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| <p>1 2 (2.00 pm) 3 LORD JUSTICE LEVESON: Two things before we start. First of 4 all, I understand that the web streaming has failed, in 5 the sense that it is not available contemporaneously 6 with the evidence. Having regard to the pressure of 7 time, we will carry on. I am assured, first of all, 8 that the problem will be corrected, secondly that the 9 evidence is being recorded, and thirdly that it will be 10 up and running quickly. Certainly I have no doubt that 11 all the evidence will be available for those who want to 12 see it at the end of the day. 13 The second issue that I'll mention now is that 14 I understand an error was made in relation to tomorrow 15 morning, suggesting that we were starting at 9.30. 16 Whereas I am entirely comfortable with that as 17 a proposition, that's not the intention and we shall 18 start as usual at 10 o'clock. 19 Right. 20 MR JAY: Just a short point, Mr Williams. You gave evidence 21 to a Parliamentary Select Committee sitting next to 22 Mr Yates on 2 September 2009. Do you recall that 23 occasion? 24 A. Yes. 25 Q. Mr Yates said -- and if you need to see it, I can show</p> <p style="text-align: center;">Page 1</p> | <p>1 There's debate as to what exactly it was. Can I ask 2 you, please, how long did that exercise take before 3 Mr Yates gave his statement that afternoon? 4 A. I believe he started in the morning, early in the 5 morning, and I understand he gave that statement late in 6 the afternoon, about 5 o'clock, so throughout the day. 7 Q. Can I ask you, please, what role you took in relation to 8 that exercise? Did you speak with him that day? 9 A. I did. 10 Q. For how long? 11 A. I think on and off. I was with him for most of the day, 12 starting in the morning, giving him an explanation of 13 what we had done in the investigation. 14 Q. Did you show Mr Yates any documents? 15 A. The documents that were produced I showed him my 16 informing potential victim strategy, I showed him a copy 17 of the indictment, and that was it, because we didn't 18 have any other documents on that date. Sorry, there was 19 another short briefing document. 20 Q. On the basis of that, Mr Yates said that there was no 21 new evidence which would justify reopening the 22 investigation; is that correct? 23 A. That's correct. 24 Q. Were you seeking to persuade him that that was the 25 position?</p> <p style="text-align: center;">Page 3</p> |
| <p>1 it to you: 2 "The collective belief is that there were then and 3 there remain now insufficient grounds for evidence to 4 arrest or interview anyone else." 5 Ignoring what the position might have been in 2009, 6 but going back to 2006, was that your view? 7 A. Yes. 8 Q. Insufficient grounds to arrest or interview anyone else? 9 A. Yes. 10 Q. Are you sure about that? 11 A. Yes, because I would have wanted to have done more work 12 to reach that position. 13 LORD JUSTICE LEVESON: With great respect, that doesn't 14 answer the question. I'm sorry, Mr Williams. You may 15 very well want to do more work -- 16 A. I believed -- I'm sorry, sir. 17 LORD JUSTICE LEVESON: That's not the issue. The issue was: 18 was there prima facie evidence upon which you could 19 reasonably conclude that an offence had been committed 20 by someone whom you could reasonably identify? 21 A. I didn't believe there was enough grounds to arrest. 22 MR JAY: Move forward to 2009. The article in the Guardian 23 was 8 July 2009, and on 9 July, at the instance of the 24 then Commissioner, Sir Paul Stephenson, Mr Yates, then 25 Assistant Commissioner, was asked to do a review.</p> <p style="text-align: center;">Page 2</p> | <p>1 A. I just gave an explanation of exactly what we'd done and 2 the position we had reached. I was just explaining to 3 him exactly what we had done. 4 Q. But in a very succinct and editorialised way, you were 5 giving him a snapshot picture of what your investigation 6 had established, and he then put that in the public 7 domain at about 5.00 in the afternoon; is that right? 8 A. Yes. 9 Q. Can I ask you, please, to look at file 4 of this bundle, 10 tab 160, which is 03914, which is a briefing that you 11 prepared for Mr Yates in relation to Operation Caryatid. 12 Do you recall that? 13 A. Yes. 14 Q. It was you and Mr Surtees who prepared it. It's dated 15 12 July, which was a Sunday. 16 A. That's correct. 17 Q. But Mr Yates had given his statement already at 5 pm on 18 9 July, so by definition Mr Yates didn't have the 19 benefit of this document, did he? 20 A. No. 21 Q. What was the point of preparing the document at all? 22 A. Because I had provided a verbal briefing of what had 23 happened, and I wanted over the weekend to document in 24 writing, so that he had the benefit of exactly what the 25 case had been about.</p> <p style="text-align: center;">Page 4</p> |

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| <p>1 Q. So does this contain in the same detail as your oral 2 briefing to Mr Yates that which you told him on 9 July, 3 or does it provide further and additional details? 4 A. It may well include additional detail, particularly when 5 it goes into quoting figures, because then we had 6 retrieved the investigative documents from storage and 7 so I would have been able to do that. On the day, 8 I would -- of 9 July, I would have been doing it to the 9 best of my ability of my memory.</p> <p>10 Q. Can I ask you, please, just a couple of points on this 11 document, now I understand the purpose of it. 12 Paragraph 15, which is the third page of the document, 13 page 1000 on the internal numbering. Maybe we can start 14 with the last sentence of 14: 15 "On some there are names which probably relate to 16 journalists and cash sums." 17 This is a reference to the corner names, isn't it? 18 A. Yes. I seem to -- can you just read that out. It's 19 slightly different. Are you reading from paragraph 15?</p> <p>20 Q. It's the last sentence of paragraph 14. 21 A. Oh sorry, yes. Forgive me.</p> <p>22 Q. Is that a reference to the corner names, what we're now 23 calling the corner names? 24 A. Yes, yes.</p> <p>25 Q. I should probably read out, in fairness, the previous Page 5</p> | <p>1 evidence which would show that they actually knew what 2 was going on.</p> <p>3 LORD JUSTICE LEVESON: Oh, Mr Williams, come on. The 4 Mulcaire document was replete with tons of data. 5 A. In terms of those journalists, those names, whoever they 6 were, in terms of me approaching them as an 7 investigator, where is the evidence, I'm asking myself, 8 to show that they knew exactly what he was doing? Yes, 9 my supposition is they're tasking him with information 10 and he may well be giving it back, but I didn't have 11 evidence of what he was being tasked with and what he 12 was giving back. That's what I believed.</p> <p>13 MR JAY: But just putting that together or reassembling it, 14 Mr Mulcaire's whole modus operandi was hacking into 15 voicemails, wasn't it? 16 A. Largely, yes, but at the time I was open to he could be 17 doing any number of other things. I know now, as 18 a result of everything, everyone shows that, but --</p> <p>19 Q. But in relation to this notebook and the 11,000 pages, 20 it's all part of a completely coherent picture that this 21 is a man who is hacking into voicemails. This is his 22 sole way of being, his industrial activity. That's what 23 he lives for, to hack into voicemails, isn't it? 24 A. I know we know that now. At the time my genuine belief 25 was yes he's doing that, definitely, but he may well be Page 7</p> |
| <p>1 sentence: 2 "In many there is simply the name of a celebrity or 3 well-known figure, in others there is more detail with 4 names, addresses, dates of birth, telephone numbers, 5 DDNs, passwords, PIN numbers and scribblings of private 6 information." 7 So that was the picture you were giving Mr Yates. 8 Then paragraph 15: 9 "It should be noted that no evidence existed to 10 suggest that those possible journalists detailed on 11 these sheets had knowledge of the illegal methods 12 undertaken to supply these stories. However, it should 13 be pointed out that in one of the recordings recovered 14 from Mulcaire it is clear Mulcaire is giving instruction 15 to an unknown person (possibly a journalist) on the 16 telephone ..." 17 So in this document the corner names are probably 18 relating to journalists, is that right? 19 A. Yes.</p> <p>20 Q. Aren't you putting it far too low when you say in 21 paragraph 15 "no evidence existed to suggest that those 22 possible journalists detailed on these sheets had 23 knowledge of the illegal methods undertaken to supply 24 these stories"? 25 A. I don't believe so. I don't believe that I had any Page 6</p> | <p>1 doing a raft of other things.</p> <p>2 Q. But isn't it likely, Mr Williams, that Mr Mulcaire, 3 whoever the person is he's speaking to, who's organised 4 this, tells that person, "I've listened to celebrity X's 5 voicemail and this is what I can tell you is on the 6 voicemail." Isn't that at least a plausible picture? 7 A. It is a plausible picture, but I have no evidence of 8 that to put before a court.</p> <p>9 LORD JUSTICE LEVESON: Well, it depends how you define 10 circumstantial evidence, doesn't it? Because you 11 acknowledge that there is circumstantial evidence, or 12 somebody acknowledged, as recorded by Mr Crone, that 13 there was circumstantial evidence, and you and I both 14 know that many, many criminal cases are pursued solely 15 on the basis of circumstantial evidence, which, taken 16 together, can be extremely strong, and indeed stronger 17 than some direct evidence. 18 You said to me before lunch that if you were going 19 to investigate further, you would have wanted to do 20 a lot more work. Here you're saying there's no point in 21 doing any other work because there's no evidence to 22 suggest that anything else has gone wrong. Now I ask 23 you whether that's really your evidence. 24 A. I believed -- what I've written here is my genuine 25 belief, that I would have needed a lot more to be able Page 8</p> |

