked PC A to leave. PC A said "*What?*" and PC B approached Mr De Zoysa and stood to PC A's right. Mr De Zoysa again asked them to leave and said, "*I think I'm going to pass on pass on.*"
218. At 2:13:17am, PS Ratana followed PC B into the room and let go of the door which shut behind him. PS Ratana walked toward Mr De Zoysa and PC A moved to his left to make space for PS Ratana to stand in the middle, directly in front of Mr De Zoysa. Mr De Zoysa sat straighter and pushed his shoulders away from the wall as PS Ratana approached. PS Ratana told Mr De Zoysa to listen and informed Mr De Zoysa of his name and role as the custody officer in charge. He re-iterated the offences Mr De Zoysa had been arrested for and explained although Mr De Zoysa's detention in custody had not yet been authorised, he could authorise a search of Mr De Zoysa under Section 54 PACE. PS Ratana then told Mr De Zoysa to stand up again.
219. Mr De Zoysa lowered his chin, looked down and leant his upper body to his left and forward. PC A and PC B stepped toward Mr De Zoysa and PC A put his left hand out and took hold of Mr De Zoysa's right upper arm. PC B also had her right arm out in the direction of Mr De Zoysa.

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220. At 2:13:42am, Mr De Zoysa started to rise from the bench. PC B's arm was still outstretched but was not in contact with Mr De Zoysa. Mr De Zoysa twisted around to his right and raised his right elbow high as he brought his hands from behind his back to the right side of his body. Mr De Zoysa arched his back forward, lowered his right arm to his side and raised his forearm out in front of him as he held a gun in his right hand, pointed directly at PS Ratana.



221. Mr F stated he saw the barrel of a gun and an empty handcuff without a wrist in it before a shot was fired.

222. At 2:13:43am the footage shows Mr De Zoysa appeared to discharge the firearm, there was a flash from the gun and a loud bang, followed by smoke which was visible between Mr De Zoysa and PS Ratana. PS Ratana fell backwards and came to rest on his left-hand side, with his feet in the direction of the bench.

223. PC A and PC B both flinched in response to the shot. PC A immediately dropped the metal detecting wand and moved to his left behind Mr De Zoysa. PC A put his right arm across Mr De Zoysa's upper chest and started to pull him backwards. In his statement, PC A stated he wanted to take Mr De Zoysa off balance as quickly as possible and pull him to the floor so he could not fire any more rounds and so PC A could secure the gun. PC A said he had not seen the gun at that time, but said there was a clear and present danger of the gun being shot and in addition, he found the accuracy of the shot, which he saw hit PS Ratana almost in the centre of his chest, frightening.

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224. PC B moved closer to Mr De Zoysa and held her arm out toward him, putting her hands flat on his left side. In her statement PC B said after the first shot was fired, she had ringing in both her ears and was disorientated with blurry vision.
225. The CCTV footage from the custody front desk shows Mr F looked up suddenly when the first shot was fired and ran from the custody desk, followed by two others to the holding room.
226. In his statement dated 30 September 2020, Acting Special Sergeant G stated he heard the gunshot and turned to see PS Ratana falling backwards. Special Sergeant G said he pressed the emergency response button on his radio and used the radio to request an ambulance. Several other officers in custody also pressed the emergency buttons on their radios and the panic alarm strip on the wall was pressed, thereby alerting others in the building and beyond of the emergency in custody.
227. The footage in the holding room shows at 2:13:44am, Mr De Zoysa looked at PS Ratana and held the gun lower than before, pointing it in the direction of PS Ratana who was on the floor. Mr De Zoysa shot the gun again.
228. PC A moved completely behind Mr De Zoysa and brought his left arm forward, putting both arms around Mr De Zoysa's neck and pulling him backwards. As he leant back, Mr De Zoysa brought his right forearm up and pointed the barrel of the gun upwards. PC B moved closer and tried to take hold of Mr De Zoysa's left side, but lost contact as Mr De Zoysa fell back and twisted to his right.
229. At 2:13:45am, as Mr De Zoysa twisted, the gun discharged again and appeared to damage the left wall of the holding room toward the ceiling. PC A continued to move Mr De Zoysa round and down to his right until Mr De Zoysa reached the ground. At this point, Mr De Zoysa was on his left side facing toward the right wall. His head was by the base of the bench. PC A used his body weight to control Mr De Zoysa's upper body from behind. In his statement, PC A said he swung Mr De Zoysa round to his right as PC B was to his left. He also wanted Mr De Zoysa facing the bench, away from others within the custody centre. After the third shot, PC A said he flipped Mr De Zoysa onto his front and tried to keep as much of his weight on Mr De Zoysa in the hope he would not be able to extend the gun and fire again.

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230. The footage showed PC B appeared to lean on Mr De Zoysa's legs. At this point, only Mr De Zoysa's legs were clearly visible as the officer's positions blocked the view of his face and upper body. PC B shouted at Mr De Zoysa, she demanded to know where the gun was and told him to put it down. She shouted she had a Taser. In her statement, PC B said she was looking for a gun whilst she was on top of Mr De Zoysa.
231. At 2:13:53am, Mr F opened the holding room door and bent low inside; grabbing hold of PS Ratana, Mr F pulled PS Ratana out of the room and over to the custody desk where he laid him on his back. Multiple officers and staff immediately ran to PS Ratana and began administering first aid, which is visible on the footage from the custody desk.
232. At 2:13:56am, PC B appeared to reach in front to her left and four seconds later she brought her right arm out to the side holding a yellow object, her Taser in her right hand. The College of Policing Authorised Professional Practice (APP) states a Taser is *'a less lethal weapon system designed to temporarily incapacitate a subject through use of an electrical current which temporarily interferes with the body's neuromuscular system and produces a sensation of intense pain.'*
233. APP states the Taser is laser-sighted, and when activated by pulling the trigger, cartridges on the front of the device project a pair of probes attached to insulated wires. When both probes make contact with a person, the Taser delivers an electrical discharge lasting for five seconds.
234. At the same time, a sudden upward movement is visible in front of Mr De Zoysa's body. The black material of his coat and part of his hand appeared to move up, where the hand disappeared and the black material lowered back down.
235. At 2:13:58am, the enhanced audio files from custody captured a male voice shouting *"I'll pull it, I'll pull it!"*
236. At the time of this audio, PC A, PC B and Mr De Zoysa were inside the holding room. It was not possible to see Mr De Zoysa's face. PS Ratana was still being pulled from the room by Mr F who can be heard calling his name and asking if he was okay. PC A had not spoken since the first shot had been fired. Immediately

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outside the room was a special constable, who held the door open, and Special Sergeant G who was just about to enter the room. From the custody footage, neither of them appeared to speak.

237. PC A recalled he heard Mr De Zoysa say words to the effect of *"I'm going to do it. I'm going to set it off. This is it, goodbye."* PC A said he believed Mr De Zoysa had an improvised explosive device on him which he would detonate. He said PC B fired her Taser as Mr De Zoysa said this.
238. PC B recalled she activated her Taser to assist in the detention of Mr De Zoysa. PC B said she discharged her Taser twice into Mr De Zoysa's upper thigh, stating she paused to stare at Mr De Zoysa's body to see if the probes had engaged and if she got a physical reaction. PC B said she pressed the *'re-energised'* button whilst she tried to look for the gun. Manager of the national firearms training curriculum at the College of Policing, Mr J, explained in his statement the cycle of electricity from a Taser could be repeated or extended by pressing the *'arc'* switch on either side of the device. He said the switch was normally operated by the thumb of the hand not holding the device.
239. PC B said she was scared she or her colleagues could be shot and feared for their lives. PC B said she therefore used her Taser under her common law powers to save herself and her colleagues. She feared Mr De Zoysa was attempting to cause death or serious harm to those present in custody.
240. At 2:14:01am, PC A said *"zap him, zap him!"*
241. Special Sergeant G entered the room and approached PC B. He stopped behind her and reached forward, leaning to his right at the same time looking toward Mr De Zoysa.
242. At 2:14:02am a fourth loud, but muffled bang was heard on the footage and all the officers in the room immediately reeled back away from Mr De Zoysa. As PC A moved back and stood up, his left hand was visible on the bench and his right hand appeared to be push down Mr De Zoysa's right shoulder briefly. As the pressure was released on Mr De Zoysa's shoulder, a dark object was visible in front of Mr De

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Zoysa's upper torso. As both officers moved away, Mr De Zoysa's hands were visible behind his back.

243. PC A said he felt a reverberation through his entire body which he initially thought was a detonation. PC A said he realised Mr De Zoysa had fired the gun and immediately recognised a revolver protruding from under his torso. PC A switched hands, putting his left on Mr De Zoysa's shoulder. PC A then bent forward over Mr De Zoysa and reached down to the object on the floor and pushed it away. As it moved, it is clear on the holding room footage the object was the gun. It spun away from them and stopped besides Mr De Zoysa's knees.
244. Special Sergeant G stated the gunshot was fired whilst the firearm was still in Mr De Zoysa's hand. He said the firearm was then dropped on the floor. The footage showed Special Sergeant G ran out of the holding room following the sound of the gunshot.
245. On the holding room footage, within one second following the loud bang, another two sudden bangs were heard one after the other, quieter than the first bang. As PC B began to stand, the Taser is visible in her right hand and wires appear to come from it and go towards the middle area of Mr De Zoysa's right side. Mr J stated a Taser normally produced an audible 'pop' sound as a cartridge is fired.
246. MPS Taser lead instructor and technician, PC I conducted a Taser download of data from the device and found the Taser had two cartridges loaded at the time of this incident and both were fired within the same second.
247. Photographs taken of Mr De Zoysa's coat following the incident showed one probe was embedded into the right armpit area and another in the right cuff area. A third probe was still attached to the Taser wire and a fourth had become disconnected from the wire. It was not possible to ascertain where these two probes made contact with Mr De Zoysa or his clothing, if at all, from reviewing the custody footage and witness accounts.
248. At 2:14:04am a repetitive beeping sound is heard on the footage. Having viewed the footage, Mr J stated this sound was consistent with the sound the Taser makes to warn officers the five second electrical discharge was about to end.



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249. As the beeping finished, PC B brought her left hand to the Taser. In her statement, PC B said she re-energised her Taser. Having viewed the footage, Mr J stated PC B's actions at this time were consistent with her reaching for the arc switch to extend the cycle of both fired cartridges.
250. At 2.14.06am, Mr F ran back into the holding room and dropped to his knees in front of Mr De Zoysa's upper body, followed by Special Sergeant G who put his foot on the gun and kicked it backwards, causing the gun to travel through the door of the holding room, before running to the door.
251. Mr F grabbed hold of Mr De Zoysa's handcuffs. In his statement he recalled he noticed the handcuffs had been applied in the '*back to back*' position. Mr F said both of Mr De Zoysa's wrists were secured inside a cuff.
252. Mr F said he leant towards Mr De Zoysa and became aware PC B had Tasered Mr De Zoysa, because Mr De Zoysa was vibrating from the shock. Mr F recalled he saw a Taser barb embedded in Mr De Zoysa's clothing around his lower back and waistband.
253. At 2:14:13am, Special Sergeant G ran toward the holding room and took hold of one of Mr De Zoysa's legs. He pulled Mr De Zoysa away from the bench and toward the holding room door, which left a thick trail of blood. PC A let go of Mr De Zoysa as he was pulled away and PC B brought her left hand back to the Taser as she walked backwards until she stood in the open doorway to the room. As she did this, PC B was holding her Taser pointed toward Mr De Zoysa, who was lying on his front.
254. At 2:14:15am, continuous beeping from the Taser was heard for approximately six seconds. PC B continued to hold her Taser and there appeared to be a light on the front of it and a dot of light on the floor to PC B's right which corresponded to the movements of the Taser.
255. PC A left the holding room and for a short time Mr F was alone inside the room with Mr De Zoysa.
256. The footage shows PC A picked up the gun and placed it briefly on the custody desk before he took it to a room and left it there. In his statement, he said he secured the gun in an empty search room. The gun and ammunition was subsequently

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recovered and secured by forensic practitioners Mr K and Mr L who attended the custody centre to perform the role of crime scene managers.

