

	<p><b>REGULATION 28 REPORT TO PREVENT FUTURE DEATHS</b></p> <p><b>THIS REPORT IS BEING SENT TO:</b></p> <ol style="list-style-type: none"> <li>1. <b>National Offender Management Service</b></li> <li>2. <b>Greater Manchester Police</b></li> <li>3. <b>Pennine Care NHS Foundation Trust</b></li> <li>4. <b>National Police Chiefs Council</b></li> <li>5. <b>Security Industry Authority</b></li> <li>6. <b>Ministry of Defence – Minister of State for Defence, Personnel, Welfare and Veterans</b></li> <li>7. <b>Home Office – Home Secretary Theresa May MP</b></li> <li>8. <b>Ministry of Justice</b></li> </ol>
	<p><b>CORONER</b></p> <p>I am Joanne Kearsley Area Coroner, for the coroner area of Manchester South.</p>
2	<p><b>CORONER'S LEGAL POWERS</b></p> <p>I make this report under paragraph 7, Schedule 5, of the Coroners and Justice Act 2009 and regulations 28 and 29 of the Coroners (Investigations) Regulations 2013.</p>
3	<p><b>INVESTIGATION and INQUEST</b></p> <p>On the 10<sup>th</sup> September 2009 I commenced an investigation into the death of Paul Mc Guigan. The investigation concluded at the end of the inquest on 11<sup>th</sup> May 2015.</p> <p>The conclusion of the inquest was that the deceased Paul John McGuigan died as a result of gunshot wounds.</p> <p>On the 9<sup>th</sup> August 2009 he was unlawfully killed by a close protection work colleague. There were missed opportunities and failings by the Probation Service to manage the escalating offending behaviour and risk presented by the offender prior to his deployment abroad.</p> <p>In addition G4S did not ensure that he was adequately vetted prior to being deployed to work as an armed close protection officer.</p>
4	<p><b>CIRCUMSTANCES OF THE DEATH</b></p> <p>Paul Mc Guigan was shot by Daniel Fitzsimmons at the RTI compound where both were working as armed private security contractors for G4S. Daniel Fitzsimmons also shot and killed other colleagues, Darren Hoare an Australian national who was killed [REDACTED] an Iraqi national who was seriously</p>

	<p>injured.</p> <p>Daniel Fitzsimmons was deployed on the contract from the UK on the 7<sup>th</sup> August 2009 and arrived on the ground in Baghdad on the 8<sup>th</sup> August 2009. Less than 12 hours later the fatal incident occurred. His weapon was the Glock pistol which was, quite properly, issued to him on his arrival in Baghdad.</p> <p>At the time of being deployed Daniel Fitzsimmons was subject to Probation supervision and was awaiting sentence at the Crown Court for breach of three suspended sentences [12 months imprisonment] for offences of robbery and two offences of possession of ammunition and sentence for a s 4 public Order offence of discharging flares towards children and awaiting trial for a racially aggravated public order offence and assault. Daniel Fitzsimmons was also on bail with a condition of residence and condition of weekly reporting to the police station.</p> <p>There had been a multi-agency meeting on the 12<sup>th</sup> May 2009 due to the increasing concerns of his Offender Manager (a newly qualified Probation Officer). At this stage it was her view that he was becoming, "unstable and could not be managed in the community". The Court heard evidence as to this meeting and the fact that no other agencies provided any further information despite having intelligence which would have assisted.</p> <p>The Court also heard evidence on a large number of other matters which caused concern in this case which I will set out below.</p>
5	<p><b><u>CORONER'S CONCERNS</u></b></p> <p>In my opinion there is a risk that future deaths will occur unless action is taken. In the circumstances it is my statutory duty to report to you. Please note I have set out these concerns in no particular order, they are addressed to each of the relevant agencies, although please note a number of concerns overlap significantly:-</p> <p>The <b>MATTERS OF CONCERN</b> are as follows. –</p> <p><b><u>CONCERN NUMBER 1</u></b></p> <p><b><u>TO : - Greater Manchester Police, Home Office, National Police Chiefs Council, NOMS and Security Industry Authority</u></b></p> <p>(i) I heard detailed evidence from a number of GMP Police officers and civilian staff with responsibility in respect of the Notifiable Occupation Scheme.</p> <p>In my judgment there was a complete misunderstanding by GMP in respect of the operation of the Notifiable Occupation Scheme HOC 6/2006.</p> <p>Of immense concern also the complete failure for a period of approximately 18 months to make any <u>post</u> conviction notifications under the Notifiable Occupation Scheme, which was it transpired, formally withdrawn by the Home</p>