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| <p>1 to take that case forward. I'm not trying in any way to 2 hide anything from Mr Yates or distort the truth. 3 MR JAY: There's another document which was probably 4 prepared for the same sort of purpose, tab 168, which is 5 03938, this time dated 16 July. I'll give you time to 6 look at it. 7 A. Yes. 8 Q. But again, was this a -- designed, as it were, after the 9 event for Mr Yates to consider? 10 A. Yes. Mr Yates is being asked a whole series of 11 questions, and he's asking me to articulate in writing 12 some of the thinking behind the investigation. 13 Q. Thank you. On the second page of this document, the 14 fourth bullet point, you say: 15 "All of the above was not a decision that I made in 16 isolation. Throughout, this investigation had the 17 highest oversight at all times." 18 Is that a reference to Mr Clarke or to anybody else? 19 A. It's all my senior management, and -- yes, up to 20 Mr Clarke, and obviously when the investigation became 21 public, I know those briefings went higher in my 22 organisation. 23 Q. To Mr Hayman; is that right? 24 A. Yes, he was briefed. 25 Q. Was he briefed earlier than 8 August 2006? <p style="text-align: center;">Page 9</p></p> | <p>1 You could go back to do that which you said you would 2 have wanted to do had you had the time and it was 3 appropriate use of resource. But what you're now 4 presenting is a decision that there's nothing else to 5 do. Actually, what you were saying to me before lunch 6 was there was a great deal you could have done, but for 7 very understandable reasons, and I'm not challenging 8 that reasoning, but for very understandable reasons, you 9 didn't feel it was appropriate to go there. I'm really 10 trying to understand. 11 A. No, I see what you're saying. I've written this at 12 a time -- I'm writing this in the point of view I'm 13 thinking of it in my head as the evidence I didn't have 14 in my mind of what I would have needed to take that 15 investigation forward, and if I've created the wrong 16 impression, I've created the wrong impression. It was 17 not done intentionally. I'm trying to provide 18 a briefing to my senior officer as genuinely as possible 19 as to what we did and what we didn't do then. I'm 20 saying I haven't made these decisions -- I accept I'm 21 responsible, I was the SIO, no question about that, but 22 I haven't done it in isolation, I have briefed and 23 talked to a whole range of people and I always do that 24 for the purpose of taking advice and talking things 25 through. Ultimately my decision as SIO where we go with <p style="text-align: center;">Page 11</p></p> |
| <p>1 A. I don't know. 2 Q. "The potential breadth/scale of what may or may not be 3 out there was fully discussed together with what 4 resources might have been required to even begin 5 exploring that. There was no appetite to expand the 6 investigation ..." 7 What is that a reference to? 8 A. I believe this is purely that decision around resources, 9 because of the conflicting operations. 10 LORD JUSTICE LEVESON: But you've gone further, because you 11 don't think there's an evidential basis to expand it. 12 A. It may be my lacking, sir, and I apologise, but I -- 13 LORD JUSTICE LEVESON: No, don't apologise. 14 A. Well, I personally -- this is my personal belief as an 15 investigator, and maybe others will judge my threshold 16 is too high, but given my experience of investigations 17 and presenting a case before a court, I obviously have 18 a personal higher threshold than others as to what 19 I believe in terms of the right thing to do in terms of 20 reasonable ground before I start depriving other people 21 of their liberty. 22 I do understand that you are arguing to me that 23 there is a lower threshold and I could have arrested and 24 interviewed. 25 LORD JUSTICE LEVESON: No, or you could have investigated. <p style="text-align: center;">Page 10</p></p> | <p>1 that -- in the parameters I've been given with the 2 investigation. I understand what you're saying, but 3 I was not doing anything here to mislead or create 4 a false impression. 5 LORD JUSTICE LEVESON: Before you wrote this briefing for 6 Mr Yates, had you read the material that the Guardian 7 had published? 8 A. I'd seen what they'd written in the original 9 investigation, yes, and it was material that we, the 10 police, had all released in terms of Mr Taylor's private 11 prosecution, and again, maybe it's the wrong perception, 12 my feeling was that they were very much saying we were 13 trying to hide something, so my -- that's my impression 14 from the coverage, and I'm trying to say there was 15 absolutely no intention to hide anything. And this is 16 what I'm trying to articulate to Mr Yates. 17 MR JAY: Mr Yates gave a statement on 9 July, it's the one 18 I referred to given about 5 pm. 19 A. Yes. 20 Q. Did you have any hand in the preparation of that 21 statement? 22 A. I did see it. We'd all contributed in terms of the 23 background to that statement. He would have prepared 24 that in conjunction with our department of DPA. 25 Q. The statement says: <p style="text-align: center;">Page 12</p></p> |