257. At 2:14:32am, Mr F told PC B to keep the Taser on Mr De Zoysa. In his statement, Mr F said he believed Mr De Zoysa had more firearms or explosives on him. Mr F said he was unaware Mr De Zoysa was injured at this point. Mr F said he adjusted his position and then saw the blood trail.
258. At 2.14.39am, a small, dark coloured item appeared to drop in the space between PC B's legs, followed by a second three seconds later. PC B then appeared to re-load her Taser with a new cartridge before she replaced her Taser in its holster. In her statement, PC B said she reloaded her Taser as she was scared in case Mr De Zoysa did anything else and she would have to use it again.
259. Mr F took charge initially of the first aid for Mr De Zoysa whilst requesting assistance from colleagues, including Inspector H. At 2.15am, Inspector H entered the holding room and knelt to take control of Mr De Zoysa's handcuffs whilst Mr F put on some gloves. In his statement dated 28 September 2020, Inspector H said he entered custody having heard an emergency activation.
260. Inspector H rolled Mr De Zoysa onto his left side and a substantial pool of blood was visible and pulsating around his head and upper torso. Inspector H let go of Mr De Zoysa to put on some gloves and Mr F unwrapped some bandages.
261. At 2.16am, Mr F used his handcuff key to unlock and remove the handcuffs from Mr De Zoysa's wrists. First the right cuff and then the left. In this statement, Mr F said he did not believe the first cuff removed had been double locked and he could not recall if the second cuff had been double locked.
262. Inspector H rolled Mr De Zoysa on to his left side and kept hold of his right arm and Mr F moved the right side of Mr De Zoysa's coat away and appeared to bend forward to look for the injury. Mr F said Mr De Zoysa had been shot in the neck. In his statement, Mr F said he saw a gunshot wound to Mr De Zoysa's neck, right on top of his Adam's apple. He described the wound as a round hole about the diameter of a biro pen with a burn mark above it about the size of a thumb nail. Mr F

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said he saw blood spurting out of the wound which he knew was arterial blood due to its colour.

263. Mr F searched Mr De Zoysa's waistband stating he was making sure there were no other weapons, and then he moved closer to Mr De Zoysa holding the bandage which he held to Mr De Zoysa's neck. Mr F used his left hand to feel around Mr De Zoysa's back and then he pulled down the right side of Mr De Zoysa's coat with assistance from Inspector H until Mr De Zoysa's right arm was free.
264. The footage shows at 2.17am, Mr F shouted "*He's got a fucking holster on.*" In his statement, Mr F said as he began to remove Mr De Zoysa's coat he saw a hard, black leather pistol holster underneath his right armpit. Mr F recalled the holster went down Mr De Zoysa's right hand side where it was secured by a metal clip onto his waistband. He said he also saw an elasticated strap around each of Mr De Zoysa's arms. Inspector H also recalled he could see Mr De Zoysa wearing what appeared to be a shoulder holster.
265. Mr De Zoysa was rolled completely on to his left side and held by Inspector H whilst Mr F put new dressings to Mr De Zoysa's neck. He requested further dressings and was passed some scissors. The footage shows, Mr F stated they needed to check for further injuries.
266. Mr F cut through the front of Mr De Zoysa's jumper and t-shirt and continued to provide first aid to Mr De Zoysa, checking his body for injuries and applying pressure to the gunshot wound on his neck. Another officer and a nurse joined Mr F to assist with the first aid and continued to assist once the London Ambulance Service paramedics arrived and took over.
267. In his statement dated 25 September 2020, firearms officer PC J said he travelled to the custody centre with colleagues upon hearing there had been a firearms incident. PC J's BWV footage shows shortly after arriving, PC J went to assist in the provision of first aid to Mr De Zoysa. Mr De Zoysa already had the clothing from the front his torso cut away, so PC J cut Mr De Zoysa's trousers and long johns away from him to look for further injuries. PC J then bent down and lifted part of Mr De Zoysa's jumper which had been cut and was by the left side of his torso. As he did, a leather gun holster was clearly visible beside Mr De Zoysa between his left arm and his side. A

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holster strap and Mr De Zoysa's jumper sleeve were visible around Mr De Zoysa's left arm.

268. At 2:32am, PC J cut through the jumper sleeve and strap of the holster, leaving them in situ. PC J then took over from Mr F in applying pressure to the gunshot wound on Mr De Zoysa's neck whilst paramedics and other medical professionals continued to control the provision of first aid. Mr De Zoysa was taken to hospital by ambulance at 3.32am.
269. PS Ratana was taken to hospital by ambulance at 3.38am. Tragically, PS Ratana died as a result of his injuries.
270. A preliminary post-mortem report stated PS Ratana suffered two gunshot wounds. A fatal wound which passed through PS Ratana's chest and another non-fatal wound which entered the back of his right leg.
271. Mr De Zoysa's medical notes stated his injuries were the result of a gunshot wound to the front, left-hand side of his neck. The notes stated this was the entry wound, and an exit wound was identified in Mr De Zoysa's scalp in the area behind his left ear. Mr De Zoysa has undergone surgery and a range of treatments to date for his injuries.
272. Photographs of Mr De Zoysa taken on 20 November 2020, show significant scarring down the left side of Mr De Zoysa's neck and on his scalp from the back of his head to his forehead. Mr De Zoysa also had a scar slightly to the left of his Adam's apple and three small scars, approximately 5mm each in length on the right side of his neck positioned as though they were points on a triangle approximately 2cm apart. Mr De Zoysa's skull also appeared to be misshapen in the photographs. At the time of writing this report, Mr De Zoysa remained in hospital.

### **Post incident review of Mr De Zoysa's clothing**

273. The custody CCTV and officer's BWV footage captured Mr De Zoysa's clothing from the stop and search onwards. The footage also showed Mr De Zoysa's clothing was cut from him during the provision of first aid. These items of clothing were

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subsequently seized, catalogued and photographed. From these images it was possible to ascertain Mr De Zoysa wore the following items during this incident:

- Woollen hat- removed prior to the search on London Road
- Dark brown long coat
- Dark brown high neck jumper
- Green t-shirt
- Boxers
- Beige long johns
- Black jogging bottoms
- Socks
- Boots

### **Post incident review of the handcuffs**

274. The handcuffs worn by Mr De Zoysa were secured following this incident and subsequently examined on 22 October 2020 by PS M who worked in the MPS officer safety unit, which had ownership over all aspects of officer safety training, policy and equipment in the MPS. The examination was captured on BWV and a representative from the IOPC was present.
275. PS M stated the handcuffs were the standard issued handcuffs given to all MPS officers, and aside from expected slight wear and tear, the handcuffs appeared to be in good condition and worked correctly.

### **> Post incident review of the ammunition, firearm, shooting and holster**

276. On 30 April 2021, forensic firearms expert Mr N wrote a statement which detailed his review and expert opinion in relation to the ballistic evidence.
277. Mr N stated the gun was an antique American Colt New Model Army and Navy Model 1895 revolver.41 Long Colt calibre, which research indicated had been purchased lawfully by Mr De Zoysa from an auction in June 2020. Mr N examined

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the gun and stated it was in normal working order and contained four fired cartridges and one live cartridge. Another live cartridge was found within the holding room which Mr N believed originated from the gun and got separated during the incident.

278. Mr N's report also stated an examination of the bullets PC A found in the drawstring bag in Mr De Zoysa's coat pocket showed they were also live ammunition which could be fired from this gun.
279. Mr N measured the trigger pull of the gun and found it was at the higher end of the range he would typically expect from a revolver. Trigger pull is the pressure that needs to be applied to a trigger to fire the gun. Mr N said he carried out a range of tests to assess whether the gun could fire unintentionally and found it did not discharge during any of the tests. Mr N concluded the gun was not prone to discharging unintentionally as it only fired if the trigger was pulled.
280. In his statement, Mr N detailed his review and expert opinion in relation to each of the shots fired during this incident. In summary, he said he believed the gun was fired four times by Mr De Zoysa:
- The first shot struck PS Ratana in his chest
  - The second shot struck PS Ratana in the top of his right leg as he was on the ground
  - The third shot hit the left wall of the cell
  - The fourth shot struck Mr De Zoysa
281. Mr N was confident three of the four shots fired were intentional, but was less sure about the third shot due to PC A's contact with Mr De Zoysa at the time the shot was fired. In relation to the fourth and final shot fired, Mr N stated in his opinion the shot caused the injury to Mr De Zoysa and was most likely deliberate rather than unintentional or as a result of the actions of another person.
282. Mr N stated the apparent position of the gun in relation to Mr De Zoysa's body at the time of this shot, corresponded with the trajectory of the shot that caused his injuries.
283. Mr N said although PC A was on top of Mr De Zoysa when the gun was fired, it happened during a period of relatively little movement and he saw no actions by PC

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A that could have resulted in the gun being fired. Mr N said he also saw no movements to suggest the gun had fired unintentionally, for example by being knocked against something. Mr N also observed PC B discharged her Taser after the final shot had been fired and as such did not cause Mr De Zoysa to discharge the gun.

284. During the provision of first aid on Mr De Zoysa, it was established by Mr F and Inspector H, Mr De Zoysa was wearing a gun holster over his jumper, beneath his coat. The custody footage showed the holster was worn on Mr De Zoysa's left hand side. As the existence of the holster was unknown to officers and was not identified until after the shooting, it was not possible to know conclusively whether the firearm was within the holster or concealed elsewhere when Mr De Zoysa was searched, or how and at what point Mr De Zoysa gained control of the firearm in his right hand.
285. On 24 November 2020, a holster reconstruction was completed and photographed by MPS forensic practitioner Mr O, with assistance from Mr N and colleagues. A representative from the IOPC was also present. The reconstruction used a replica holster adjusted by Mr N to the same settings as the original, with the gun used by Mr De Zoysa in custody. The mannequins used did not reflect Mr De Zoysa's height and build and the reconstruction did not include the clothing worn by Mr De Zoysa during the incident. Below are images of the holster and gun on a standing mannequin, when worn correctly on the left side, with the gun held in place by a small leather retaining strap with a popper fastening beneath the handle.



286. Below are images of how the holster, with the firearm contained, appeared when the mannequin was placed in a high seated position and then a bent over seated position. The images first depicted the holster with the retaining strap closed and then open.



287. Mr N stated he found when the retaining strap on the holster was opened, the gun's handle had a tendency to pivot forward due to the effect of gravity and protrude from the holster, making it more easily gripped and removed from the holster. Mr N said this tendency was increased if the wearer were to lean forward. In his opinion, the gun could be removed by the wearer in this position by reaching for it behind their body if they had sufficient joint mobility.

288. Medical records showed at ten years old Mr De Zoysa was referred to an occupational therapist who observed Mr De Zoysa had hypermobile joints in different areas of his body.

### **Post incident review of Taser**

289. Following this incident, MPS Taser lead instructor and technician, PC I, examined PC B's Taser in the presence of a representative from the IOPC and stated the device appeared to be in good working condition. PC I also conducted a Taser download of data from the device.

290. Mr J is employed by the College of Policing as manager of the national firearms training curriculum. He reviewed the relevant custody footage, Taser data produced



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by PC I and photographs of Mr De Zoysa's coat to provide his opinion on the effectiveness of the discharges.

291. Having reviewed the device data, Mr J stated it indicated no charge was delivered to Mr De Zoysa during the first Taser discharge where both cartridges were fired from the Taser within the same second in close time proximity to the gun being fired.
292. Concerning the arc switch activation following the original activation, Mr J said the data indicated the switch was activated for approximately two seconds, followed by a two second break before it was activated again for one approximately second. Mr J stated the first activation had not delivered a charge and during the second activation, cartridge two (but not cartridge one) had delivered a charge, but was so brief it was highly unlikely to have been effective. Mr J stated from viewing the footage and focusing on Mr De Zoysa's behaviour, he could not see any behaviour or reaction from him that could be associated with a Taser deployment.
293. Mr J provided his opinion based on the data and footage, he said whilst the first two Taser deployments were in close time proximity to the final discharge of the firearm, the data provided a strong indication the Taser was ineffective at this time. Mr J stated the Taser discharges were highly unlikely to have had any effect on Mr De Zoysa's hands causing him to pull the trigger of the firearm.
294. Mr J stated there were several reasons a Taser may not be effective. Of potential relevance to this incident were the following possibilities:
  - Clothing - if the subject was wearing thick or loose clothing as the probes might not get close enough to the skin to complete a circuit.
  - Range - if the Taser was used at a range of less than seven feet, it was unlikely any incapacitation would be achieved and only pain would be experienced by the subject.
  - Hit or miss of the probes - if both probes from a cartridge did not connect with the subject, the circuit would not be complete. Photographs of Mr De Zoysa's clothing showed what appeared to be Taser probes embedded in the area of the right armpit and cuff of his coat. Mr J believed the probes came from different cartridges. A third probe was found still attached to the wire and a fourth probe was found disconnected. It was not possible to ascertain whether

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all four probes connected or at what point the fourth became disconnected. A charge required a complete circuit, which would mean both probes from the same cartridge being embedded in the subject.

