At their word: Forensic Architecture’s renouncement and re-announcement of police testimonies in the investigation into the killing of Mark Duggan

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In June 2020, addressing a full community hall at the launch of Forensic Architecture’s investigation report into the police killing of Mark Duggan, campaigner Stafford Scott remarked: ‘Now many people may think they know what happened with Mark. Many people may think they know what took place in the inquest, but the odds are, unless you were there, you really don’t know, you only know what the media told you.’ In some respects, Scott was contesting any of the audience’s preconceived notions that they already knew all there was to know about the police killing of Mark Duggan, a 29-year-old black man, that occurred nearly ten years ago in Tottenham, London. Speaking as a witness, in the sense of avowing his role in the Justice for Duggan campaign and having attended the inquest himself, Scott explained further that the fairness of Duggan’s inquest was compromised by the disparity in funding for legal counsel between the bereaved and the state, in addition with the suppression of certain evidence as authorised under the Regulation of Investigatory Powers Act (RIPA) 2000.

This meant, as Scott put it simply, that ‘the judge knew things we didn’t know – if witness lied, the judge [coroner] may know but can’t tell his council’. This high level of secrecy structured the legal proceedings of the inquest and in effect allowed for the police to lie, deceive or keep silent in their testimony, without intervention from the coroner. Forensic Architecture’s (hereafter abbreviated as FA) investigation is, then, an attempt to make evidence available and visible, following truly the principle of ‘open justice’. However, FA’s investigation relies on police testimonies to map a reconstruction of the killing that challenges the validity of the findings from the inquest and the investigation by the Independent Police Complaints Commission (IPCC). While FA’s investigation does not adhere to any governmental or legal restrictions, it does import the speech and the logos of the police, retaining the value of belief, a key element of any testimony and something it could not do without.

However much you do know of Duggan’s killing, whether you think you know enough or not, the conditions and positions of what produced the onto-epistemological representations of Mark
Duggan’s killing are questioned in what follows through a re-viewing of FA’s investigation, and through an examination of the symbolic structure of testimony.

On 4 August 2011, undercover plain-clothed officers of the Metropolitan police’s anti-gang unit Trident followed, in unmarked cars, 29-year-old Mark Duggan while he was travelling in a minicab, suspecting that he was on route to collect a gun. Just after 6pm, police carried out a hard-stop, forcing the cab to stop and boxing it in with the unmarked cars. Armed officers exited their vehicles and as Duggan got out of the minicab he was shot twice and subsequently died at the scene. Soon after, the media falsely claimed that Duggan had discharged a gun at the officers and propagated the idea that he was a high-ranking gangster in Europe. In protest, poor and working-class communities in the capital, and throughout the country, revolted, and battled against combative police forces.

In the UK, when there is a death in ‘police custody’, an investigatory process is initiated. English and Welsh police forces are regulated by a pseudo-independent agency. At the time of Duggan’s killing, that agency was called the Independent Police Complaints Commission (IPCC). Upon the completion of the IPCC’s investigation, an inquest into Duggan’s killing was opened. In the UK, the purpose of an inquest, unlike a criminal trial, is to establish the cause and circumstances of a death. Its aim is not to find culpability or liability, but to find facts and explain mysterious, violent or unexpected deaths. However, if an inquest does find evidence, or has reason to believe a serious crime has been committed (for example, homicide), the coroner, the juridical authority of an inquest, can refer the case to the criminal court for trial.
The inquest jury, in 2013, came to the conclusion that Duggan’s ‘death’ was a ‘lawful killing’. In other words, the police had used lawful (use of) force. As FA would later highlight, ‘[t]his conclusion was reached despite majority agreement among the jury that Duggan had not been holding a gun at the time he was shot; eight out of ten believed Duggan had thrown the gun immediately before exiting the minicab. Crucially, a verdict of “lawful killing” only requires that [anonymised police officer] V53 believed Duggan to be holding a gun at the time of the shots.’¹ This requirement of belief – an ‘honest held belief’, to be exact – is a core legislative principle in UK law that authorises police to use force (see the Criminal Justice and Immigration Act 2008). Yet this principle of belief is irreducible to the legislation of police powers, for it is, in addition, integral to empirical and judicial inquiries, political subjecthood and witness testimony.