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| <p>1 "Their potential targets ..."</p> <p>2 Obviously Goodman and Mulcaire?</p> <p>3 A. Yes.</p> <p>4 Q. "... may have run into hundreds of people [this is</p> <p>5 tab 94 and the 418] but our enquiries showed that they</p> <p>6 only used the tactic against a far smaller number of</p> <p>7 individuals."</p> <p>8 Was that a correct statement?</p> <p>9 A. It was from my perspective of what would constitute an</p> <p>10 interception. I totally understand that there is</p> <p>11 a different view on that now.</p> <p>12 Q. Can I just take that in stages? If one includes</p> <p>13 everyone whose phone had been accessed, regardless of</p> <p>14 whether or not it was before the intended recipient had</p> <p>15 listened to the message --</p> <p>16 A. Yes.</p> <p>17 Q. -- was that a correct statement?</p> <p>18 A. I believed it was a correct statement, because in my</p> <p>19 mindset it's about the people -- I'm thinking about the</p> <p>20 people that had been intercepted in terms of our</p> <p>21 prosecution. I understand in my victim strategy that</p> <p>22 I was looking to inform a wider pool of people, and</p> <p>23 potentially unknown group of people.</p> <p>24 Q. Because it's a positive statement here:</p> <p>25 "Our enquiries showed that they only used the tactic</p> <p style="text-align: center;">Page 13</p> | <p>1 MR JAY: Then the statement carries on:</p> <p>2 "Where there was clear evidence that people had</p> <p>3 potentially been the subject of tapping, they were all</p> <p>4 contacted by the police."</p> <p>5 Was that accurate or not?</p> <p>6 A. Well, it's not -- not all people, because of course</p> <p>7 I believe -- strictly speaking it's not accurate because</p> <p>8 actually we did a particular group of people, the</p> <p>9 police, as I've outlined, and as I believed, the other</p> <p>10 people were being dealt with by the mobile phone</p> <p>11 companies.</p> <p>12 Q. Because the group you took it upon yourself to contact</p> <p>13 were those in the four categories, the MPs.</p> <p>14 A. Yes.</p> <p>15 Q. And only those where you had evidence that their phones</p> <p>16 had in fact been intercepted and not, therefore, those</p> <p>17 who had been potentially the subject of tapping. Do you</p> <p>18 see the difference?</p> <p>19 A. I do see the difference. Yes, I do.</p> <p>20 Q. Mr Yates told Parliament, I think in April 2011 -- we'll</p> <p>21 look at the document with him tomorrow -- that 36 people</p> <p>22 in that category were contacted by the police. Is that</p> <p>23 about right?</p> <p>24 A. I think if you're talking the period 2005 to 2006?</p> <p>25 Q. Yes.</p> <p style="text-align: center;">Page 15</p> |
| <p>1 against a far smaller number of individuals."</p> <p>2 In fact it's not quite the right way of putting it,</p> <p>3 that had you done further enquiries, it might have shown</p> <p>4 or demonstrated that the tactic had been used far more</p> <p>5 widely.</p> <p>6 A. Yes.</p> <p>7 Q. Do you see that?</p> <p>8 A. Yes. And there is a completely unknown. We actually</p> <p>9 don't know who has actually suffered from this at all.</p> <p>10 LORD JUSTICE LEVESON: But go back to my bank robbery</p> <p>11 analogy again. We do know that there were many, many</p> <p>12 more who were the victims of a conspiracy to intercept</p> <p>13 their messages. Whether it's a RIPA conspiracy or</p> <p>14 merely a Computer Misuse Act conspiracy. We're not</p> <p>15 talking now about sentence, you're not prosecuting</p> <p>16 anybody. We're simply talking about criminality.</p> <p>17 A. Yes, and I understand that, and you're asking me about</p> <p>18 this document and why I wrote it, and you're picking on,</p> <p>19 yes, particular expressions that I've used. What I'm</p> <p>20 trying to explain, I've written this from the memory --</p> <p>21 yes, and from the reviewing over the case, but from the</p> <p>22 mindset of my case and what I was trying to do, and</p> <p>23 I know now quietly there's a different perspective on</p> <p>24 what a victim would be and that it's far more</p> <p>25 wide-reaching. I understand that.</p> <p style="text-align: center;">Page 14</p> | <p>1 A. I believe it's 28.</p> <p>2 Q. Sorry, you're right, it's 28 plus 8 equals 36, and the 8</p> <p>3 may not be in those four categories, okay.</p> <p>4 A. Okay.</p> <p>5 Q. But that's more than the far smaller number of</p> <p>6 individuals, is it, that you're referring to earlier?</p> <p>7 Because you say "our enquiries show that they used the</p> <p>8 tactic against a far smaller number of individuals".</p> <p>9 Were you intending to refer just to 28 or what number</p> <p>10 were you intending to refer to?</p> <p>11 A. Do you mind if I have a look at that document?</p> <p>12 Q. Yes, of course. Let me hand this to you. I printed it</p> <p>13 off the Internet. It's the one I've highlighted.</p> <p>14 (Handed).</p> <p>15 A. Thank you very much. (Pause).</p> <p>16 My intention to convey to him is there may be many</p> <p>17 hundreds of people here, potential people, as we've said</p> <p>18 here. That is unknown. In terms of my investigation,</p> <p>19 our enquiry to the tactics, yes, okay, I see the word</p> <p>20 "tactics". Now we're reanalysing the words.</p> <p>21 LORD JUSTICE LEVESON: I'm afraid we only read words,</p> <p>22 Mr Williams.</p> <p>23 A. No, you're absolutely right. I can see the</p> <p>24 interpretation. I'm thinking the actual from the point</p> <p>25 of view of actual intercept, as I would have thought</p> <p style="text-align: center;">Page 16</p> |

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| <p>1 about it, was a far smaller group than many hundreds, in 2 which case I would have had in mind that smaller group. 3 MR JAY: Okay. 4 A. I understand now what you're saying, yes. 5 MR JAY: Those are all the questions I have for you, 6 Mr Williams. There are other witnesses who will fill in 7 other pieces of evidence as we proceed this afternoon. 8 LORD JUSTICE LEVESON: Mr Williams, I don't want you to 9 misunderstand me. I am not suggesting that you have 10 been involved in some inappropriate relationship which 11 has caused you personally to backtrack on an 12 investigation. But I am sure you will understand the 13 concern that decisions taken in the heat of the terrible 14 events of 2006 -- and I'm not now talking about the 15 arrest with which we've been concerned, but the other 16 work of your department -- are very readily 17 understandable. But it's quite difficult to translate 18 some of those perfectly legitimate decisions into 19 a construct where we now know the facts from the 20 documents -- I'm not talking about what Ms Akers and 21 Weeting have produced -- and say that, well, there was 22 nothing there at all. 23 The risk is not that I'm challenging you about 24 words, and I take your point, but that people might 25 perceive that your reaction to these issues -- and I'm</p> <p style="text-align: center;">Page 17</p> | <p>1 you sir that that original investigation with my team, 2 and we were working with our senior management, and yes, 3 Mr Clarke from my perspective was that threshold, we 4 absolutely put a lot of effort into that investigation, 5 with the best of intentions, and we were absolutely not 6 influenced by any of the things that have been suggested 7 and what your Inquiry is about, which I think is 8 entirely right and proper. 9 When it comes to 2009, and I've thought about this, 10 is with Mr Yates, he from my perspective was in the 11 invidious position -- and I've had an insight into the 12 role of Assistant Commissioner now -- he is basically 13 inheriting, if you like, an investigation that he had 14 nothing to do with. It was a hugely complex 15 investigation, as you've seen. I know a lot about it. 16 And I am trying to get him to understand the ins and 17 outs of that investigation, and he is trying to take all 18 that on board. These briefing documents were part of 19 that process. 20 Again, in my workings with him, I've not worked with 21 him directly before, but I saw nothing or heard nothing 22 that made me think that we -- that there was anything 23 wrong going on here, that we were looking to hide 24 anything. He was looking at an investigation that was 25 four years old. I briefed him and over the period</p> <p style="text-align: center;">Page 19</p> |
| <p>1 talking about your collective reaction, I'm not talking 2 to you personally -- 3 A. Yes, I understand. 4 LORD JUSTICE LEVESON: -- encourages inappropriate 5 inferences to be drawn. Do you understand what I'm 6 saying? 7 A. I do, sir. 8 LORD JUSTICE LEVESON: So it's that that is the concern that 9 I have to address, because it is critical that the 10 public have confidence in the police. I know that as 11 much as if not more than anybody. But, of course, the 12 consequence of an approach that may be justified for one 13 reason and then justified again for a slightly different 14 reason is that if it becomes unpicked, you have to start 15 from scratch, which of course is exactly what's had to 16 happen. 17 A. Yes. 18 LORD JUSTICE LEVESON: And that itself has public interest 19 consequences. 20 A. Absolutely. 21 Can I make a comment, sir? 22 LORD JUSTICE LEVESON: That's precisely what I was prepared 23 to invite you to do. 24 A. Thank you, sir. What I'd like to say, and I know we 25 talked about for lunch, I really would like to assure</p> <p style="text-align: center;">Page 18</p> | <p>1 I believe he was genuinely seeking to understand what 2 had happened and make proportionate decisions. 3 I just want to assure you that I've seen nothing 4 that makes me think that there is anything other than 5 a genuine desire to do a proper investigation and to 6 keep the public informed about what's going on. 7 LORD JUSTICE LEVESON: Do you think that your reaction in 8 2009 -- the police reaction, I'm not talking about 9 you -- 10 A. Yes. 11 LORD JUSTICE LEVESON: -- was just too quick? That rather 12 more ought to have been done, so that a far broader 13 analysis of the nuanced position -- which you had from 14 your decision logs, it's all there -- before Mr Yates 15 went out snap? 16 A. I agree in hindsight -- 17 LORD JUSTICE LEVESON: I'm not so sure that necessarily 18 should be in hindsight, but anyway -- 19 A. Well, no, from a position now I can see, and I think 20 Mr Yates has said it, at the time what it felt like was 21 that everybody was saying that this was a conspiracy and 22 we'd hidden it, and actually I believe what we were 23 trying to say: that's absolutely not the case here. But 24 in doing that, I agree with you, perhaps we could have 25 just paused for a moment and thought: is it just that?</p> <p style="text-align: center;">Page 20</p> |