295. Mr J stated during the second round of Taser use, when Mr De Zoysa was pulled toward the door, the data showed cartridge two delivered an erratic charge for approximately eight seconds, with approximately one second being in the effective range. Mr J said he could not see any behavior or reaction from Mr De Zoysa which he could associate with a Taser deployment, which was also well after the final discharge of the firearm.
296. Mr N reviewed the custody footage and stated PC B discharged her Taser very shortly after the gun was fired. He stated it could be heard the gun was fired first. Therefore, in Mr N's opinion, any electrical discharge Mr De Zoysa might have received from the Taser, could not have caused him to fire the shot that injured him.

### > Post incident subject matter expert review of the search of Mr De Zoysa

297. Inspector P, a subject matter expert in officer safety provided his opinion of the stop and search of Mr De Zoysa having viewed the BWV footage and officer accounts. Inspector P stated the search appeared to start at the coat pockets, waist band and pocket area of the trousers. He continued that there was no apparent adherence to top down, quartering, overlapping or attention to voids on Mr De Zoysa. Inspector P stated the torso area did not appear to be searched and commented the search was conducted inside Mr De Zoysa's *'fighting arc'*. This term refers to the area to the front of a person, which can be easily reached by their limbs.
298. Inspector P stated in his opinion, given Mr De Zoysa had admitted to possession of a controlled drug, a very thorough search would have been lawful and anticipated.
299. Inspector P provided his opinion that PC B was distracted during the search and did not have a clear view of Mr De Zoysa at the start. He also felt PC B, in speaking to PC A about their assignments, might have potentially distracted the flow of the search.

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300. Inspector P stated upon arrest, the search power changed from those granted under section 1 PACE which refers to stop and search, to section 32 PACE (see policy section below for more information). Inspector P commented PC A did not verbalise this to Mr De Zoysa and might indicate PC A had not changed his initial focus of the search from “*grounds to suspect*” to “*grounds to believe.*” Inspector P said the object of the search after arrest was to search for items which were dangerous, an implement to escape and evidence of an offence.
301. Inspector P stated the continued search following arrest appeared to recommence at the collar area which is the reverse of the top-down method taught. Inspector P said the search went back to the waist area momentarily, missing the upper body completely. Inspector P’s opinion was access to search the upper torso and voids under Mr De Zoysa’s arms was hampered due to Mr De Zoysa’s coat.

### **Post incident subject matter expert review of Mr De Zoysa’s transportation**

302. PS M reviewed footage from the police van and custody and read key officer statements before providing his opinion on the transportation of Mr De Zoysa to the custody centre and his escort into the holding room.
303. PS M stated the primary role of an officer escorting a prisoner is to maintain constant observation of them and to identify any emerging threat or risks.
304. PS M identified PC A performed several tasks on the journey to custody, which were required by policy or law. However, he said doing them should not cause detriment to the overall safety of the person being transported and delays could be justified in certain situations. PS M stated in his opinion, PC A prioritised the tasks which led to him being unable to maintain constant observation of Mr De Zoysa.
305. PS M stated he believed Mr De Zoysa had the gun on his person as he entered the police van and was able to reposition it during the journey without being noticed or challenged because PC A did not follow training around the observation of detainees.
306. Following their arrival at custody, PS M said he would have expected Mr De Zoysa to be escorted into the airlock lobby and then into custody with PC A holding Mr De

Zoysa's upper arm, gripped around the bicep as taught in handcuff training. PS M said PC A did not follow training guidance as Mr De Zoysa walked himself into custody with PC A following behind.

## **Policies, procedures and legislation considered**

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307. During the investigation, I have examined relevant national and local policies, training and legislation, as set out below. This will enable the decision maker and the appropriate authority to consider whether these were complied with, and whether the existing policies and training were sufficient in the circumstances.

### **Police power of arrest**

308. Section 24(2) of PACE states a constable may arrest anyone whom they have reasonable grounds to suspect of having committed an offence.

309. PACE Code G sets out the circumstances under which an arrest made by an officer is lawful. It specifies that two elements must be satisfied: there must be sufficient grounds for arrest and the arrest must be necessary.

310. When referring to grounds for arrest, the code states an officer may arrest anyone who the officer has reasonable grounds to suspect of being guilty of an offence which he or she has reasonable grounds for suspecting has been committed.

311. The code specifies possible criteria for necessity of arrest. These criteria include:

- To prevent the person causing physical injury to himself or any other person;  
and
- to allow the prompt and effective investigation of the offence or of the conduct of the person in question.

## Firearms Act 1968

312. Section 1(b) of the Firearms Act creates the offence of having in a persons' possession, any ammunition for a firearm (except a hot gun or air weapon) without authority or a firearms certificate.

## Misuse of Drugs Act 1971

313. Section 5(3) of the Misuse of Drugs Act makes it an offence for a person to have a controlled drug in his possession, whether lawfully or not, with intent to supply it to another. Cannabis is a controlled drug.

## Police stop and search powers

314. Section 23(2)(a) of the Misuse of Drugs Act 1971 states an officer may detain and search anyone whom they suspect to be in possession of a controlled drug.
315. Section 1(2) of the Police and Criminal Evidence Act 1984 (PACE) states an officer has the power to detain and search any person or vehicle if they have '*reasonable grounds*' to suspect they will find stolen or prohibited articles.
316. Code A of the PACE Codes of Practice 2015, governs the exercise by officers of their statutory stop and search powers. It provides guidance for police officers on the application and interpretation of stop and search powers.
317. PACE Code A states the main purpose of a stop and search is to allow officers to '*allay or confirm suspicions about individuals without exercising their power of arrest*'. Officers must be able to justify their use of any stop and search power and explain their actions to the member of the public being searched.
318. '*Reasonable grounds*' are defined in PACE Code A as a legal test an officer must satisfy before they can stop and search an individual under Section 1 of PACE and/or Section 23 of the Misuse of Drugs Act. The test is in two parts:
- a) Firstly, the officer must have formed a genuine suspicion in their own mind that they will find the object searched for

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b) Secondly, the suspicion that the object will be found must be reasonable. This means that there must be an objective basis for that suspicion based on facts, information and/or intelligence which are relevant to the likelihood that the object in question will be found, so that a reasonable person given the same information would also suspect that the individual is carrying the item.

319. PACE Code A states grounds for suspicion should be linked to current intelligence or information, which is accurate and specific and must relate to articles being carried by a person for which there is a power to stop and search. The Code states the information may include reports related to crimes committed such as burglaries.
320. Reasonable suspicion may also exist based on a person's behaviour. PACE Code A gives the example of an officer seeing someone acting suspiciously at the night on the street. If the officer forms an opinion a stop and search is reasonable, they must be able to explain their grounds with reference to specific aspects of the person's behaviour they have seen. Officers must be able to explain the basis of their suspicion referring to intelligence or information about the person concerned or their behaviour.
321. For a search under Section 1 PACE, there is no power to require a person to remove any clothing in public other than an outer coat, jacket or gloves. A search in public of a person's clothing which has not been removed must be restricted to superficial examination of outer garments. This does not prevent an officer from placing their hand inside the pockets of the outer clothing, feeling round the inside of collars, socks and shoes if this is reasonably necessary in the circumstances to the look for the object of the search or to remove and examine an item reasonably suspected to be the object of the search.

### **MPS stop and search policy**

322. The MPS stop and search policy provides a mandatory checklist of actions to be completed during a stop and search. These include, officers must:
- Formulate reasonable grounds to search
  - Apply the National Decision Model (NDM)

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- Record the interaction on BWV if available
- Ask questions to confirm or eliminate reasonable grounds for suspicion
- Consider human rights and whether their actions are proportionate, lawful, accountable and necessary
- Inform the subject of the officer's identity, grounds for the search and object(s) looking for, in addition to the legal power being used. The subject must also be told they are detained for the search and are entitled to a copy of the search record.
- Conduct the search at or near the place where the person was detained
- Consider safeguarding and welfare issues.

323. The MPS policy also expands on what constitutes objectively reasonable grounds for suspecting that a search will find the object sought, in line with PACE Code A. It specifies that reasonable grounds for suspicion will normally be linked to current and accurate intelligence or information relating to articles for which there is a power to stop and search. However, reasonable suspicion may also exist without specific information or intelligence and based on the behaviour of the person.

324. The MPS policy provides a list of examples for use as guidance as to what may inform a decision of reasonable grounds. Relevant examples are listed below:

- Crime or drugs hotspot - must have a reference to a recent specific briefing, tasking, CAD etc.
- Evasive to questions: include reference to what the questions were about.
- Appeared nervous: Needs to be expanded to include specific actions or behaviour e.g. sweating, muscles tensed, pacing, refuses to cooperate, repeats questions before answering etc.
- Avoids police: describe what they did e.g. changed direction and/or speed of walking having seen police or ran away from police when approached.

## Police search powers following arrest

325. Section 32 of PACE states an officer may search someone who is under arrest if they have reasonable grounds to believe the person is in possession of evidence relating to an offence. The search can only be conducted to the extent that is reasonably required for the purpose of discovering evidence relating to the offence, items which may harm the suspect or others, or aid the suspect's escape from lawful custody.
326. Section 32 does not provide authority to officers to require a person to remove any of their clothing aside from what is already permitted under Section 1 of PACE (outer coat, jacket or gloves).
327. Section 54 relates to the power of custody officers to search a detainee to '*ascertain everything which a person has with him*' when brought to custody before their detention is authorised.

## **National guidance on stop and search- The College of Policing authorised professional practice (APP)**

328. The College of Policing is a professional body for the police in England and Wales. The APP is a comprehensive body of online guidance on operational policing issues. Police officers and staff are expected to consider the APP when discharging their responsibilities.
329. The APP states officers should apply the National Decision Model (NDM) to each stop and search to consider whether it is the best response in a particular situation. The NDM provides officers with a methodology for making decisions in all aspects of their duties. The process that police must adopt when making a decision is illustrated below.





330. The APP states any stop and search power must be exercised in accordance with legislation, codes of practice and human rights law. This includes making sure the extent of the search is limited to what is necessary and proportionate in the circumstances, to achieve a legitimate aim. The APP states officers should consider:

- the nature of the item/s they suspect to find
- where the information/intelligence indicates the item is or may be located
- where it would be reasonable to look for it, considering size and shape
- the most proportionate method which can be used to establish if the person is in possession of the item.

## Police use of force

331. Section 117 of PACE states a police officer may use reasonable force, if necessary, in the exercise of his or her powers. A person also has a power under common law to use reasonable force in self-defence.

332. Section 3 (1) of Criminal Law Act 1967 states:

*“A person may use such force as is reasonable in the circumstances in the prevention of crime, or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large.”*

333. Section 76(3) of the Criminal Justice and Immigration Act 2008 states the reasonableness of any use of force will be decided by reference to the circumstances as the person believed them to be.
334. Section 76(4) states, if a person claims to have held a particular belief as regards the existence of any circumstances, the reasonableness of that belief is relevant to the question whether it was genuinely held.

## National guidance on police use of force

335. The National Police Chief's Council Personal Safety Manual (PSM) contains guidance and instructions which reflect the national position of personal safety in policing. The purpose of the PSM is to inform and support the operational decision-making and training of police officers, so to improve safety during the policing of violent or potentially violent situations.
336. The APP and PSM guidance on the use of force by the police states the Criminal Law Act 1967, PACE 1984, the Criminal Justice and Immigration Act 2008 and common law apply to all uses of force by the police, and require that any use of force should be reasonable in the circumstances, meaning:
- it must be necessary for a purpose permitted by law;
  - the degree of force used must be the minimum required in the circumstances to achieve the lawful objective.
337. The APP states the police should consider three questions before using force:
- Would the use of force have a lawful objective (e.g. the prevention of injury to others or damage to property, or the effecting of a lawful arrest) and, if so, how immediate and grave is the threat posed?
  - Are there any means, short of the use of force, capable of attaining the lawful objective?
  - Having regard to the nature and gravity of the threat, and the potential for adverse consequences to arise from the use of force (including the risk of escalation and the exposure of others to harm) what is the minimum level of

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force required to attain the objective identified, and would the use of that level of force be proportionate or excessive?