Taking on the role of an independent inquiry, FA have effectively re-opened the case of Duggan’s killing and reviewed the IPCC’s investigation and inquest. The object of the gun, found some seven metres from Duggan’s body, is the main focus, the foci, of its examination. Producing visualisations that reconstruct the events of the shooting/killing, FA explore the different possibilities of how the ‘non-police’ firearm ended up in an area of grass away from the road. Not unlike an inquest, their examination is interested in finding facts and assessing circumstances. Additionally – although it took more of an investigatory role, in the sense that it aimed to test possibilities – it refrains from adjudicating culpability and responsibility.

FA’s investigation turns the different conclusions from the IPCC’s investigation and the coroner’s inquest into questions, and attempts to answer – or, rather, ascertain – the validity or veracity of these conclusions or claims, using their own devised scientific-technological methodology. FA is an independent research agency that utilises technology – particularly 3D modelling – to reassemble the scene of a crime from records of material objects. The crimes they usually investigate are human rights violations, crimes ‘against humanity’ or the environment. The presentation of their completed investigations come to represent what is technology and how it functions in as much as it represents a (legal) case. A prevailing philosophy of FA is that the object has replaced the (human) witness with the advancement in technology and the everyday use of electronic devices, social media and surveillance.

However, unlike other previous FA investigations (where there has been audio and/or video footage to examine), for this one they relied mainly on testimony, with the exception of one recording that is largely of too poor quality. In one sense, FA renounce the police testimonies, yet through, and in, their investigation they actually re-announce, or re-enunciate, those same police testimonies. Even though they used technology such as photogrammetry to scan, map and render the temporal-spatial dimensions and the movements of officers and Duggan at the time of the killing, the reference for these points, positions and movements are adduced from testimonies – or, to be more specific, accounts. Thus, claims are treated as variables, and, with the support of other material such as pathology reports and a police training video of a hard-top, this information is pooled together and triangulated to produce a visualisation of the shooting.

Although FA pursue a digital animation of the shooting/killing, seemingly disassociated from the police testimonies, the appearance of this purely informational reconstruction is informed by the text it aims to ‘test’. The FA investigation does not question the police themselves; instead they reuse past testimonies to input and encode their mapping. The words of the police come to be the points upon which FA produce their mapping; and so, to that end, FA take the police at their word.

To inspect and test three different scenarios, based on the previous IPCC and inquest findings, FA produce the points of view of V53, the officer who stood in front of Duggan and shot him, and of another armed officer who stood behind Duggan. ‘FA’s investigation was oriented around the question of how the gun in question travelled from the rear of the minicab to the location at which it was found, seven metres away.’ FA’s findings strongly challenge the conclusions of the IPCC and the inquest, and add more doubt to the circumstances that led to the gun being located some distance away from Duggan. What is particularly important to note, as it relates to what will be explored below, is that, in broad terms, FA conclude that Duggan could not have

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thrown the gun to where it was found, either before, during or after the two rounds were fired, without the two officers, respectively, both ‘witnessing’ the throw.

This conclusion is determined by the reconstruction that appears to show ‘us’ (the viewer) a gun being thrown *when a gun is being thrown*. The FA investigation sought to demonstrate this, and indeed is itself a demonstration – a demonstration in the sense that it reproduces the uniqueness of Duggan’s killing, and thus restores the example of the exemplarity of Duggan’s killing. This exemplarity, and extremity, is maintained, apparently without witnesses, without ‘verbal’ or ‘oral’ testimonies – or at least without further and additional statements. Additionally, the reconstruction demonstrates what could supposedly have been seen and what could not have been seen. This is part of the aesthetics of empirical inquiry, of inspection, of fact finding: the apprehension coming from the perception of looking at how one looks or inspects, from the production of objects and observable spaces, such as subjects/objects, points of view, field of vision, lines of sight.

I am particularly drawn to the paradigm, the spectrality, of the *point of view* – this position and instance of the witness, where the viewer and the viewed blend; the point of the view that is both *in* view, that is *of* the witness, the interiority, and also *out* of view, outside the witness, the exteriority. This is a point of view that is *from a point, to a point*, yet only visible as such from the transcendence of this point, this viewpoint *ad infinitum* – and thus, out of view.
From this point of view of *point of view*, a point of view *points* to the undeniability of the singularity of the subject; additionally, it points to the instances of their decisions – the instant of decision, as Derrida would put it.3 At the point of inside and outside, of interiority and exteriority, at the juncture of singularity and generality, point of view is a mode of consciousness, cognition, and determinacy4 – a (Kantian) perspective, a reflective, that comes to form a judgement5 – always *in* and *of* proportion. For it is proportionality – ratio, calculation, observation – that comes to re/produce the virtuality of an instant, an event, a meeting of forces.