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| <p>1 Because we -- in a sense to me it felt we were reacting</p> <p>2 to the fact that someone was saying we'd hidden</p> <p>3 something and I knew we had absolutely not hidden</p> <p>4 anything, and in hindsight, yes, if we had paused, maybe</p> <p>5 there would have been a different approach. We all</p> <p>6 learn.</p> <p>7 LORD JUSTICE LEVESON: Because the consequence of going out</p> <p>8 as you did go out is to feed and fuel the concern that</p> <p>9 you have hidden something which only now is all coming</p> <p>10 out. That's the consequence. I'm not saying you</p> <p>11 intended to do that, but I just felt it was important to</p> <p>12 give you the opportunity to comment upon that.</p> <p>13 A. I believe I have, and I thank you, sir, for that</p> <p>14 opportunity.</p> <p>15 LORD JUSTICE LEVESON: Thank you very much.</p> <p>16 MR JAY: Thank you, Mr Williams.</p> <p>17 A. Thank you, Mr Jay.</p> <p>18 MR JAY: We'll move on now to our next witness, who is</p> <p>19 Mr Surtees, please.</p> <p>20 MR KEITH SURTEES (sworn)</p> <p>21 Questions by MR JAY</p> <p>22 MR JAY: Mr Surtees, your full name for the Inquiry.</p> <p>23 A. My name is Keith Surtees.</p> <p>24 Q. Thank you. I hope you're going to be able to find</p> <p>25 easily a bundle with witness statements, and under tab 5</p> <p style="text-align: center;">Page 21</p> | <p>1 role of senior investigating officer for numerous</p> <p>2 priority terrorist investigations which were within SO13</p> <p>3 at this very busy time. Is that correct?</p> <p>4 A. Yes, that's correct. My primary role was as a senior</p> <p>5 investigating officer with a counter terrorism command</p> <p>6 or anti-terrorist branch as it was then known.</p> <p>7 LORD JUSTICE LEVESON: You have to be a bit slower,</p> <p>8 Mr Surtees, because otherwise we don't pick it up.</p> <p>9 MR JAY: Now, we're not going to cover all the points made</p> <p>10 in this statement, we're just going to alight on some</p> <p>11 key points, because we've had a lot of the evidence</p> <p>12 already from Mr Williams. But paragraph 14, please:</p> <p>13 "The only way to establish whether illegal access to</p> <p>14 voice messages was taking place was to obtain the</p> <p>15 incoming telephone data to the voicemail of the</p> <p>16 complainants, in other words a list of telephone numbers</p> <p>17 ringing into the voicemails of the victims."</p> <p>18 You say the way you went about doing that was to</p> <p>19 obtain account information under part 1 of RIPA, in</p> <p>20 relation to Mr Goodman's telephone. Is that correct?</p> <p>21 A. Yes, that's correct. Mr Goodman became a suspect of</p> <p>22 this investigation pretty early in terms of the</p> <p>23 investigation, and I did obtain through RIPA legislation</p> <p>24 access to the call data, the outgoing call data of</p> <p>25 Mr Goodman's telephone to ascertain who he was calling</p> <p style="text-align: center;">Page 23</p> |
| <p>1 of that bundle you'll see a statement which you gave in</p> <p>2 the judicial review proceedings on 30 September 2011.</p> <p>3 A. Yes, I have that.</p> <p>4 Q. You've signed that statement under a standard statement</p> <p>5 of truth. You are in the current rank of Detective</p> <p>6 Chief Superintendent; is that right?</p> <p>7 A. That's correct, yes, sir.</p> <p>8 Q. Back in 2006, when you joined SO13, you were Detective</p> <p>9 Chief Inspector; is that right?</p> <p>10 A. That's correct.</p> <p>11 Q. And you became the investigating officer of Operation</p> <p>12 Caryatid on 18 April 2006, following a request, you say,</p> <p>13 which came from Detective Superintendent Williams. This</p> <p>14 is paragraph 7 of your statement. Just so we have it in</p> <p>15 a nutshell, the difference between the responsibilities</p> <p>16 of a senior investigating officer and an investigating</p> <p>17 officer?</p> <p>18 A. Senior investigating officer essentially sets out the</p> <p>19 strategy of an investigation, makes sure the resource</p> <p>20 requirement, et cetera, is met. The investigating</p> <p>21 officer carries out that strategy, turns that into</p> <p>22 tactics, if you like, and delivers those tactics to</p> <p>23 deliver the strategy which has been set by the senior</p> <p>24 investigating officer.</p> <p>25 Q. Thank you. At the same time you were performing the</p> <p style="text-align: center;">Page 22</p> | <p>1 at that particular time.</p> <p>2 Q. So it goes without saying that these data would</p> <p>3 correlate with the phone numbers of the voicemails of</p> <p>4 your main victims, who at that stage were JLP and HA; is</p> <p>5 that correct?</p> <p>6 A. That's precisely what I was looking for, yes.</p> <p>7 Q. Put succinctly, was this a straightforward or difficult</p> <p>8 exercise?</p> <p>9 A. Straightforward exercise in so much it did take some</p> <p>10 time to do. The paperwork isn't one piece of paper,</p> <p>11 it's a number of documents that need to be put together.</p> <p>12 It's an assessment that a superintendent would then do,</p> <p>13 forward it through. So it's a laborious process. In</p> <p>14 terms of the difficulty of the task, not particularly</p> <p>15 difficult. It needs to be proportionate and necessary,</p> <p>16 and we need to account for the fact that we're intruding</p> <p>17 into somebody's privacy, essentially.</p> <p>18 Q. If we move forward in time so that we can understand</p> <p>19 this theme, post 8 August, where you have a list of</p> <p>20 victims whose phones had been potentially compromised,</p> <p>21 could you not carry out the same exercise in relation to</p> <p>22 a limited number of those victims to see who else may</p> <p>23 have been calling into their voicemails?</p> <p>24 A. Yes.</p> <p>25 Q. Had you done so, would that or might that have revealed</p> <p style="text-align: center;">Page 24</p> |

6 (Pages 21 to 24)