338. Module 2 of the PSM relates to conflict management. This lists the impact factors officers should take into account when assessing risk. These include characteristics of the subject, the officer, any objects and the environment. These relate to the size and strength of the relevant parties, any injuries they carry, exhaustion and their perception of risk amongst other factors.
339. The APP on Use of Force lists a number of warning signs that a subject may become violent that could inform a risk assessment under the NDM:
- facial expressions
  - increased or prolonged restlessness, body tension, pacing
  - general over-arousal of body systems (increased breathing and heart rate, muscle twitching, dilating pupils)
  - increased volume of speech, erratic movements
  - prolonged eye contact
  - discontent, refusal to communicate, withdrawal, fear, irritation
  - unclear thought processes or poor concentration
  - delusions or hallucinations with violent or aggressive content
  - verbal threats or gestures
  - reporting anger or violent feelings
  - blocking escape routes

## The College of Policing Code of Ethics on use of force

340. The College of Policing produced a Code of Practice for the principles and standards of behaviour for the policing profession of England and Wales. The Code sets out ten standards of professional behaviour which reflect the expectations the professional body and the public have on those working in policing. Use of force is one of these standards.

341. The standard of professional behaviour relating to the use of force states, *'I will only use force as part of my role and responsibilities, and only to the extent that it is necessary, proportionate and reasonable in all the circumstances.'*

### > Handcuffing

342. Module eight of the PSM states officers should apply the NDM when deciding to use handcuffs, with particular attention to factors such as age, gender, respective size and strength as in module 2. An officer does not need to wait for a subject to display physical violence in order to establish an objective basis to believe they should be handcuffed.

343. The PSM states handcuffs should be placed onto the wrist so they sit between the hand and the wrist bone where the wrist bends. Handcuffs can generally be applied one of in three ways:

- *'Front stack'* - both hands in front of the subject, one above the other with both palms facing down.
- *'Rear stack'* - both hands behind the subject, one above the other with both palms facing up.
- *'Back to back'* - both hands behind the subject, with the backs of each hand facing each other.

344. The handcuffs must be checked for tightness to ensure they are neither too tight nor too loose and then double locked to prevent further tightening.

345. The PSM states officers should avoid becoming complacent after a subject is handcuffed. The PSM highlights handcuffs do not fully immobilise a person, and they may still be able to assault officers and escape. Officers should therefore keep full concentration at all times.

346. In relation to searches specifically, module 12 of the PSM states if it is necessary and justifiable, an officer can *'place the subject in handcuffs to prevent resistance/escape or violence from the subject. This can facilitate a safer search'*.

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Any decision to handcuff a subject during a stop and search must be justified and documented.

347. The PSM highlights the importance of controlling a subject's hands, as this reduces the likelihood of a subject being able to reach for a weapon they may be carrying.
348. The APP states '*officers should not routinely handcuff people in order to carry out a stop and search*'. It goes on to say officers '*must judge each case on its merits in line with conflict management principles and be able to justify any use of force, including the use of handcuffs. Any force used should be proportionate to the aim of preventing crime*'

### Searching

349. Module 12 of the PSM provides police officers and staff with an overarching, generic approach to searching, to be supplemented by specific officer safety training. It specifies four categories of person search. Of relevance to this investigation is the definition of a '*detailed person search,*' which the PSM states will be carried out when there are reasonable grounds for suspecting that the subject is carrying illegal or prohibited items or when a higher level of confidence is required that the subject is not carrying any illegal items.
350. The PSM states controlling a subject prior to, during and after a search may be achieved using several methods. The PSM describes the escort position as a tactical position whereby an officer takes hold of a subject's wrist and upper arm and it states if an officer controls a subject's hands, the likelihood of them accessing a weapon is reduced.
351. The PSM advises when conducting a search, an officer should consider the subject they are dealing with:
- Knows what they are carrying.
  - Can choose when to react, distract or intimidate to prevent an officer from being successful.
  - Knows when an officer may have entered the danger area within the reactionary gap.
  - May be motivated by physical contact from the officer and react to this.

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352. The PSM states the main elements involved in safely completing a search are *'visual searching, communication and positioning'*.
353. The PSM states officers should conduct a visual search of the environment and the subject they are about to deal with.
354. The PSM notes it is important to give clear and concise verbal commands to a person being searched. The manual gives an example of *'Do you have any items on you that you think I should know about?'* or *'Do you have anything on you that may cause you or I any harm?'*
355. The PSM states where possible a search should be conducted by two or more officers with each officer adopting a role, such as one searching the subject and the other observing and communicating with the subject. The manual notes these roles are often referred to as the *'contact officer'* and *'cover officer'*. The *'cover officer'* should observe and evaluate the situation including the subject, environment and circumstances at all times from an appropriate position of advantage.
356. The PSM highlights officers must be vigilant at all times when searching or supervising a suspect, particularly when carrying out a search outside of police premises.
357. The PSM states the *'quadrant search'* is the most effective and widely used search pattern. This divides the body into four quadrants by imagining a vertical line running down from the top of the subject's head to between their feet, and a secondary line horizontally at the belt line. The officer will then systematically search each of those quadrants in turn, in any order. The PSM highlights the importance for officers to overlap the search of each quadrant to ensure nothing is missed. The diagram below taken from the PSM illustrates the sectioning of a body in to search quadrants.



358. The PSM states an officer may decide to use the palm, ridge or back of their hand to search a subject and officers should be careful of *'natural voids'* when carrying out a search, defined as areas where it can be easy for a person to hide smaller items. The PSM lists examples including the palm, collar bone, armpits, shoulder blades, waistband, small of the back, groin and ankles.

### > Conducted Energy Devices (Taser)

359. The MPS Taser standard operating procedure states any use of Taser must be justifiable and in accordance with the law and the NDM. All Taser officers must be authorised and trained in the use of Taser in addition to holding and maintaining their officer safety and emergency lifesaving training.
360. The procedure states the carriage of Tasers is permitted within custody buildings.
361. The APP states the discharge of Taser is a tactical option intended to mitigate threat by temporarily incapacitating an individual. Any use of Taser, as with all types of force, must be necessary, justifiable and proportionate to the threat faced.
362. Before a Taser is discharged, officers should identify themselves as police officers and state they are equipped with Taser.

363. The APP states the cycle of a Taser discharge can be repeated if incapacitation does not appear to take effect and the further use of force is justified and proportionate in the circumstances.

## MPS policy and national guidance on the transportation of detainees

364. The MPS police driver and vehicle policy and procedure states, any MPS vehicle in which a detainee is to be conveyed, must be thoroughly searched immediately before and following the journey, ideally in the presence of the arresting officer and detainee.
365. It also states all detainees must be supervised by an escorting officer. If the detainee is transported in the secure holding area of a van, the escorting officer must sit in the rear of the van in sight of the detainee as to allow immediate response to any threat identified.
366. A detainee should never be left unsupervised and must be constantly supervised whilst waiting to be seen by the custody officer.
367. The APP and the PSM states every detainee must be properly supervised and monitored at all times during transport. Particular care should be taken with individuals who are restrained with handcuffs or leg restraints, as this can increase the risk of injury.

## Custody

### National guidance on risk assessment and custody procedures

368. The APP guidance on detention and custody states when an officer makes an arrest, they are personally responsible for the risk assessment and welfare of the detained person. This responsibility continues until the suspect is handed over to the custody officer for a decision regarding detention.



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369. Risk assessment means assessing the risk and potential risk each detainee presents to themselves, staff, other detainees and other people coming into the custody suite.
370. The APP states where detainees have been searched on arrest, they should not be left unsupervised until they have been presented to the custody officer, who will decide whether or not a further search is necessary.
371. The APP specifies that, when a detainee is booked into custody, the custody officer needs to consider whether the detention of that person is necessary and must consider:
- The grounds for detention.
  - Whether to grant bail.
  - Whether to authorise or refuse detention.
372. Only the custody officer can authorise or refuse to authorise detention and this decision can only be made after the custody officer has personally listened to the grounds for arrest from the officer who has brought the detainee into custody.
373. The guidance also specifies the custody officer must conduct a risk assessment of every detainee prior to their being held in a custody suite. Several questions relating to the health and welfare of the detainee are mandatory.

### **MPS custody policies**

374. The MPS detention CASE early intervention process policy expands upon the national guidance as it provides instructions for officers and detention staff on the process which is conducted by the custody sergeant when a new detainee arrives at custody. The CASE process was implemented by the MPS as part of a program designed to enforce greater control of detainees in custody, with better searching and high levels of supervision. The CASE process came into effect in March 2020.
375. The mnemonic CASE relates to the four different segments of the process which are all conducted in the holding area/cage area of custody:
- C – custody or A&E

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- A – authorise search by the custody sergeant
- S – scan for weapons using a handheld metal detector
- E – ensure a PNC check is conducted

376. The first part of CASE aims to provide early engagement with the officer and detainee to ensure any detainee who needs to go to A&E is taken without delay. Once the custody sergeant is aware of a new arrival at custody, they must go out to the holding area and engage with the arresting officer. The custody sergeant will ask the officer if the appropriate risk assessment has been completed and carry out a brief visual assessment of the detainee.
377. The second part of CASE relates to the initial search of a detainee for weapons in the holding area, with the aim of preventing knives and weapons coming into the custody centre. The policy states the custody sergeant should authorise the arresting officer to complete the search and advise the detainee it will be an initial search for weapons.
378. The third part of CASE states the custody sergeant should give the officer completing the search a handheld metal detector and ask them to screen the detainee for weapons.
379. The final part of case relates to conducting a PNC check on the detainee.
380. The MPS Covid-19 and custody standard operating procedure describes how functions within the MPS custody centres have changed in response to the Coronavirus pandemic. These changes were in place at the time of Mr De Zoysa's arrest and arrival at custody.
381. One change relates to the first element of the CASE process and the requirement of the custody sergeant to triage all new detainees prior to entering the custody centre. This procedure states no one is able to enter custody unannounced; every detainee is required to stay in the vehicle they were transported to custody in, and the custody sergeant will meet officers in the docking area, rather than inside a holding room, to triage the detainee. In addition to the risk assessment questions, the custody sergeant will ask the arresting officer if the detainee was displaying symptoms of

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COVID-19. The remainder of the CASE process remained the same and would occur within a holding room.

382. The MPS detention policy states any matters affecting the health or welfare of a detainee must be brought to the attention of the custody officer by the arresting officer as soon as possible.
383. The policy also states if there is a delay in entering custody, the escorting officer must complete a PNC check as soon as possible to assist with the risk assessment which will be carried out by the custody officer.

### MPS officer safety training

384. The MPS officer safety training policy states the PSM forms the basis of MPS officer safety training and includes; the NDM, searching, use of force, transporting detainees and handcuffing. A review of the MPS lesson plans and training material used to train the relevant officers, found it was consistent with the legislation, guidance and the PSM.
385. Officer safety training is taught to officers in a foundation course upon joining the MPS and then revisited periodically at refresher training held twice yearly.
386. PC A, PC B and PC C were the three officers who physically interacted with Mr De Zoysa during this incident prior to the shooting. PC A joined the MPS as a PCSO in 2006 for 14 months, before he joined the MPS as a police officer in March 2019. PC B joined the MPS as a police community support officer in 2009 and became a police constable in 2014. PC C joined the MPS as an officer in August 2017. A review of their training records showed the officers completed the officer safety foundation training when they joined the MPS, and were up to date with the refresher training.
387. As PC A had less than two years' service with the MPS at the time of this incident, he was still in his probationary period and therefore considered a student officer. During the probationary period, officers must complete and submit '*student officer records of competency*' which requires witness evidence from other, experienced officers, to demonstrate their ability in a certain area of policing. Records show PC A

had part-completed his records at the time of this incident. In relation to searching, PC A had submitted one of three records required.

## Analysis of the evidence

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388. The analysis of the evidence is broken down into the following areas, corresponding with the areas outlined in the terms of reference for the investigation:

- The stop, search and arrest of Mr De Zoysa
- The transportation of Mr De Zoysa to Windmill Road custody centre
- The actions and decisions of those dealing with Mr De Zoysa in custody

### The stop, search and arrest of Mr De Zoysa

#### Grounds to detain Mr De Zoysa for a search

389. PC A and PC B were on duty together in their police vehicle, driving around Norbury, during the early hours of 25 September 2020, when PC A sighted Mr De Zoysa on London Road North.

390. Under Section 1 PACE, an officer has the power to detain and search any person if they have reasonable grounds to suspect they will find stolen or prohibited items. Under Section 23 of the Misuse of Drugs Act, an officer may detain and search any person they have reasonable grounds to suspect is in possession of a controlled drug.

391. Code A defines reasonable grounds as a genuine suspicion in the officer's mind they will find the object of the search, and the suspicion is reasonable and formed based on facts, information and intelligence, including the person's behaviour.

392. PACE Code A, the Stop and Search APP and MPS policy all state in order to detain someone to search for an item, officers must have an objectively reasonable suspicion they will find the item on that person, in that:

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- the officer must genuinely suspect that they will find the item searched for, and
- it must be objectively reasonable for them to suspect this, given the information available to them.