Secretary Theresa May MP in March 2015.

I heard and had evidence from the SIA that they were not aware that a regulatory gap existed in respect of the Police's understanding of the scheme and notifications to themselves. The evidence I heard suggests that such a gap exists at GMP and has done so for in excess of 18 months.

**(ii)**

It is clear that within GMP there was no recording anywhere as to when / if any pre convictions disclosures were made. It is important that there is a system of recording in this scenario and also to whom the disclosure is made. At present no-one can provide any information as to the number or detail of pre-conviction disclosures. In addition this means that officers who may be dealing with someone who has been arrested have no way of knowing if such a pre-conviction disclosure has ever been made.

**(iii)**

In respect of the period of time when Post conviction disclosures were made [before this "back office" function ceased 18 months ago] these were only ever disclosures made to the Regulatory Body and consideration never appears to have been given within GMP to disclosure to employers. Given the lack of understanding as to whom some regulatory bodies have responsibility for, this is important.

**(iv)**

It concerns me that if GMP completely misunderstood the operation of a notifiable occupations scheme then such confusion and lack of guidance to officers would exist within other forces and in respect of the position now the HOC 6/2006 has been withdrawn earlier this year. This was discussed at the Chief Officers Council in 2014.

**(v)**

At present in respect of a replacement scheme in respect of clarifying the Common Law Police Disclosure Scheme I heard evidence as to the process GMP are undergoing in respect of a revised Procedure relating to Notifiable Occupations but this is far from complete and less than clear as to how it will operate and the training that will be given to officers / GMP civilian employees. The Court was also advised that at no stage has legal advice been taken from the force in-house legal team on the proposed scheme, even though this is a difficult legal area.

It is important that GMP and all forces have a recognised procedure in respect of having a scheme but also training officers to operate that scheme. It is imperative also that the SIA understand how and when each police force will be making disclosures under the Common Law Police Disclosure Scheme.

**(vi)**

In respect of the GMP computer system and in respect of occupations that are regulated and require licensing by the SIA, there is no categorisation on the computer for "CLOSE PROTECTION". Indeed the Court heard that there was some confusion and lack of understanding from many people as to what this occupation actually meant. Close protection work is a separate category of employment within the UK that the SIA regulates and the police system should reflect the occupations subject to regulation. It is important that the police and

NOMS have a clear understanding as to what close protection work is to inform risk and risk assessment.

**(vii)**

In addition I have a concern that there is a complete lack of understanding by the Police and Probation / NOMS as to what close protection work overseas involves and in particular when this involves work on armed contracts. I heard evidence that this type of work is a common route of employment for former service personnel.

This close protection work overseas, is not regulated by the SIA. In this scenario this would need to be known by the police and NOMS to inform risk assessment but also as to whether under any common law disclosure scheme consideration would need to be given to making a disclosure directly to an employer to best protect the public.

Given the above points made as to whom disclosures would be sent in GMP (ie the regulator) this distinction becomes important.

**(viii)**

I also have a concern that an employer on a private security contract at home [as regulated by the SIA] and a private security employed overseas [unregulated save for voluntary schemes such as International Code of Conduct for Private Security Service Providers 2010 [ICoC] and accredited certification to the standard ANSI/ SSIS PSC. 1-2012] is not entitled or able to obtain an enhanced CRB and would only ever receive a Standard disclosure on a pre employment check.