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| <p>1 whether other journalists were concerned?</p> <p>2 A. Potentially, yes, eventually.</p> <p>3 Q. Why eventually? Why not presumably straightforwardly?</p> <p>4 A. If I work through the process of a victim first, what</p> <p>5 I would see is a multitude of data coming in to a victim</p> <p>6 of crime. So I'd see thousands of lines of data. If</p> <p>7 I do it the other way, ie I have a suspect in the form</p> <p>8 of Goodman or Mulcaire, I have what we call and what we</p> <p>9 termed within this investigation rogue telephone</p> <p>10 numbers. I have something to pinpoint. That rogue</p> <p>11 telephone number going into a victim precisely is easier</p> <p>12 to locate than simply looking at thousands of lines of</p> <p>13 data from a victim of incoming telephone calls and then</p> <p>14 potentially translating each one of those individual</p> <p>15 lines of data into a separate RIPA request to see who</p> <p>16 those particular lines of data belong to. Virtually</p> <p>17 impossible to do, I would suggest, under those</p> <p>18 circumstances.</p> <p>19 The way to do it is when you have a suspect in mind</p> <p>20 and you're looking at that suspect, to see whether that</p> <p>21 suspect particularly is accessing the voicemails or DDNs</p> <p>22 of particular victims.</p> <p>23 Q. I'm going to just understand that, Mr Surtees. Imagine</p> <p>24 that you have one of our 418 victims and you have the</p> <p>25 unique voicemail number. Why don't you simply ascertain</p> <p style="text-align: center;">Page 25</p> | <p>1 A. On the telephone bills of the victims we're actually</p> <p>2 talking about, the fact that the voicemails had been</p> <p>3 activated or accessed doesn't feature on those telephone</p> <p>4 bills. You don't receive a telephone bill that actually</p> <p>5 shows the fact that your voicemail has been activated.</p> <p>6 LORD JUSTICE LEVESON: No, I think you misunderstand my</p> <p>7 suggestion and I think I have it right. If you ask</p> <p>8 somebody, "Do you ever access your voicemail remotely</p> <p>9 from another phone?", answer, "No", they don't need to</p> <p>10 know the numbers that have actually tried to do that,</p> <p>11 they don't need to know the fact that that's happened.</p> <p>12 You know that because you can get that information from</p> <p>13 their phone companies, can't you?</p> <p>14 A. From the phone companies, going back to a victim, I can</p> <p>15 get the incoming call data into a victim's telephone,</p> <p>16 yes.</p> <p>17 LORD JUSTICE LEVESON: Yes, that's the point. So I'm right,</p> <p>18 am I?</p> <p>19 A. If I were to simply randomly pick a victim, you or</p> <p>20 anybody else, for instance, and simply look at that data</p> <p>21 of incoming call data, I'd see lots of lines of</p> <p>22 information. What I wouldn't see and identify really</p> <p>23 quickly is the fact that amongst that myriad of lines of</p> <p>24 data, ie telephone numbers, I would be able to pick out</p> <p>25 suspicious activity from those lines of data. I simply</p> <p style="text-align: center;">Page 27</p> |
| <p>1 who is calling into that number? Are we agreed?</p> <p>2 A. In terms of rogue telephone numbers, and in the case of</p> <p>3 Goodman and Mulcaire I had some rogue telephone numbers.</p> <p>4 Easy to do to see whether those telephone numbers have</p> <p>5 gone into any of those victims, accepted. In terms of</p> <p>6 anybody else, impossible to do unless you identify</p> <p>7 particular rogue telephone numbers you're looking for.</p> <p>8 Q. I'm not sure that it's quite so difficult, Mr Surtees.</p> <p>9 You take one of the victims. You have a series of --</p> <p>10 you might see a series of potentially rogue numbers.</p> <p>11 Why don't you go and speak to the victim, who will say,</p> <p>12 "I can tell you that these numbers are legitimate</p> <p>13 numbers" --</p> <p>14 A. Yes.</p> <p>15 Q. -- "but I simply don't know who these other numbers</p> <p>16 are", so why don't you just focus on those other</p> <p>17 numbers?</p> <p>18 A. Possibly a way to do it, yes.</p> <p>19 Q. It's quite simple, isn't it?</p> <p>20 A. It would be possible to hand over the data to those</p> <p>21 people who hold that telephone and say "Do you recognise</p> <p>22 any of these numbers?"</p> <p>23 LORD JUSTICE LEVESON: Or to ask this question: "Do you ever</p> <p>24 access your voicemail remotely?" Because I would have</p> <p>25 thought most people would say no.</p> <p style="text-align: center;">Page 26</p> | <p>1 wouldn't be able to do that. What I would be able to do</p> <p>2 in terms of Mulcaire and Goodman, for instance, because</p> <p>3 I know those telephone numbers, I'd be able to pick</p> <p>4 those out.</p> <p>5 LORD JUSTICE LEVESON: I understand that. My point was that</p> <p>6 the data would tell you which incoming calls were remote</p> <p>7 access to voicemail. Is that right?</p> <p>8 A. No. Only the vampire data tells us that. The incoming</p> <p>9 call -- the vampire data shows us details of calls into</p> <p>10 voicemails.</p> <p>11 LORD JUSTICE LEVESON: Yes.</p> <p>12 A. The telephone companies don't -- the whole sort of</p> <p>13 problem at the beginning of our investigation was the</p> <p>14 fact that the telephone companies keep data information</p> <p>15 on the basis of what they can charge customers for.</p> <p>16 That's what they keep their data for. They can't and</p> <p>17 don't charge for this issue of access into voicemails.</p> <p>18 So it isn't as straightforward as simply looking at</p> <p>19 somebody's telephone bill or at incoming call data.</p> <p>20 LORD JUSTICE LEVESON: No, no, I wasn't suggesting you would</p> <p>21 look at their bill. I was wondering what the telephone</p> <p>22 companies could do. Anyway, I've asked the question.</p> <p>23 MR JAY: Of course you already had data which referred to</p> <p>24 the News of the World hub phone, didn't you?</p> <p>25 A. Yes.</p> <p style="text-align: center;">Page 28</p> |