393. Having observed Mr De Zoysa walking along the road alone, wearing dark clothing and carrying what he believed was a tool bag, PC A made the decision to detain Mr De Zoysa to search him for items for going equipped to carry out a burglary. In his statements he outlined the following grounds for this:

- It was unusual to see anyone walking alone at night in the area.
- The area was known to have an issue with burglaries, and he had heard over the police radio there had been a burglary earlier that evening.
- Mr De Zoysa paid close attention to the police car when they drove past and he watched them again once they had turned the car round and passed him once more.
- Mr De Zoysa wore a thick winter hat and bulky clothing although the night was not cold.
- He suspected Mr De Zoysa might be using his clothing and surgical mask to obscure his identity and conceal items from view.

394. PC A made the decision to detain and search Mr De Zoysa based on information and observations gained prior to speaking to him. The BWV does not show Mr De Zoysa as he walked along the road prior to being stopped, but it did confirm the description of Mr De Zoysa's clothing and bag given by PC A was accurate.

395. PACE Code A and the MPS policy states officers should make reference to specific behaviour when formulating grounds for a search. The evidence suggests the grounds identified by PC A for detaining Mr De Zoysa for a search were in line with legislation and MPS policy for a search under Section 1 PACE, in that they reference local knowledge of burglaries including from that night, in addition to Mr De Zoysa's specific, observed behaviour.

396. Once Mr De Zoysa understood he was going to be searched, he confessed to having possession of cannabis in his holdall. At this point, PC A would have also had

reasonable grounds to detain and search Mr De Zoysa under the Misuse of Drugs Act.

### **Detention and search of Mr De Zoysa**

397. The BWV footage shows PC A told Mr De Zoysa he was detained under Section 1 PACE because there were a lot of burglaries in the area and he was walking down the road in the early hours with a bag which, PC A said he suspected, contained items for going equipped to carry out a burglary.
398. Once Mr De Zoysa was detained for a search, PC A made the decision to handcuff him in the front stack position. The BWV footage shows PC A told Mr De Zoysa handcuffs would be applied because he had admitted to possession of cannabis and also because people can hurt themselves or officers when they are being searched. PC A told Mr De Zoysa he was concerned Mr De Zoysa might have something which could hurt them.
399. Section 117 of PACE states a police officer may use reasonable force, if necessary, in the exercise of his or her powers under PACE and the APP states an officer may use a reasonable force to conduct searches. The overriding principle governing the use of force is the minimum force required in the circumstances must be used. Officers are required to use the NDM in formulating decisions regarding use of force.
400. The PSM states it is important to control a subject's hands as it reduces the likelihood of a subject being able to reach for a weapon. The PSM states the use of handcuffs is an option to control a subject and could facilitate a safer search providing their use is necessary and justifiable.
401. The evidence suggests, in addition to the reasons PC A articulated to Mr De Zoysa regarding the use of handcuffs, PC A made several other observations prior to making the decision, including:
- Mr De Zoysa failed to follow PC A's instructions to keep his hands out of his pockets.
  - BWV shows Mr De Zoysa appeared nervous in his speech, looked distressed and he was audibly breathing fast, shaking slightly and stuttering.

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- PC A said in his statement he suspected Mr De Zoysa was frightened and ill with nerves or suffered from autism or something similar.
- Following Mr De Zoysa's confession, PC A said in his statement he was concerned Mr De Zoysa might have ingested cannabis causing paranoid behaviour.

402. PC A's perceptions were similar to those of PC B who also said Mr De Zoysa behaved unusually, keeping his arms and elbows tucked into his sides whilst showing the palms of his hands. The BWV shows Mr De Zoysa in this position.
403. The evidence suggests PC A considered the information available to him regarding Mr De Zoysa and used the NDM to formulate his decision regarding this use of force. The decision maker may wish to consider whether PC A's decision to handcuff Mr De Zoysa to the front was proportionate, necessary and justified in line with national and local policy and guidance.
404. PC A then conducted a search of Mr De Zoysa before searching his bag. The search of Mr De Zoysa took five minutes in total and PC A found a number of items within Mr De Zoysa's pockets which included lighters, cash and a small drawstring bag containing what he believed were bullets. PC A also found several items within Mr De Zoysa's bag, which included a white bag containing what he believed was cannabis.
405. Unbeknown to the officers at the time, subsequent CCTV footage indicates Mr De Zoysa was wearing a gun holster down his left-hand side and was in possession of a gun at the time of the search. There was no direct evidence the gun was in the holster during the search or the exact way he was wearing the holster as it was only found during the administering of first aid. Mr De Zoysa was with officers' and on BWV or CCTV footage from the moment he was stopped, and hence had no opportunity to obtain and conceal these items from this time. Further, enquiries following this incident indicate Mr De Zoysa purchased the gun three months before. PC A's search of Mr De Zoysa failed to locate them and the gun was later used in custody which resulted in the death of PS Ratana and the injury of Mr De Zoysa.

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406. The BWV shows during the five minutes PC A searched Mr De Zoysa, he visibly searched the following:
- The outside and inside pockets of Mr De Zoysa's coat, several times, by placing his hand inside. Both the left and right side of Mr De Zoysa's torso by feel over the coat.
  - Mr De Zoysa's back by running his hand up and down over the coat by moving his hand side to side underneath the coat by sight having lifted the coat tails and looked underneath.
  - Mr De Zoysa's entire waistband, twice, by feeling and putting his hands inside.
  - The collar of Mr De Zoysa's jumper, by feel.
  - Both the left and right trouser pockets, by placing his hands inside.
  - Both legs, by running both hands down the sides of each leg.
  - Both boots, by untying and feeling around the top of each boots.
407. The BWV shows PC A appeared to search most of Mr De Zoysa's body and clothing. PC A did not appear to search Mr De Zoysa's chest, stomach area or head and he does not mention these areas in his statement. There were also occasions during the search when the BWV footage was obscured, in particular when PC A appeared to be searching the right-hand side of Mr De Zoysa.
408. The PSM defines a detailed person search, which is to be carried out when there are reasonable grounds for suspecting the subject is carrying illegal or prohibited items or when a higher level of confidence is required that the subject is not carrying any illegal items. The evidence suggests PC A's search of Mr De Zoysa was a detailed person search.
409. The PSM states it is advisable to imagine the body is divided into four quadrants and to search a subject one quadrant at a time with an overlap. According to officer safety training expert, Inspector P, the MPS teach officers to start with the quadrants at the top of a subject before moving down to their feet, known as the '*top down*' method.



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410. The BWV footage shows PC A did not strictly follow the quadrant search technique taught in training. PC A did appear to follow a pattern throughout the search of moving from one side of Mr De Zoysa to the other, searching the same body part or part of clothing on each side. He also appeared to focus on the top half of Mr De Zoysa, searching up and down within that area, before moving down towards and finishing at Mr De Zoysa's feet.
411. Code A PACE states the thoroughness and extent of a search under Section 1 PACE or the Misuse of Drugs Act must depend on what is suspected of being carried. The MPS stop and search policy and the APP states the extent of the search must be limited to what is necessary and proportionate in the circumstances and officers should consider information or intelligence regarding where the item may be located and where it would be reasonable to look for it.
412. The APP states officers should apply the NDM to each stop and search to continually think about and assess the information available at the time, their risk assessment, relevant powers and policy and options available to them. PC A originally suspected Mr De Zoysa carried items to carry out a burglary, but at the time he conducted the search he had further information from Mr De Zoysa to indicate he was in possession of a controlled drug and articulated concerns Mr De Zoysa might have something on which could hurt them.
413. Following an arrest, the powers of a search change from those granted under Section 1 PACE to Section 32 PACE. Under Section 32 PACE, a search should be conducted to the extent it is reasonably required to discover items which are dangerous, an implement to escape and evidence of an offence. Following the discovery of the bullets, PC A said he was concerned Mr De Zoysa might have concealed a gun.
414. Inspector P stated given Mr De Zoysa had admitted to possession of a controlled drug, a very thorough search would have been lawful and anticipated. Having viewed the BWV, Inspector P said there was no apparent adherence to top down, quartering, overlapping or attention to voids on Mr De Zoysa during the search. He also said the upper torso area of Mr De Zoysa did not appear to be searched and in

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his opinion access to search the upper torso and voids under Mr De Zoysa's arms was hampered due to Mr De Zoysa's coat.

415. The BWV footage shows Mr De Zoysa kept his coat on throughout the search. In his statement PC A said Mr De Zoysa's coat was restrictive and this influenced how far up Mr De Zoysa's back he could reach. There is no evidence consideration was given to removing Mr De Zoysa's coat prior to handcuffing or during the search. Removing the coat during the search would have required taking off the handcuffs, which would, considering the reasons handcuffs were used, elevated the risk and reduced the officers' physical control over Mr De Zoysa.
416. For a search under Section 1 PACE, there is no power to require a person to remove any clothing in public other than a coat, jacket or gloves. Searching officers can request the removal of outer clothing, but it is not mandated by the legislation, policy or guidance.
417. Knowing now that Mr De Zoysa wore a gun holster beneath his coat on his left side, it is possible the search would have yielded different results if the coat was removed. However, the evidence indicates PC A searched all three areas he said he believed a gun could be concealed, namely Mr De Zoysa's waistband, thigh and back. The BWV also shows PC A felt the left-hand side of Mr De Zoysa's torso.
418. Whilst PC A searched Mr De Zoysa, PC B's role as the second officer present according to the PSM was as a cover officer. The role of the cover officer is to observe and evaluate the subject, environment and circumstances at all times from a position of advantage.
419. The BWV footage shows PC B carried out various tasks during the search including, using her radio to try and complete a PNC check of Mr De Zoysa. At this time PC B was considering dealing with the cannabis, if found, without taking Mr De Zoysa to custody. To do this, PC B required further information about Mr De Zoysa and decided to try and obtain this during the search. PC B used her radio again to inform the control room they were not available to assist with other incidents and mentioned this to PC A. PC B's BWV footage showed she moved around at times near the beginning of the search as parts of the search were not captured on her camera. However, the BWV footage shows PC B was nearby throughout and took hold of Mr

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De Zoysa handcuffs following the discovery of bullets in his pocket, which could be evidence of a change in the risk assessment she made of Mr De Zoysa.

420. Inspector P provided his opinion PC B was distracted during the search and did not have a clear view of Mr De Zoysa at the start. He also felt PC B in speaking to PC A about their assignments, might have potentially distracted the flow of the search.
421. The decision maker may wish to consider the extent of the search of Mr De Zoysa in light of the circumstances of the search and information known to PC A at time, in addition to the legislation, national guidance and his training. The following may assist:
- PC A and PC B stopped Mr De Zoysa just after 1.30am. It was relatively dark during the search due to the time of night and Mr De Zoysa was wearing several layers of clothing. His outer layers were all dark colours.
  - PC A conducted the search on the side of the road in line with MPS policy which states a search should be conducted at or near the place a person was detained.
  - The location of the search presented potential distractions, including general road traffic noise and movement and the communication from officers who appeared to stop in the road to speak with PC A during the search.
  - Noise and movement from PC B using her radio and communicating with PC A could also have caused a potential distraction.
  - The BWV shows PC A acted within the constraints of the legislation, policy and guidance regarding the extent of the search.
  - Mr De Zoysa's handcuffs prevented removal of his coat, but BWV footage shows PC A thoroughly searched the pockets inside and outside and lifted the coat tails to look underneath.
  - PC A felt down the left-hand side of Mr De Zoysa's torso over his coat and did not appear to feel the holster underneath.
  - PC A did not follow the searching technique taught in officer safety training, but he did appear to search most of Mr De Zoysa's body.

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- The search took five minutes and did not appear rushed. PC A repeatedly checked certain areas, such as the waistband and pockets which might indicate PC A was trying to complete a thorough search.
- Following the arrest of Mr De Zoysa, PC A became concerned Mr De Zoysa might have concealed a gun on him. The BWV footage shows PC A paid particular attention to areas he believed a gun could be concealed.
- PC A was in his probationary period at the time of this incident and had not yet completed his student officer records of competency in relation to searching.
- Upon completion of PC A's search of Mr De Zoysa, PC B who was acting as the cover officer, did not indicate there were further areas to be searched. This could indicate both officers were satisfied a thorough search had been carried out.