It concerns me in particular that in respect of employing on individual on an armed contract then consideration should be given to enabling Private Security Companies a route to obtaining an enhanced disclosure. To illustrate the point I heard and saw evidence that in respect of an occupation of Casino staff, an occupation regulated by the Gambling Commissions, for example Casino Dealers, Casino Cashiers and Bingo Managers they would be entitled or require an enhanced disclosure by way of pre employment check.

It is concerning that such an enhanced disclosure is available for this line of work and yet not for someone who is being required to be armed.

**CONCERN NUMBER 1**

**TO: GMP**

**(i)**

**Recording of bail conditions:**

I heard evidence that Daniel Fitzsimmons was on Bail with conditions of residence and weekly reporting. The Offender Manager had failed to appreciate that Daniel Fitzsimmons was subject to a residence condition and in addition Police representatives had failed to provide details of the bail conditions and in particular the residence condition to a Multi Agency meeting held on 12.5.09 to

discuss concerns relating to Daniel Fitzsimmon. I heard evidence that in respect of GMP systems and processes there was nowhere on the GMP computer system where bail conditions are recorded, although this used to be possible. It is of concern that there is no system of recording on the GMP computer of offenders bail conditions so that this information can be known by officers and appropriately shared.

(ii)

Bail Conditions with Residence:

I also heard evidence that a GMP officer believed that Bail with a condition of residence was different to "bail live and sleep each night". It is of concern that there is a misunderstanding within GMP as to what a condition of residence means and how this relates to the monitoring of offenders.

**CONCERN NUMBER 3**

**TO : Ministry of Defence and NOMS:**

(i)

I heard evidence from the Offender Manager as to efforts she had tried to make to get information from the military in respect of Daniel Fitzsimmons service history with no success. These included making contact with the barracks at Colchester and Fulwood but with no success. It was clear that the military may have held important information which would have informed the Offender Managers assessment of risk.

The Offender Manager told me that this incident was a catalyst within Greater Manchester Probation Trust for better systems in respect of obtaining military information and her being a point of contact to obtain information relating to veterans. My concern is to ensure that there is a system, protocol and point of contact for every offender manager nationally [including the private rehabilitation companies now operating as offender managers] that is well known as to who to contact to within the Ministry of Defence to obtain military information.

**CONCERN NUMBER 4**

**TO: NOMS and Ministry of Justice**

(i)

I heard evidence that the Offender Manager was newly qualified and her formal supervision was inadequate and infrequent. This concerns me. It is important that newly qualified offender managers receive appropriate formal supervision. This was particularly the case as I heard evidence that offenders classed as "medium risk" were more likely to be discussed in informal supervision rather than formal supervision.

My concern is heightened in respect of the evidence I heard as to the allocation of offenders to be managed since the changes brought about under the Transforming the Rehabilitation of Offenders and the allocation of offenders between the National Probation Service and the Community Rehabilitation



Companies – it is important that all Offender manager staff are appropriately trained and supervised so as to best assess risk posed by Offenders.

(ii)

I also heard evidence that all MAPPA offenders even under MAPPA level 1 will be supervised still by the National Probation Service and would not be allocated to the private Community Rehabilitation Companies.

It concerns me to ensure that there is clear guidance given by NOMS to the private community rehabilitation companies [e.g. in Manchester Purple Futures] as to assessment of risk and for offenders who then do trigger MAPPA concerns that should be being supervised or assessed for eligibility under MAPPA to be transferred to be supervised by the National Probation Service.

(iii)

The court heard evidence that it was the view of the professionals at the Multi agency meeting on the 12<sup>th</sup> May 2009 that an Independent court forensic psychiatric report was required to inform on the question of the risk posed by Mr Fitzsimmons.

In fact such a report was never ordered by the Court and a Defence Psychiatric report was obtained. Clearly the instructions to this Psychiatrist were limited as the defence would not have had access to all the information held by Probation and other agencies and would not have been able to instruct the Psychiatrist with the concerns probation wished to have addressed. In addition there would be no duty on the defence to disclose this report in due course.