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| <p>1 Q. And in those cases you didn't know whether or not that 2 was Mr Goodman within the News of the World, or some 3 other journalist within the News of the World; is that 4 right?</p> <p>5 A. It's a hub telephone number attributed at that 6 particular point to nobody.</p> <p>7 Q. As soon as you were outside that which was of interest 8 to a royal correspondent, you were beginning to suspect 9 that it wasn't Mr Goodman but some other journalist, 10 weren't you?</p> <p>11 A. Sorry, in terms of whether it spanned outside of the 12 royal issues?</p> <p>13 Q. Yes.</p> <p>14 A. Yes.</p> <p>15 Q. We'll come back to that. In paragraph 18 you identify 16 the total of nine rogue numbers being used by your two 17 suspects, who at that stage were Goodman and Mulcaire. 18 Can I ask you about paragraph 24, where you're 19 referring to the serious threat to life presented by 20 terrorist threats. To what extent did those 21 considerations impede the investigation before 8 August 22 2006?</p> <p>23 A. They were in my mind throughout the time between April 24 and the August period you mention inasmuch as in the 25 first instance I was a senior investigating officer</p> <p style="text-align: center;">Page 29</p> | <p>1 your victims. In your own words, what did you need to 2 do pursuant to that exercise to obtain evidence which in 3 your view would satisfy the criminal standard of proof?</p> <p>4 A. What I needed to show was the fact that in the case of 5 Goodman and latterly Mulcaire they were in possession of 6 some telephones, and from those telephones they were 7 ringing up our victims, they were ringing up the unique 8 voicemails or the direct telephone numbers, simple as 9 that.</p> <p>10 Now, we undertook a process through I think May, 11 June time which is the experimental process, if you 12 like, to try to prove the sequencing of a voicemail 13 message being left, a voicemail message being accessed 14 by a rogue telephone number before it was opened by the 15 intended recipient and who actually did that at the 16 time.</p> <p>17 So the process we went through was obviously with 18 Jamie Lowther-Pinkerton and Helen Asprey, and this was 19 a test period of a number of weeks, to actually prove 20 that sequencing, in terms of proving the unopened 21 envelope, if you like.</p> <p>22 In terms of the process, the process we needed to do 23 was to prove potentially that in the case of Goodman the 24 home telephone number of Goodman was in Clive Goodman's 25 hand at the time. It wasn't in Mrs Goodman's hand or it</p> <p style="text-align: center;">Page 31</p> |
| <p>1 responsible for a number of those investigations. 2 I think the term -- I think the number of 50 plus 3 investigations at the beginning of this investigation 4 moving through to somewhere close to 73 by the end of 5 December 2006 I was absolutely cognisant of because as 6 a senior investigating officer I was responsible for 7 a number of those investigations during that period, and 8 whilst undertaking those duties, I was also in and out 9 of the country where those investigations took me.</p> <p>10 So in terms of my responsibilities as a senior 11 investigating officer for terrorist investigations along 12 with this investigation, this was part of my workload if 13 you like as well as other terrorist investigations at 14 that time.</p> <p>15 Q. Was the position this: at the time Goodman and Mulcaire 16 were arrested on 8 August, you had all the evidence in 17 place which you believed to be necessary to effect those 18 arrests; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. And that was notwithstanding all the other pressures you 21 were under, is that also right?</p> <p>22 A. That's correct.</p> <p>23 Q. Can I move forward, please? You explain the position, 24 paragraphs 29 to 31, in relation to unifying the 25 individual rogue numbers of Goodman and Mulcaire with</p> <p style="text-align: center;">Page 30</p> | <p>1 wasn't in Mr Smith's hand, who may well have happened to 2 be at Mr Goodman's house at the time, because those are 3 always the issues that I as an investigator would 4 clearly look at, because through experience there was --</p> <p>5 Q. Through an abundance of caution. This is lines of 6 defence some people raise, is it?</p> <p>7 A. Absolutely.</p> <p>8 LORD JUSTICE LEVESON: Yes, but you put together 9 a circumstantial case which blows away the suggestion 10 that this telephone was suddenly used by a guy who said, 11 "Can I borrow your phone?" in the pub.</p> <p>12 A. Absolutely right, yes. Yes.</p> <p>13 MR JAY: I think, if I can cut to the quick, there are 14 possibly two stages. In order to prove an interception 15 of a voicemail, you have to prove that the phone number 16 has been accessed for or been rung for sufficient period 17 of time that the voicemail itself is being accessed. 18 That's about 9 or 10 seconds, is that correct?</p> <p>19 A. We took some advice with regard to this and Mr Bristow 20 supplied some of that advice, as did the Crown 21 Prosecution Service, who we spoke to throughout the 22 investigation. To potentially prove the existence of 23 a voicemail in the first instance, clearly we would need 24 to say there was a voicemail in there. Secondly, to 25 prove potentially the fact that somebody had gone into</p> <p style="text-align: center;">Page 32</p> |

8 (Pages 29 to 32)

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| <p>1 that voicemail and listened to it, actually opened the</p> <p>2 envelope, if you like, and listened to it, the expert</p> <p>3 was saying to us this was probably between the 10 to 14</p> <p>4 seconds, and that simply was based on the fact that when</p> <p>5 you or I listen to our voicemail messages --</p> <p>6 Q. It takes that long to get in?</p> <p>7 A. We get a blurb before that, before we actually listen to</p> <p>8 what I've actually tried to listen to in the first</p> <p>9 instance. That's just 10 to 14 seconds.</p> <p>10 Q. I think we can agree, Mr Surtees, that you have to get</p> <p>11 to those 10 to 14 seconds before an offence is</p> <p>12 committed, but as soon as you go beyond the 10 to 14</p> <p>13 seconds, the inference is that someone is listening to</p> <p>14 a voicemail rather than there being nothing in the</p> <p>15 mailbox. Would you agree?</p> <p>16 A. Yes.</p> <p>17 Q. Then there's the second point, which is the technical</p> <p>18 legal argument which we've already looked at, as to</p> <p>19 whether it's necessary to prove that the listening is</p> <p>20 occurring before the intended recipient is accessing,</p> <p>21 and that is something that you pursued along with</p> <p>22 Mr Bristow, who was your expert adviser; is that right?</p> <p>23 A. Yes. Throughout the investigation, even up to August,</p> <p>24 September time, that advice remained the same from the</p> <p>25 Crown Prosecution Service.</p> <p style="text-align: center;">Page 33</p> | <p>1 identification of customers who were outside the purview</p> <p>2 of the royal household. It's Mr Clifford and HJK. This</p> <p>3 was in May of 2006. At that point did you begin to</p> <p>4 suspect that these activities may be going beyond</p> <p>5 Mr Goodman?</p> <p>6 A. Yes.</p> <p>7 Q. Why was that?</p> <p>8 A. I don't precisely know the timing of this. We were</p> <p>9 informed through our contacts within O2 and Vodafone of</p> <p>10 some potential -- or some suspicious activity with a guy</p> <p>11 who was ringing into O2 using the name Paul Williams and</p> <p>12 attempting to change PIN numbers. This was recordings</p> <p>13 that O2 had had to their various customer service</p> <p>14 centres that they thought was suspicious activity and</p> <p>15 that came about as a result of the conversations and the</p> <p>16 contacts that I and others within the investigation team</p> <p>17 were having with them at that point.</p> <p>18 I don't know precisely -- it will be in the</p> <p>19 documentation -- when I was informed of the Paul</p> <p>20 Williams position, but here we have an expansion, if you</p> <p>21 like, beyond the royal household. I was cognisant to</p> <p>22 the fact that we have a royal editor from the</p> <p>23 News of the World.</p> <p>24 Q. Can you ask you this, Mr Surtees: did anybody carry out</p> <p>25 a study, if that's the right word, of the sort of pieces</p> <p style="text-align: center;">Page 35</p> |
| <p>1 Q. I've asked this question of Mr Williams, but I'll ask it</p> <p>2 of you. That's true of the direct offence under section</p> <p>3 1 of RIPA, but for a conspiracy offence under the</p> <p>4 Criminal Law Act you wouldn't have to prove that, would</p> <p>5 you?</p> <p>6 A. I don't think so. I think what we'd need to prove is</p> <p>7 some guilty mind and a guilty act.</p> <p>8 Q. Thank you.</p> <p>9 LORD JUSTICE LEVESON: Overt act to prove the substantive</p> <p>10 agreement, and if somebody's got hold of the PIN number</p> <p>11 of an owner of a voicemail, mobile telephone, then</p> <p>12 that's not an overt act.</p> <p>13 A. There are various things I would rely on as an</p> <p>14 investigator to evidentially put to a suspect in that</p> <p>15 type of instance. I guess very straightforwardly</p> <p>16 I would need to prove that either somebody who was</p> <p>17 receiving information or instructing others to carry out</p> <p>18 activity on their behalf either knew when they received</p> <p>19 that information or gave that instruction what they were</p> <p>20 participating in was an illegal offence.</p> <p>21 MR JAY: Thank you. Move forward to paragraph 35 of your</p> <p>22 statement which on the internal numbering is page 16.</p> <p>23 It starts at 04170. I'm not quite sure where</p> <p>24 paragraph 35 is going to be precisely, but I hope we'll</p> <p>25 be able to put it on the screen. 4185? It's the</p> <p style="text-align: center;">Page 34</p> | <p>1 Mr Goodman was writing in the News of the World?</p> <p>2 A. There was at a very early stage before I joined this</p> <p>3 investigation by Phil Williams, which I think started</p> <p>4 part of the investigation off, which was looking at some</p> <p>5 of the document -- or some of the stories that had been</p> <p>6 produced by Clive Goodman in the News of the World.</p> <p>7 Q. Can I ask you to look at a briefing note which I think</p> <p>8 was probably for DAC Clarke's eyes. At tab 59 of the</p> <p>9 first file, which is 03028 -- you will have the first</p> <p>10 file. This is a briefing note that you prepared.</p> <p>11 A. Sorry, what number?</p> <p>12 Q. Tab 59. Because Mr Williams was away. By this point,</p> <p>13 you'd ascertained that Mr Williams and Mr Mulcaire were</p> <p>14 the same person. At the bottom of the page, various</p> <p>15 checks in the investigations are recommended, going to</p> <p>16 be carried out in relation to Mr Mulcaire. The</p> <p>17 inference you draw as to the conspiracy between Goodman</p> <p>18 and Mulcaire is the top of the next page, is that right,</p> <p>19 Mr Surtees?</p> <p>20 A. Yes.</p> <p>21 Q. And then other victims, Mr Clifford and HJK are</p> <p>22 mentioned. You say:</p> <p>23 "This investigation was undertaken by the ATB for the</p> <p>24 reasons outlined within this decision log. The</p> <p>25 physical risks to the Royal Family cannot be</p> <p style="text-align: center;">Page 36</p> |