### **Arrest of Mr De Zoysa**

422. PC A found a small drawstring bag containing what he believed were several bullets inside Mr De Zoysa's coat pocket. This was subsequently confirmed by a firearms expert.
423. PC A also found what he believed to be cannabis in Mr De Zoysa's holdall and Mr De Zoysa admitted to possession of this controlled drug.
424. PC A arrested Mr De Zoysa for possession of bullets on London Road North and in the police van on the way to custody he informed Mr De Zoysa his arrest was under Section 1 Firearms Act. In the van, PC A also told Mr De Zoysa he was under arrest for possession with intent to supply a class B drug, namely cannabis.
425. PC A informed Mr De Zoysa the grounds of the arrest were to allow for a prompt and effective investigation by way of interview and to prevent physical harm. Whilst at London Road North, PC A and PC B discussed they would need to request authority from the custody sergeant to conduct section 18 PACE searches at other premises, and whilst in custody, when asked by PS Ratana if a further search was required

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(believed to be referring to a person search of Mr De Zoysa), both PC A and PC B replied yes.

426. The decision maker may wish to consider whether the arrest of Mr De Zoysa was justified, in that officers had grounds to suspect Mr De Zoysa had committed these offences and it was necessary to arrest him for the reasons outlined above.

## The transportation of Mr De Zoysa to Windmill Road custody centre

### Handcuffs

427. The BWV shows PC B and PC C changed Mr De Zoysa's handcuff position from front stack to rear stack with his left hand above his right, prior to him getting into the police van. This was done with the knowledge and agreement of PC A.
428. The same powers under section 117 of PACE described above when the handcuffs were first put on Mr De Zoysa still apply to the use of force in changing their position. In addition, as Mr De Zoysa had been arrested by this point, section 3(1) of Criminal Law Act 1967 applied which states a person may use such force as is reasonable in the circumstances in effecting or assisting in the lawful arrest of offenders.
429. The APP states the use of force must have a lawful objective, such as the prevention of injury or effecting a lawful arrest and the APP and PSM states the degree of force used must be the minimum required in the circumstances.
430. PC B said in her statement she asked PC C to assist with repositioning the handcuffs due to the discovery of ammunition and drugs and in addition to Mr De Zoysa's erratic behaviour and concerns he was not following instructions to remain still. PC B told Mr De Zoysa the handcuff position was changed because people sometimes swallowed drugs following arrest.
431. As PC C repositioned the handcuffs, she told Mr De Zoysa to let her move his hands so they would be more comfortable. In her statement, PC C stated she checked the handcuffs for tightness and tightened them so she could only fit one finger in the gap. PC C stated she then double locked the handcuffs to prevent them from

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becoming tighter. The BWV footage showed PC C appeared to lock the handcuff's using PC B's keys.

432. The evidence suggests both PC C and PC B were using the NDM in relation to the use of handcuffs as they reassessed the position following the discovery of the ammunition and drugs. The PSM gives police officers the option to determine themselves which handcuffing technique is appropriate in the circumstances. The NDM and PSM state police officer judgement and discretion should be used and the policies and guidance do not provide a prescriptive list of circumstances for each technique. The PSM and NDM state officers conducting dynamic risk assessments concerning handcuff application should take into account the presentation of the detainee, the offence suspected and environmental factors when informing their officer decision. Handcuffing to the rear limits the movements of a detainee and as such may stop them from being able to reach their mouths to swallow or conceal drugs or from launching some types of physical attacks. The threat assessment of the officer will dictate the tactics they decide to use. The decision maker may wish to consider whether PC B and PC C's decisions and actions in handcuffing Mr De Zoysa to the rear was proportionate, necessary and justified in the circumstances in line with national and local policy and guidance.
433. Later, in custody Mr F stated he looked at Mr De Zoysa and saw an empty handcuff without a wrist in it. Mr F also recalled approximately three minutes later, Mr De Zoysa wore both handcuffs. The CCTV footage appeared to show Mr De Zoysa wore handcuffs throughout the incident and a post incident review of the handcuffs by PS M found aside from expected slight wear and tear, the handcuffs appeared to be in good condition and worked correctly. The decision maker may consider whether it is likely Mr F was mistaken in his first memory.

### > Supervision of Mr De Zoysa in the police van

434. The MPS police driver and vehicle policy states any MPS vehicle used to convey a detainee must be searched immediately before the journey. The BWV and van footage shows the van was searched by PC C and was empty prior to Mr De Zoysa entering.

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435. Mr De Zoysa got into the van at 1.51am and got out at 2.11am. The van journey lasted approximately ten minutes and for the remainder of the time, Mr De Zoysa stayed inside the van whilst waiting in the van dock to be admitted to custody. By the time Mr De Zoysa exited the van, his hands had changed position behind his back so his right hand was higher than his left and as Mr De Zoysa left the van and entered custody his right hand was concealed beneath his coat.
436. Based on the events which followed shortly after entering custody, the evidence indicates Mr De Zoysa had the gun in his possession as he entered the van and was able to gain access to it during the journey to custody.
437. The footage shows Mr De Zoysa made several movements of his upper body throughout the journey and whilst waiting in the van dock. It was later discovered Mr De Zoysa was wearing a gun holster under his left armpit. It is not possible to know with certainty if the gun was being carried in the holster when he entered the van, or if it was secreted elsewhere upon his body within reach of his hands behind his back.
438. Firearms expert, Mr N, stated if the gun was in the holster and worn correctly, he believed it would be possible for a person with sufficient mobility to open the retaining strap and remove the gun from behind their back. Mr N said gravity would bring the gun forward to make this easier and the images of the holster reconstruction demonstrate this. The CCTV footage from the van shows Mr De Zoysa bent over forward and to his left several times throughout the journey, which with hindsight could have been him manoeuvring the gun about his person. His medical notes also indicated he was diagnosed with hypermobility as a child.
439. The MPS police driver and vehicle policy states the escorting officer must sit in sight of the detainee and all detainees must be constantly supervised by the escorting officer to allow for an immediate response to any threat identified. PC A was the escorting officer and he sat in the correct position according to the policy, directly opposite and facing Mr De Zoysa.
440. During the ten-minute journey to custody, PC A conducted a PNC check and research into the legislation concerning Mr De Zoysa's possession of bullets, which he discussed with PC E. He also appeared to look at the property seized. PC A was

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mostly either bent low or looking down towards his lap whilst he carried out these tasks and therefore did not constantly watch Mr De Zoysa throughout the journey. PC A appeared to look toward Mr De Zoysa on occasion throughout the journey. PC A first appeared to focus on him as the van arrived outside of custody and PC A opened the internal cage door and informed Mr De Zoysa of the offences and grounds of his arrest.

441. PC E had a view of Mr De Zoysa on a monitor screen within the rear-view mirror of the van. PC E recalled during the journey he glanced at the monitor to see Mr De Zoysa, and each time Mr De Zoysa was sat on the bench, compliant and not moving. The CCTV footage shows Mr De Zoysa was quiet and appeared to be calm and co-operative for the majority of the journey; with his calm demeanour faltering only at brief intervals during movement.
442. The footage shows Mr De Zoysa appeared to be very aware of his surroundings and what the officers, particularly PC A, was doing throughout his time in the van. During the journey, Mr De Zoysa repeatedly looked towards the CCTV cameras and PC A, and later whilst in the van dock Mr De Zoysa appeared to watch PC A and PC E through the open van doors. The footage shows before each larger, significant movement, Mr De Zoysa appeared to check to see if he was being observed. Mr De Zoysa also made numerous smaller, subtle movements which could have been construed as general fidgeting or moving to get more comfortable if seen by either of the officers.
443. Upon arrival at custody and whilst waiting in the van dock, PC A and PC E stood either side of the rear open van doors and had a conversation. The officers did not appear to be constantly watching Mr De Zoysa, but he could have been in their peripheral vision based on their position and proximity. In their statements, PC A and PC E indicated they observed Mr De Zoysa during this time. PC E stated Mr De Zoysa sat mostly still while they waited to enter custody and PC A stated he had a clear line of sight to Mr De Zoysa from where he stood.
444. The APP guidance on detention and custody states when an officer makes an arrest, they are personally responsible for the risk assessment and welfare of the detained person until they are handed over to the custody officer. The risk assessment means assessing the risk and potential risk the detainee presents to



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themselves and others. The APP states particular care should be taken where detainees are restrained, such as with handcuffs, as this can increase the risk of injury.

445. The APP states officers should apply the NDM to their decision making. Two NDM components include gathering information and intelligence and assessing threat and risk. It is relevant that PC A as the escorting officer, also completed the search of Mr De Zoysa. PC A stated he searched the areas he believed a gun could be concealed, such as Mr De Zoysa's waistband, thighs and up his back as far as he could given the restrictions of Mr De Zoysa's coat. The BWV footage showed PC A checked these areas and no gun or other weapon was found. Additionally, PC A and PC B discussed seeking authorisation for a section 18 PACE search to be completed, which could indicate the officers believed if there was a gun, it was not in Mr De Zoysa's possession.
446. As mentioned previously, PC A completed several tasks in the van on the way to custody. One of these was a PNC check of Mr De Zoysa.
447. The APP states the custody officer must conduct a risk assessment prior to any detainee being held in a custody suite, and the MPS detention and CASE early intervention policies both state a PNC check must be completed by the escorting officer as it is required by the custody officer to assist with their risk assessment. The detention policy states the PNC check should be completed as soon as possible if there is a delay in entering custody, whereas the CASE policy states a PNC check is the last part of the process following a scan of the detainee for weapons using a metal detector. The scan of a detainee occurs within a custody holding room. The policies are not clear exactly when a PNC check should be completed, but both agree it would be before the custody officer had made a decision regarding detention. PC A therefore appeared to comply with the guidance and local policies in relation to having this information ready for the custody officer.
448. PC A also appeared to check the legislation relating to the offence for which he had arrested Mr De Zoysa and looked through the property he had seized. Officer safety subject matter expert, PS M, agreed these tasks were required by policy or law. However, he said doing them should not cause detriment of the overall safety of the detainee and delays could be justified in certain situations. PS M stated in his

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opinion, PC A prioritised these tasks which led to him being unable to maintain constant observation of Mr De Zoysa and therefore in his opinion, PC A did not follow training around the observation of detainees.

449. The following may assist the decision maker when considering the level of supervision given to Mr De Zoysa:

- PC A spent approximately five minutes searching Mr De Zoysa and did not find any weapons or drugs,
- As a precaution, Mr De Zoysa's handcuff positioning was changed to rear stack before he got into the police van to prevent the swallowing of drugs. This also prevented Mr De Zoysa accessing his pockets,
- Mr De Zoysa was largely compliant and quiet,
- Mr De Zoysa was not physically or verbally aggressive at any point,
- The PNC check conducted in the van showed Mr De Zoysa had no known history of concealing items, or any other warnings,
- PC A spent the journey completing tasks associated with his arrest and obtaining information required by the custody officer prior to authorising the detention of Mr De Zoysa.
- PC A was a relatively inexperienced officer within his probationary period. This could have influenced his decision making around the prioritisation of his tasks and obligations.

450. The decision maker may also wish to consider the following:

- PC A described Mr De Zoysa as paranoid, frightened and nervous in relation to the search,
- PC A said he suspected Mr De Zoysa was either ill with nerves or suffered from autism or similar,
- PC A said he did not trust Mr De Zoysa,
- Prior to the handcuffs being applied in a rear stack, Mr De Zoysa failed to follow PC A's instructions several times to keep his hands out of his pockets,

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- PC A found bullets inside Mr De Zoysa's coat and suspected cannabis in his holdall,
- PC A stated he believed Mr De Zoysa might have ingested cannabis.

451. It is for the decision maker to decide whether PC A provided an adequate level of supervision over Mr De Zoysa which was appropriate in the circumstances, and whether PC A might benefit from some learning in this area.

## The decisions and actions in custody

### **The escort of Mr De Zoysa from the police van to the holding room**

452. Save for the handcuffs which were already applied in a rear stack, PC A did not use force to escort Mr De Zoysa through custody. Mr De Zoysa exited the van and walked into the airlock lobby and then the holding room unaided whilst PC A walked behind carrying property. During this time, Mr De Zoysa kept his right hand concealed underneath the back of his coat in the area of his waistband or lower back.
453. The PSM advises officers to control subjects before, during and after a search and describes the escort position as one method of achieving this; whereby an officer holds the wrist and the upper arm of the subject. The PSM states this controls a subject's hands which reduces the likelihood of them accessing a weapon.
454. The APP and PSM guidance on the use of force by the police states the Criminal Law Act 1967, PACE 1984, the Criminal Justice and Immigration Act 2008 and common law apply to all uses of force by the police, and require that any use of force should be reasonable in the circumstances, meaning it must be necessary for a purpose by law, and the degree of force used must be the minimum required in the circumstances.
455. The APP provides examples of a lawful purpose, including to prevent injury and to effect or assist a lawful arrest. It states before using force officers should have regard to the nature, gravity and immediacy of any threat posed.