Officer V53, in his testimony at the inquest, gave various analogous descriptions for the sensation and perception he had of the shooting/killing of Duggan. The time of the shooting seemed to have played out for Officer V53 like a moving image, with its camera and screen qualities. V53 claimed he saw Duggan holding a gun before he discharged his own gun. It was the apparent sight of Duggan holding a gun that V53 described as a ‘freeze-frame moment’. In this freeze-frame moment, as V53 would explain further, ‘tunnel vision’ trained his eye to the alleged gun in Duggan’s hand. With(in) this tunnel vision, the only vision there was to see (from) was the gun in Duggan’s hand, or so V53 argued.

4 See Denise Ferreira da Silva, *Toward a Global Idea of Race*, University of Minnesota Press, Minneapolis, 2007
This vision was not simply of the sight of the gun, but more that the gun was sight; in other words, there was no sight without this object – the gun was the only sightable object, the only visible object. The gun in the hand of the target brought into sight and gave sight to the armed police officer. Yet, this sight disrupted view and distorted vision. In its appearance, the mode of appreciation and apprehension was affected to the degree that only one thing could have been seen at a time. At this time of the shooting, there was only one point to which to view. Outside the gun, nothing else registered within the line of sight, the field of vision; thus, following this optic logic, this ocularity, V53 claimed he could not ‘account’ for the movements of Duggan, the impact of the rounds fired, or how Duggan fell and collapsed. So perceptive was V53 of the gun – this materialisation or materiality of his belief – that if he was the cause of any wrongdoing, as decided by the jury at the inquest, it was because he was focused on his job; he was focused on the supposed threat.

The line of sight (from his eye to the gun) was also a line drawn that, for V53, marked the decisive moment, the instance for and of decision. According to V53, in this split second – this second that is in-divisible – he assessed the situation with Duggan allegedly holding the gun, judged Duggan was a threat to him and his team and decided to shoot two rounds to neutralise the threat; in other words, to kill Duggan. V53 claimed not to know where the gun went after he shot twice at Duggan; he did not know how the gun Duggan apparently was holding got to be seven metres away from him. ‘In a blink of an eye’, as V53 put it, ‘one second the gun was there; when I looked again, it was gone.’ With the neutralisation of the threat, the gun was not to be seen, it had disappeared – in a blink of an eye, a blink so fast one does not know if one has blinked or not. V53 ‘claimed’ he had the ‘honest held belief’ he saw Duggan holding a gun and that he thought he was going to fire. At the inquest, he mentioned this phrase and its principle in reference to the legislative powers conferred to a police officer. However, the principle and concept of belief should not be limited to the semantics within the statute, nor as an object or property of cognitive thought.

Following Derrida, I contend, as a condition and an element of V53’s testimony, that it was belief (an act of faith) that formed the officer’s decision and justification. The council to the Duggan family argued that V53 had not told the truth about where the gun went after he shot Duggan, which the officer vehemently denied. To quote, to recite: ‘I would love to be able to say to you, to sit here and say I saw the gun fly over the fence after the second shot, but I didn’t. I am not going to put something down on paper that I haven’t seen. I’m sure it would clear up a hell of a lot of stuff if I was able to say “Yes, I saw the gun fly through the air and it landed wherever” but I didn’t see it. So I am not going to sit here, you know, nearly two years on. I wasn’t going to do that at the time or in the days after and put down something that I didn’t see.’
FA’s investigation tests this situation and produces a field of view where Duggan threw the gun during his shooting, from which to observe V53’s point of view. Based on its reconstruction, FA conclude that ‘Mr Duggan could not have thrown the gun to where it was found during the period of the two shots without V53 witnessing the throw’. In effect, FA’s suggestion supports the claim made by the family’s council that V53 was being dishonest as to what he saw happen to the gun. FA’s use of the term ‘witnessing’ seems to imply and equate ‘to see is to witness’, or ‘seeing is believing’. Their investigation seems more focused on the possibility of the sight of the gun rather than the possibility of lying/truth-telling of the sight of the gun. What should not be overlooked is that at the inquest, V53 maintained the possibility of lying/truth-telling in his resistance to tell the truth as absolute. To put it another way, V53 maintained his honesty through his refusal to be made a liar. In his answer, he reiterated his oath, his pledge, to tell the truth. He was faithful to his account, as he had vowed; and would not say what he knowingly did not believe himself; as he claimed. In the end, V53 did not have to put it down on paper. FA has done that for him.

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Footnote 6: Forensic Architecture, The Killing of Mark Duggan, 4 August 2011, Report and Methodology, January 2020, p 10