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| <p>1 underestimated and as such anything other than a CT ..." 2 that's obviously counter terrorist? 3 A. Yes. 4 Q. "... investigation into the unlawful access would be 5 unwise. The wider issue, however, is somewhat 6 different, as the potential terrorist risk to private 7 citizens does not fall into the counter terrorist 8 portfolio. That does not mean that it shouldn't be 9 investigated because each unlawful interception is 10 a serious offence. I have briefed DAC Clarke and others 11 into the widening aspect of this investigation with 12 a suggestion that another investigative team should take 13 the wider investigation. I await a response on this 14 issue." 15 Well, it goes without saying that your suggestion 16 was rejected; is that right? 17 A. Yes. 18 Q. What reasons were given to you? 19 A. The parameters of the investigation were set by 20 Mr Clarke at a very early stage. I was clear on those 21 parameters and clearly pursued those parameters in the 22 way in which I conducted this investigation. 23 The issue of other victims coming into this 24 investigation and the potential widening of it, looking 25 back at "the potential terrorist risk to private Page 37</p> | <p>1 A. Yes, it's a fair observation, I accept that. 2 Q. There might be a reason why it was kept within SO13. 3 A. Yes. 4 Q. We can ask Mr Clarke tomorrow. 5 A. Absolutely. 6 Q. Can I ask you to look forward to tab 79. 7 LORD JUSTICE LEVESON: We're just passing tab 60. It 8 doesn't matter, but it does say: 9 "Itemised billing on the suspect numbers would show 10 calls into the relevant retrieval number including 11 dates, times and durations." 12 All right, tab what? 13 MR JAY: Tab 77 first, which is 03104. You have a cabinet 14 minister whose phone has been accessed, and what you're 15 saying here is this is a reason for accelerating what 16 you call executive action, namely arresting Goodman and 17 Mulcaire; is that right? 18 A. Yes. I think I refer back in my decision log around 19 this challenge, if you like, between extending this 20 investigation and prolonging the investigation to 21 include the widening aspects of it, and I talk about the 22 actual challenge that that presents to the investigation 23 inasmuch as it would continue to expose potential 24 victims to continued interception. 25 My primary concern at that particular point is the Page 39</p> |
| <p>1 citizens does not fall into the counter terrorist 2 portfolio", clearly it does. I think what I was trying 3 to get at here was here we have a switch in issues going 4 on. The location potentially of senior members or 5 junior members of the Royal Family is clearly a national 6 issue in terms of national security, therefore it quite 7 rightly fits within the confines of the anti-terrorist 8 branch CT investigation. The tittle-tattle issue of 9 other particular members of the public would potential 10 fall out of the remit of the anti-terrorist branch and 11 that's what I'm getting at there. 12 I've suggested that at that particular point simply 13 because we have a widening of the investigation at that 14 point with the inclusion of Clifford, HJK, and I've had 15 those discussions, and in terms of that, the suggestion 16 I made, I think on 31 May that is dated? 17 Q. It is. 18 A. Has been considered and a decision has been made not to 19 accept that at that point. 20 Q. It might be said it's a bit difficult to disentangle the 21 narrow investigation into the royal household and any 22 wider investigation that if there is going to be a wider 23 investigation, it should be kept in the same place, as 24 it were, rather than have two investigations going on 25 concurrently. Is that a fair observation or not? Page 38</p> | <p>1 continued exposure of both Royal Family, cabinet 2 ministers, because of the national security implications 3 of that, and the fact that we now have, as well as the 4 Royal Family -- and I appreciate the vast majority of 5 the Royal Family issues or access is servicing news 6 stories -- the fact that we now have a cabinet minister 7 causes me more concern with regard to this national 8 security aspect. I need to be able to stop this. 9 Because if I allow this to continue for a number of 10 weeks whilst trying to widen any investigation, 11 I continue the exposure potentially to cabinet ministers 12 and others. 13 Q. So to be clear, Mr Surtees, the widening of the 14 investigation would obviously have embraced widening the 15 victim pool, but might also have embraced widening the 16 group of conspirators, but your primary concern was to 17 move this to a conclusion to halt the exposure of 18 individuals in high office to voicemail interception. 19 Do I have it right? 20 A. Yes, you have, and I think there are two separate issues 21 in terms of widening it in terms of a victim pool and 22 widening it in terms of a suspect pool. The widening in 23 terms of a victim pool, we would have a point at which, 24 in terms of two defendants going before the court, we 25 have a point at which we saturate, if you like, an Page 40</p> |