456. PS M said he would have expected Mr De Zoysa to be escorted into the airlock lobby and then into custody with PC A holding Mr De Zoysa's upper arm, gripped around the bicep as taught in training. Mr F thought it odd PC A did not have hold of Mr De Zoysa's handcuffs.
457. The following may assist the decision maker in deciding whether it was appropriate in the circumstances for PC A to decide not to use force in escorting Mr De Zoysa through custody:
- PC A had searched Mr De Zoysa, and had searched his waistband at least twice,
  - Mr De Zoysa was handcuffed to the rear,
  - Mr De Zoysa was compliant and followed instructions,
  - Mr De Zoysa had not threatened violence or shown any physical resistance,
  - PC A and PS Ratana both asked Mr De Zoysa if he was okay, which might indicate they perceived something was unusual or concerning about Mr De Zoysa's behaviour,
  - On inspection of the custody footage, Mr De Zoysa always appeared to position himself where possible to conceal his back. However, Mr De Zoysa's movements were subtle and none of the four officers in his presence around this time appeared to notice.

### **Use of force against Mr De Zoysa in custody**

458. Following the implementation of the new CASE process in custody, it was a requirement for custody sergeants to give the escorting officer a metal detecting wand and ask them to screen their detainee for weapons. This task needed to be carried out in a holding room and before the detainee entered the main custody centre where the sergeant would make a decision regarding detention. The evidence indicates this process was followed and as such, resulted in PC A, PC B and PS Ratana being in the holding room together with Mr De Zoysa.
459. The CCTV footage shows when PS Ratana told Mr De Zoysa to stand so he could be searched with the wand, Mr De Zoysa stood, produced a gun at his right-hand

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side and discharged it towards PS Ratana. Following this, force was used on Mr De Zoysa as the gun continued to be discharged, and once the final shot had been fired.

460. The overriding principle of the legislation and policies governing use of force is it must be proportionate, necessary and lawful, and the minimum force required in the circumstances. Common law allows any person to use reasonable force in the defence of others and the force used must be reasonable according to the circumstances as the person honestly believed them to be. In terms of the use of force standard of professional behaviour, a police officer's use of force must be reasonable in all the circumstances.
461. Immediately after the first shot was fired, PC A moved behind Mr De Zoysa, put his right arm across his upper chest and started to pull him backwards. Mr De Zoysa appeared to be resisting PC A's attempt to restrain him and Mr De Zoysa fired a second shot. PC A brought his left arm forward, putting both arms around Mr De Zoysa's neck and pulled him backwards. As Mr De Zoysa fell back and twisted, a third shot was fired. PC A took Mr De Zoysa to the ground and put him on his front and used his body weight to control Mr De Zoysa's upper body from behind.
462. PC B had been reaching toward Mr De Zoysa throughout the struggle with PC A, but once on the ground PC B leant across Mr De Zoysa's legs and shouted at Mr De Zoysa, demanding to know where the gun was and telling him to put it down. PC B told Mr De Zoysa she had a Taser before she removed it from her holster. At the same time, Mr De Zoysa appeared to make a sudden upward movement with his arm and hand in front of his body. PC B held her Taser in her right hand and discharged it within close time proximity to the fourth and final shot.
463. After the final shot was fired, PC B re-activated her Taser twice. PC A released Mr De Zoysa and left the room. The CCTV footage and Taser download data indicated PC A and PC B both used force on Mr De Zoysa for approximately 30 seconds each in total, and all force used by them occurred between the first shot fired and the completion of the search for further weapons by Mr F after the final shot.
464. Several others subsequently entered the room including Special Sergeant G who took hold of Mr De Zoysa's leg and pulled him toward the door; and Mr F and

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Inspector H who took control of Mr De Zoysa's handcuffs and moved him in order to search him for weapons and injuries. Other officers and staff also entered after this time to assist with the provision of first aid to Mr De Zoysa.

465. In explaining his use of force, PC A said in his statement there was a clear and present danger of the gun being shot again and he found the accuracy of the first shot, which hit PS Ratana almost in the centre of his chest frightening. Other witness accounts, footage and the pre-liminary post-mortem report, confirmed PS Ratana had a bullet wound to his chest. PC A stated he wanted to take Mr De Zoysa off balance as quickly as possible and pull him to the floor so he could not fire any more rounds and so the gun could be secured.
466. PC A said he swung Mr De Zoysa round to his right as PC B was to his left. He also wanted Mr De Zoysa facing the bench, away from others within the custody centre. After the third shot, PC A said he flipped Mr De Zoysa onto his front and tried to keep as much of his weight on Mr De Zoysa in the hope he would not be able to extend the gun and fire again.
467. PC A also recalled Mr De Zoysa said words to the effect of *"I'm going to do it. I'm going to set it off. This is it, goodbye."* PC A said he believed Mr De Zoysa had an improvised explosive device on him which he would detonate. The enhanced audio footage from custody shows a male voice shout *"I'll pull it, I'll pull it"*. If the decision maker considers this voice belonged to Mr De Zoysa, the intention of the words would appear consistent with PC A's recollection and would have fed into his assessment of risk at the time.
468. PC B said she was scared she or her colleagues could be shot and feared for their lives. PC B said she therefore used her Taser under her common law powers to save herself and her colleagues. She feared Mr De Zoysa was attempting to cause death or serious harm to those present in custody.
469. Mr F said he believed Mr De Zoysa had more firearms or explosives on him. The footage shows Mr F was alone in the room with Mr De Zoysa for a short while and articulated this belief as he used force on Mr De Zoysa to control and search him. As Mr De Zoysa had concealed a firearm and brought it into custody, the decision maker may consider a check for further weapons would appear reasonable in the

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circumstances. The footage and Mr F's account showed at the time force was first used by Mr F to control Mr De Zoysa; he had not identified Mr De Zoysa's injuries. Force continued to be used to control and search Mr De Zoysa before Mr F removed the handcuffs to start first aid.

470. The decision maker may wish to consider whether the force used by police officers and staff as outlined above was necessary, proportionate, reasonable and justified in all the circumstances in that:

- The footage shows Mr De Zoysa was in control of a firearm with live ammunition which he fired, first hitting PS Ratana in the chest then the upper thigh.
- Mr De Zoysa physically resisted PC A's attempts to control him.
- Mr De Zoysa ignored PC B's demands to put the gun down.
- Aside from PC B, all police officers and staff who used force on Mr De Zoysa in the first instance were unarmed.
- PC A believed Mr De Zoysa had an improvised explosive device.
- PC A stopped using force as Mr De Zoysa was pulled toward the door and was being controlled by Mr F and PC B who had discharged her Taser.
- PC B stopped using force once Mr De Zoysa's blood loss had become apparent and Mr F was in control of him.
- Whilst injured, Mr De Zoysa continued to pose a potential risk to officers and staff, especially prior to being searched again by Mr F.
- PC A, PC B and Mr F's accounts indicate their primary purpose for using force was self-defence of themselves and others.
- The footage shows once Mr De Zoysa had been searched, the purpose of the force used against him by officers and staff changed immediately to provide first aid.

### **Officer actions when the final shot was fired**

471. At 2:14:02am, Mr De Zoysa's gun was fired for the final time. The CCTV footage, accounts from PC A, PC B and the expert report from Mr N indicated Mr De Zoysa

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received the gunshot wound to his neck as a result of this discharge. At this time, PC A used force as he leant over the top half of Mr De Zoysa from behind and PC B remained leant across Mr De Zoysa's legs with her Taser in her right hand.

472. The analysis below is written to assist the decision maker in forming her opinions on whether the shot which injured Mr De Zoysa was caused by him and was intentional, caused or contributed to by another, or was accidental.
473. As mentioned above, PC B discharged her Taser in close time proximity to the final shot fired. Both PC B and PC A recalled in their statements the Taser was discharged before the final shot. PC A said PC B discharged her Taser at the same time Mr De Zoysa spoke. PC B said she discharged her Taser as she feared for her life and the life of her colleagues and was scared they would be shot.
474. Subject matter expert, Mr J, provided his opinion based on the Taser download data produced by PC I and the custody footage. In his opinion, whilst the first two Taser deployments were in close time proximity to the final discharge of the firearm, the data provided a strong indication the Taser was ineffective at this time. Mr J stated the Taser discharges were highly unlikely to have had any effect on Mr De Zoysa's hands causing him to pull the trigger of the firearm.
475. A review of the custody footage shows within the second that followed the final shot, two sudden bangs one after the other was heard. Mr J stated a Taser normally produces an audible 'pop' sound as a cartridge is fired. PC I conducted a Taser download of data from the device and found the Taser had two cartridges loaded at the time of this incident and both were fired within the same second. This would appear to be consistent with the sounds heard on the footage after the final gunshot had been fired.
476. Mr N stated PC B discharged her Taser after the final shot had been fired and as such in his opinion, did not cause Mr De Zoysa to discharge the gun.
477. Enhanced audio from the holding room captured a male voice shouting "*I'll pull it, I'll pull it!*" shortly before the fourth and final shot was fired which caused the serious injury to Mr De Zoysa's neck. The decision maker may wish to consider whether this voice could have belonged to Mr De Zoysa. The following may assist:



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- Prior to the first shot being fired, Mr De Zoysa asked PC A to leave and said “*I think this is it now*” and “*I’m going to pass on.*” PC A did not understand these comments at the time as he responded with “*what?*”
- Mr De Zoysa’s face was not visible when “*I’ll pull it, I’ll pull it*” was shouted.
- PC A recalled Mr De Zoysa said words to the effect of “*I’m going to do it. I’m going to set it off. This is it, goodbye.*”
- PC A said he believed Mr De Zoysa had an improvised explosive device on him which he would detonate.
- A review of the CCTV footage in custody shows Mr F was talking to PS Ratana as he pulled him from the room and therefore could not have shouted “*I’ll pull it, I’ll pull it!*” at the same time.
- PC A had not spoken since the first shot had been fired.
- The special constable and special sergeant in the vicinity of the holding room did not appear to speak at this time.

478. If the decision maker considers the voice belonged to Mr De Zoysa, she may wish to consider whether it provides evidence to support Mr De Zoysa intentionally pulled the trigger of his gun. The following information may also assist:

- As mentioned above, prior to the first shot being fired, Mr De Zoysa asked PC A to leave and said “*I think this is it now*” and “*I’m going to pass on.*”
- Immediately before “*I’ll pull it, I’ll pull it!*” was shouted, Mr De Zoysa appeared to make a sudden upward movement of his arm and hand in front of his body.
- Four seconds after this was shouted, the gun was fired.
- As the officers reeled back, PC A’s hands were visible, one on the bench and the other on Mr De Zoysa’s shoulder.
- PC B was holding her taser in her right hand.
- Firearms expert, Mr N stated the apparent position of the gun in relation to Mr De Zoysa’s body at the time of this shot, corresponded with the trajectory of the shot that caused his injuries.

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- Mr N said although PC A was on top of Mr De Zoysa when the gun was fired, it happened during a period of relatively little movement and he saw no actions by PC A that could have resulted in the gun being fired. The BWV supports this.
- Mr N said he also saw no movements to suggest the gun had fired unintentionally, for example by being knocked against something. The BWV supports this.
- Mr N conducted tests to measure the trigger pull of the gun and concluded the gun was not prone to discharging unintentionally.
- Mr N stated in his opinion the shot caused the injury to Mr De Zoysa and was most likely deliberate rather than unintentional or as a result of the actions of another person.

## Questions to be answered by the DSI investigation

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479. At no point during the investigation was a determination made, pursuant to para 21A of Schedule 3 to the Police Reform Act 2002, that any person serving with the police:
- a) may have committed a criminal offence; or
  - b) behaved in a manner that would justify the bringing of disciplinary proceedings
480. On 26 September 2020, based on the evidence available at the time, I as lead investigator decided there was no indication any of the five officers who came into contact with Mr De Zoysa prior to his arrival at Windmill Road custody centre, or any person who subsequently came into contact with him, had breached the standards of professional behaviour expected of them. These officers and staff were therefore witnesses to this investigation.
481. PC A and PC B had the most interaction with Mr De Zoysa up to and during the shooting in custody and were both involved in his search. I decided PC A and PC B were key police witnesses and this decision was made once I had viewed the BWV of all four officers present at London Road North with Mr De Zoysa. I also consulted the MPS stop and search policy in addition to the APP guidance on stop and search.