I heard evidence that in reality and in the main due to funding issues the reality is that Independent forensic reports are really only ever generated when a defendant is in Prison and the reason there is sometimes a desire to remand someone is so that this process can be triggered. Independent Court Forensic Psychiatric Reports are rare and I heard evidence from Senior Probation officers that they had never known them be obtained.

It concerns me that there is not a clear practice and procedure operating within the Court or probation system, including funding responsibility, for obtaining an Independent Forensic Psychiatric Report, particularly in circumstances where a defendant is remanded on bail in the community.

This is necessary to ensure that the Court and other agencies have the clearest and most accurate independent assessment to inform in respect of the question of risk which has considered the correct and complete information.

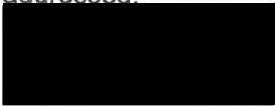

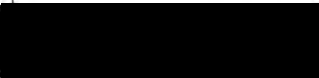
#### **CONCERN NUMBER 5**

#### **TO: GMP, NOMS, Pennine Care NHS Foundation Trust**

(i)

I heard evidence in respect of a Multi Agency Meeting on 12.5.09 and the failure of the police to take any relevant information to the meeting including a failure to check police systems and intelligence in advance of attendance. Relying on an assumption that other agencies know as much as the police was concerning.

	<p>In addition the CPN who attended from the Mentally Disordered Offenders Team did not provide the meeting with up-to-date information as to a referral when this information was available within documentation held but not checked in advance of the meeting.</p> <p>It is important irrespective of who is the lead agency at a Multi Agency Meeting that each agency invited to attend checks information held on systems and records to which they have access and provides all this information to a multi agency meeting to ensure that a full and informed assessment of risk takes place and the fullest possible informed information sharing.</p> <p>It concerns me in respect of the failings by each agency that attended the meeting on 12.5.09 to provide key and important information to which they had access, as the information that was available would have informed issues relating to Public Protection but also as to an appropriate action plan.</p> <p>(ii) In addition I heard evidence and it concerns me that in advance of the Multi Agency meeting convened due to concerns as to the Offenders risk, key professionals had had discussions, telephone calls and meetings and I was concerned by the failure to record and document these important discussions, to ensure clarity, understanding and consistency. It is important when key professionals have discussions that these are documented and recorded.</p>
6	<p><b>ACTION SHOULD BE TAKEN</b></p> <p>In my opinion action should be taken to prevent future deaths and I believe:</p> <ol style="list-style-type: none"> <li>1. <b>NOMS</b></li> <li>2. <b>Greater Manchester Police</b></li> <li>3. <b>Pennine Care NHS Foundation Trust</b></li> <li>4. <b>National Police Chiefs Council</b></li> <li>5. <b>Security Industry Authority</b></li> <li>6. <b>Ministry of Defence – Minister of State for Defence, personnel, Welfare and Veterans</b></li> <li>7. <b>Home Office – Home Secretary Theresa May MP</b></li> </ol> <p>Have the power to take such action.</p>
7	<p><b>YOUR RESPONSE</b></p> <p>You are under a duty to respond to this report within 56 days of the date of this report, namely by 6<sup>th</sup> July 2015. I, the coroner, may extend the period.</p> <p>Your response must contain details of action taken or proposed to be taken, setting out the timetable for action. Otherwise you must explain why no action is proposed.</p>
8	<p><b>COPIES and PUBLICATION</b></p> <p>I have sent a copy of my report to the Chief Coroner and to all the following Interested Persons (in addition to those to whom this Regulation 28 Report is</p>

	<p>addressed: </p> <p>G4S </p> <p>Mr Daniel Fitzsimmons</p> <p>I am also under a duty to send the Chief Coroner a copy of your response.</p> <p>The Chief Coroner may publish either or both in a complete or redacted or summary form. He may send a copy of this report to any person who he believes may find it useful or of interest. You may make representations to me, the coroner, at the time of your response, about the release or the publication of your response by the Chief Coroner.</p>
9	<p>DATE <i>12<sup>th</sup> May 2015</i></p> <p></p> <p>SIGNED BY MISS <i>J</i> DANNE KEARSLEY AREA CORONER MANCHESTER SOUTH</p>