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482. The APP and policies surrounding use of force and searching put a considerable weight on officer discretion on how extensive a search is required within lawful parameters. Officers are required to assess the risk presented to them using the NDM and be prepared to justify their actions. I did not consider there was a breach of policy that constituted an indication of a breach of the professional standards of behaviour.
483. My early observations from the BWV footage and police interaction with Mr De Zoysa was it was clear the stop and search was conducted under Section 1 PACE and this was explained to Mr De Zoysa by PC A, who also took charge of the search which took approximately five minutes. The search did not appear to be rushed and I observed both PC A and PC B communicated with Mr De Zoysa before and during the search. The officers voiced their concerns about objects which could harm any of them and asked Mr De Zoysa if he had anything on him which could cause harm. PC A and PC B asked Mr De Zoysa relevant questions to obtain and check his account and appeared professional and diligent in dealing with the stop and search.
484. My opinion at the time was PC A appeared to conduct a comprehensive search of Mr De Zoysa. I noted the BWV showed PC A did not appear to search every part of Mr De Zoysa's body within the constraints of a search under Section 1 PACE, however I felt most of Mr De Zoysa's body and outer clothing was searched. Mr De Zoysa's coat was not removed, but it was opened at the front and lifted at the back and all pockets were checked. In making the original decision it was my opinion, if any part of Mr De Zoysa's body was not checked, it would have been a genuine oversight of the attending officers in light of the otherwise extensive search conducted of both Mr De Zoysa and his property. For this reason, I did not consider either officer had behaved in a way which would warrant a written warning and therefore neither had breached the standards of professional behaviour.
485. On 27 September 2020, I reviewed my decision in relation to PC A, having had the opportunity to review the police van CCTV footage of Mr De Zoysa's journey to the Windmill Road custody centre. The footage showed PC A did not visually monitor Mr De Zoysa for some of the journey to custody. During the journey De Zoysa appeared to move several times and do something behind his back, whilst handcuffed. PC A did not appear to see this. I considered this in light of the fact PC A had already

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searched him, the van was confirmed to be empty and Mr De Zoysa was compliant throughout. Mr De Zoysa had been cuffed to the rear with an understanding by the officers it would be safer for both him and officers. PC A spent the journey to the custody centre completing tasks related to the arrest of Mr De Zoysa. Considering the above, I decided PC A was to remain a key police witness to the investigation.

486. As the investigation progressed, I obtained and reviewed a wealth of material. I did not identify anything which altered my early opinion and decision, or indicated PC A, PC B or any other person may have breached the standards of professional behaviour. The events in custody were potentially preventable if the firearm had been located, however, I did not consider the failure to locate this was due to any wilful action on the part of any officer, nor did I consider it to be grossly negligent or a significant deviation from instructions.
487. On receipt of this final investigation report, Catherine Hall, acting with the delegated authority of the DG under paragraph 24A(4) of Schedule 3 to the Police Reform Act 2002, is required to finally determine the two matters referred to above.
488. To conclude this analysis, I, as lead investigator, will consider the following:
- a) What evidence is available regarding the nature and extent of police contact with Mr De Zoysa prior to his serious injury?
  - b) What evidence is available in relation to whether the police may have caused or contributed to Mr De Zoysa's serious injury?

### What evidence is available regarding the nature and extent of police contact with Mr De Zoysa prior to his serious injury?

489. The evidence clearly shows Mr De Zoysa was stopped and searched by MPS officers, arrested for possession of bullets and possession of cannabis with intent to supply and transported to Windmill Road Custody Centre. During an attempt by officers to scan Mr De Zoysa with a metal detecting wand, he produced a gun from behind his back and fired it whilst still handcuffed. Mr De Zoysa was then restrained by officers and brought to the ground. Three further shots were fired during this use of force, which included the final shot that caused a gunshot injury to Mr De Zoysa's

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neck. PC B then discharged her Taser on Mr De Zoysa within a second following the final shot.

490. Once Mr De Zoysa's injury became apparent, officers and custody staff administered first aid until paramedics arrived and Mr De Zoysa was taken to hospital.

### What evidence is available in relation to whether the police may have caused or contributed to Mr De Zoysa's serious injury?

491. The evidence showed Mr De Zoysa was searched and handcuffed prior to arriving at custody. Ammunition was recovered during the search but no firearm was found.
492. There is evidence set out in this report which shows Mr De Zoysa was injured whilst in police custody. The actions of Mr De Zoysa are subject to a murder investigation. The CCTV and firearms expert evidence suggests Mr De Zoysa deliberately fired shots 1, 2 and 4, whilst the third shot was fired during the struggle with PC A. Shot number 4 is the one which caused the injury to Mr De Zoysa.
493. Taser was discharged by PC B during the struggle, the Taser download, CCTV footage and expert evidence suggests this did not cause Mr De Zoysa to fire the gun.
494. Comments of "*I'll pull it*" which could be attributed to Mr De Zoysa before the final shot support the available evidence that he fired the final shot intentionally.
495. The police officers who dealt with Mr De Zoysa made concerted attempts to prevent him discharging his firearm following the first shot.

## Learning

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496. Throughout the investigation, the IOPC has considered learning with regard to the matters under investigation. The type of learning identified can include improving practice, updating policy or making changes to training.

There are two types of learning recommendations that the IOPC can make under the Police Reform Act 2002 (PRA):

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- Section 10(1)(e) recommendations – these are made at any stage of the investigation. There is no requirement under the Police Reform Act for the Appropriate Authority to provide a formal response to these recommendations.
- Paragraph 28A recommendations – made at the end of the investigation, which do require a formal response. These recommendations and any responses to them are published on the recommendations section of the IOPC website.

497. I have identified the following areas of potential learning for the attention of the decision maker, to inform any recommendations they may wish to make:

- *Officer safety training:* During the investigation it became apparent certain aspects of the training relating to searching and detainee transportation had not been applied to this incident. The training and guidance in this area represents best practice and the national position across the police service in England and Wales. Officers can decide to act outside of the training and guidance if the situation calls for it and it can be justified.

491. The decision maker may wish to consider whether this provides an opportunity to remind officers to consistently use the techniques taught in their officer safety training as a matter of standard procedure. In relation to the search training, this could specifically relate to the technique of searching a detainee from the top, downwards and in overlapping quarters. In relation to the transportation training, this could relate to the requirement of officers to constantly supervise their detainee.

- *Metal detecting wands:* During the investigation it was established at the time of this incident, metal detecting wands were used in custody for identifying concealed items, particularly weapons. Wands were not available to operational police officers conducting searches. In response to this incident, the MPS announced a rollout of metal detecting wands to vehicles used to transport suspects. The extent and nature of the rollout is unknown at present.

498. The IOPC is currently in liaison with the National Police Chiefs Council, College of Policing, the MPS and other forces in order to progress this area of potential police improvement if appropriate.

499. The decision maker may wish to consider whether this provides an opportunity which is appropriate in the circumstances, to make local or indeed national learning recommendations around the use of wands to complement searching outside custody centres.

## Next steps

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500. The decision maker is now required to reach conclusions about the investigation. The decision maker will consider the evidence with a view to determining whether the report indicates that any person serving with the police may have committed a criminal offence, or behaved in a manner that would justify the bringing of disciplinary proceedings.
501. The decision maker will also decide whether to require the MPS to determine whether or not the performance of a person serving with the police is unsatisfactory, and what action (if any) the authority will take in respect of any such person's performance. If so required, the decision maker will then decide whether those decisions are appropriate, and whether to recommend (and potentially direct) that the performance of a person serving with the police is unsatisfactory, and, if so, the action (if any) that should be taken in respect of it.
502. The decision maker's conclusions will be recorded on a separate document.
503. The decision maker will also decide whether any organisational learning has been identified that should be shared with the organisation in question.

# Windmill Road

Investigation into the circumstances surrounding  
police contact with Mr Louis De Zoysa on 25  
September 2020

- > Independent investigation report
- > Appendices



## Appendix 1: The role of the IOPC

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The IOPC carries out its own independent investigations into complaints and incidents involving the police, HM Revenue and Customs (HMRC), the National Crime Agency (NCA) and Home Office immigration and enforcement staff.

We are completely independent of the police and the government. All cases are overseen by the Director General (DG), who has the power to delegate their decisions to other members of staff in the organisation. These individuals are referred to as DG delegates, or decision makers, and they provide strategic direction and scrutinise the investigation.

### The investigation

At the outset of an investigation, a lead investigator will be appointed who will be responsible for the day-to-day running of the investigation on behalf of the DG. This may involve taking witness statements, analysing CCTV footage, reviewing documents, obtaining forensic and other expert evidence, as well as liaising with the coroner and other agencies.

The lead investigator is supported by a team that includes other investigators, lawyers, press officers and other specialist staff.

Throughout the investigation, meaningful updates are provided to interested persons and may be provided to other stakeholders at regular intervals. Each investigation also passes through a series of reviews and quality checks.

The IOPC has three main types of investigation. This case was what we refer to as a Death or Serious Injury (DSI) investigation, which means any circumstances where, or as a result of which, a person has died or sustained a serious injury and:

- at the time of death or serious injury, the person had been arrested by a person serving with the police and had not been released, or was otherwise detained in the custody of a person serving with the police, or
- at or before the time of death or serious injury, the person had contact of any kind – whether direct or indirect – with a person serving with the police who was acting in the execution of his or her duties, and there is an indication that the contact may have caused – whether directly or indirectly – or contributed to the death or serious injury

The investigation aims to identify and obtain the available evidence regarding the nature and extent of the police contact, and whether the police may have caused or contributed to the death or injury.

The possible outcomes of DSI investigations reflect the fact that it is not an inquiry into any criminal, conduct or complaint allegation against any person serving with the police.

## Investigation reports

Once the investigator has gathered the evidence, they must prepare a report. The report must summarise and analyse the evidence, and refer to or attach any relevant documents.

The report must then be submitted to the decision maker, who will decide if the report indicates that any person serving with the police may have committed a criminal offence, or behaved in a manner that would justify the bringing of disciplinary proceedings. If the decision maker decides that there is such an indication, it will be investigated as a conduct matter.

The report will also be given to the appropriate authority (normally the police force), who may be required to determine whether the actions of anyone serving with the police were unsatisfactory and what action (if any) will be taken in respect of any such person's performance. The appropriate authority must inform the decision maker of both its decisions. Unsatisfactory performance will be dealt with through the police force's unsatisfactory performance procedure (UPP). UPP is generally handled by the person's line manager and is intended to improve the performance of both the individual and police force.

If the decision maker considers that the appropriate authority's response is not appropriate, the decision maker has powers to recommend or ultimately direct that the matter is dealt with by UPP. The decision maker will also decide whether to make individual or wider learning recommendations for any relevant organisations.

## Inquests

In investigations into deaths, the IOPC's investigation report and supporting documents are usually provided to the coroner. The coroner may hold an inquest, either alone or with a jury. This hearing is unlike a trial and is a fact-finding forum. A coroner might ask a selection of witnesses to give evidence at the inquest. At the end of the inquest, the coroner and/or jury will decide how they think the death occurred based on the evidence they have heard and seen.

## Publishing the report

After any possible proceedings relating to the investigation have concluded, the IOPC may publish a summary of its investigation report. Redactions might be made to the report at this stage, for example, to ensure that individuals' personal data is sufficiently protected.

## Appendix 2: Terms of reference

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### Terms of Reference

1. To investigate the circumstances surrounding police contact with Mr De Zoysa on 25 September 2020, specifically:
  - a. The actions and decisions of the MPS officers who dealt with Mr De Zoysa during the stop and search on London Road;
  - b. The transit of Mr De Zoysa to custody and his time in the police van;
  - c. The actions and decisions relating to Mr De Zoysa whilst he was in Croydon custody.
2. Whether the response of the Metropolitan Police Service was relevant with national and local policies and procedures.
3. To assist in fulfilling the state's investigative obligation arising under the European Convention on Human Rights (ECHR) by ensuring as far as possible that the investigation is independent, effective, open and prompt, and that the full facts are brought to light and any lessons are learned.
4. Further to paragraph 21A of Schedule 3 of the Police Reform Act 2002, to assess during the investigation whether any person serving with the police may have committed a criminal offence or behaved in a manner justifying the bringing of disciplinary proceedings (i.e. whether there are any indications of 'conduct matters') and if so, follow the paragraph 21A procedure and make appropriate amendments to the terms of reference of the investigation.
5. To consider and report on whether there may be organisational learning, including:
  - whether any change in policy or practice would help to prevent a recurrence of the event, incident or conduct investigated;
  - whether the incident highlights any good practice that should be shared.