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| <p>1 indictment against them. Whether that's 100 victims 2 within a pool that have been targeted by two suspects or 3 whether it's in the instance seven or eight, which 4 I think is how the indictment ended up, really matters 5 little. I think, in terms of widening the suspect pool, 6 that is a protracted piece of work, because we'd have to 7 go through the whole process again of trying to 8 identify, et cetera.</p> <p>9 Q. Thank you. To move the story forward, I'm not hoping to 10 duplicate evidence we've already heard, but just one 11 piece of evidence which we haven't yet heard. At 12 tab 81, 03109, this is seven pages within that tab, 13 there's an email from the CPS copied in to you on 14 7 August 2006 on the internal numbering at page 200. It 15 refers to a meeting, or rather speaking to counsel. You 16 believe that was leading counsel; is that right?</p> <p>17 A. Yes.</p> <p>18 Q. Four lines down: 19 "The meeting was very useful. We concluded that in 20 essence the alleged criminal activity alleged against 21 the suspect does give rise to the offences I have 22 outlined. We have briefly discussed before the 23 possibility of arguing that what we have termed our 24 Computer Misuse Act offences might fall to be considered 25 as RIPA offences but the issue had not definitively been</p> <p style="text-align: center;">Page 41</p> | <p>1 at least, of additional co-conspirators; is that 2 correct?</p> <p>3 A. I think it's more with regard to the fact that we've got 4 more information/evidence coming from the telephone 5 companies to talk about access to DDNs and the 6 sequencing which we're concentrating on as opposed to 7 more suspects.</p> <p>8 Q. I move forward to tab 83, which is 03121, which again 9 I think is your document; is that right?</p> <p>10 A. It is the search strategy.</p> <p>11 Q. We see that strategy explained at the bottom of the 12 first page: 13 "There's an issue with the searching of 14 Clive Goodman's office desk area within News 15 International and that a section 8 warrant excludes the 16 application of said warrant if it's likely that 17 journalistic material would be found during the search. 18 I have decided that a section 8 warrant will be sought 19 to allow entry and search of the finance office within 20 News International that would hold details of documents 21 relating to payments by News Corporation International 22 to Glenn Mulcaire. We do not seek nor do I anticipate 23 finding journalistic material during this search. 24 "Whilst I accept the entire finance and resource 25 department of News International is likely to be</p> <p style="text-align: center;">Page 43</p> |
| <p>1 argued."</p> <p>2 Is that a reference to bringing this matter within 3 RIPA or to the technical argument about the timing of 4 the interception?</p> <p>5 A. The latter, the technical argument about the opening.</p> <p>6 LORD JUSTICE LEVESON: It's the same point.</p> <p>7 MR JAY: It's the same point.</p> <p>8 LORD JUSTICE LEVESON: Because it brings it into RIPA -- if 9 you have to open the envelope, that's only for RIPA 10 purposes, it's not for the Computer Misuse Act purposes.</p> <p>11 MR JAY: Because the Computer Misuse Act would be infringed 12 even --</p> <p>13 LORD JUSTICE LEVESON: In any event.</p> <p>14 MR JAY: In any event. The CPS continues: 15 "I was reticent about arguing the point in this 16 case. However, having considered the matter with 17 counsel, we have concluded that we could properly argue 18 the point, and in any event nothing would be lost as we 19 already have the four main clear RIPA offences (if not 20 more I hear!)"</p> <p>21 Do you know what that's a reference to?</p> <p>22 A. I don't. I can suspect it's because of the ongoing 23 material that has been supplied to us by the telephone 24 companies through August, September, October, et cetera.</p> <p>25 Q. So that might have been a reference to the possibility,</p> <p style="text-align: center;">Page 42</p> | <p>1 outsourced and not located within Virginia Street, there 2 must be an accountancy financial clearing house within 3 the building that would receive correspondence."</p> <p>4 So what you were doing there was in order to avoid 5 difficulties with journalistic material, focus the 6 search on non-journalistic material; is that correct?</p> <p>7 A. In the first instance I've set a very comprehensive 8 search strategy. I think over 13 premises and vehicles 9 were searched as a result of the search strategy I set 10 prior to August 8. The second part specifically deals 11 with the challenges around searching of News 12 International. If we refer back to 82, which is the 13 document from Carmen Dowd, I think from memory she 14 actually talks about the search legislation.</p> <p>15 Whilst I'm producing my search strategy, clearly I'm 16 aware of the limitations of the Police and Criminal 17 Evidence Act with regard to what we can search for and 18 where we're likely to find either journalistic or other 19 protected material. Section 8 specifically precludes 20 actually applying for the section 8 warrant where we're 21 likely to find journalistic material within that search.</p> <p>22 RIPA, the offences for which we were investigating, 23 does not carry a power of search. Thereafter, my only 24 route left beyond section 8 is section 18, section 18(2) 25 and (5). The reason I sought advice is because clearly</p> <p style="text-align: center;">Page 44</p> |

11 (Pages 41 to 44)

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| <p>1 I wanted the view of the Crown Prosecution Service for 2 this. I wanted very much to get into 3 News International, because I wanted to search the desk, 4 I wanted to search the financial areas, I wanted to find 5 evidence around who was involved in this illegal 6 activity.</p> <p>7 The advice given back was that section 8 was very 8 difficult and it was unlikely to succeed and we may well 9 be breaching at that point where we were likely to find 10 journalistic material. I saw that advice and 11 I justified obtaining the section 8 warrant on the basis 12 of what I put into my decision log on the basis that 13 I thought I'm likely to find not journalistic material 14 in the areas that I'm going to search; I'm going to find 15 financial material.</p> <p>16 So despite suggestions that it would be difficult 17 under section 8 and potentially not possible, I thought 18 there was a way for us to do that and I sought that 19 route and obtained the section 8 warrant.</p> <p>20 Q. In the event, owing to what happened on the day, is this 21 right, the search was limited to the desk only and did 22 not cover that which was the subject of the warrant as 23 set out in tab 83; is that correct?</p> <p>24 A. There was some real difficulty in conducting the search 25 at News International. There were I think four of my</p> <p style="text-align: center;">Page 45</p> | <p>1 of your statement, Mr Surtees, the fourth line, you can 2 see this, that Detective Inspector Pearce was concerned 3 at the time that News of the World staff may offer some 4 form of violence against the small police team in the 5 building, that the clear position of News International 6 and indeed their lawyer is there was no question of any 7 threat of physical violence. Would you accept that?</p> <p>8 A. Very difficult, on the basis that I wasn't there, I was 9 simply speaking to my officers at the scene. It's very 10 difficult for me to take a view either way. The 11 information that was relayed to me is in my statement.</p> <p>12 Q. Okay. It's clear from the --</p> <p>13 LORD JUSTICE LEVESON: Whether or not you were entitled to 14 do all you sought, if you had a warrant to do certain 15 things, to do certain of what you sought, you were 16 entitled to do it.</p> <p>17 A. Yes.</p> <p>18 LORD JUSTICE LEVESON: Did you get it done?</p> <p>19 A. No. Section 19 of PACE, of course, allows us to seize 20 any evidence whilst we're legally on premises that we 21 think is pertinent to any criminal activity.</p> <p>22 MR JAY: Was any thought given to returning on another day 23 with a larger team of officers and properly executing 24 the warrant?</p> <p>25 A. I think the moment had been lost with regard to the</p> <p style="text-align: center;">Page 47</p> |
| <p>1 officers who actually got into the premises before 2 News International barred the rest of my officers from 3 going into News International. We got to the desk of 4 Goodman, we seized some material from the desk of 5 Goodman. There was a safe on his desk, which was 6 unopened. My officers were confronted with 7 photographers, who were summonsed from other parts of 8 News International, and they were taking photographs of 9 the officers. A number of night or news editors 10 challenged the officers around the illegality of their 11 entry into News International. They were asked to go to 12 a conference room until lawyers could arrive to 13 challenge the illegality of the section 18(1) and 18(5) 14 and section 8 PACE authorities, and it was described to 15 me as a tense stand-off by the officer leading that 16 search.</p> <p>17 The officer tried to get our forensic management 18 team, our search officers into the building. They were 19 refused entry, they were left outside. Our officers 20 were effectively surrounded and photographed and not 21 assisted in any way, shape or form. That search was 22 curtailed. Some items were taken. The search did not 23 go to the extent I wanted it to.</p> <p>24 Q. I've been asked to make this clear on behalf of News 25 International, that insofar as you look at paragraph 47</p> <p style="text-align: center;">Page 46</p> | <p>1 information we sought. It, I think, had gone, quite 2 frankly.</p> <p>3 Q. Implicit in that answer, Mr Surtees, is that News 4 International might have hidden or destroyed 5 incriminating information. Is that what you're 6 suggesting?</p> <p>7 A. Yes.</p> <p>8 Q. Which is obviously a point which cuts both ways, because 9 it would -- well, it goes without saying that it would 10 increase -- if you had that level of suspicion about 11 News International, that level of suspicion might take 12 you into suspicion that others in News International 13 were involved in this conspiracy. Do you see that?</p> <p>14 A. I do.</p> <p>15 Q. Can I ask you about the compilation of tab 94, which is 16 the list of those potentially compromised. We may 17 understand some more about it if you look at tab 93. 18 03171, which again is your document, isn't it, 19 Mr Surtees:</p> <p>20 "Having reviewed the material seized at the address 21 searches it is clear that there is a wealth of sensitive 22 documents relating to hundreds of individuals, including 23 royal household, Members of Parliament, sports stars, 24 military, police, celebrities and journalists."</p> <p>25 Can I ask you this: did you personally conduct any</p> <p style="text-align: center;">Page 48</p> |

12 (Pages 45 to 48)

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| <p>1 review of the material?</p> <p>2 A. I saw the Blue Book in its various stages of completion,</p> <p>3 so yes.</p> <p>4 Q. Did you see any pages of the Mulcaire notebook?</p> <p>5 A. I don't recall seeing any pages of the Mulcaire</p> <p>6 notebook.</p> <p>7 Q. At some later stage -- this is after 8 or 9 August</p> <p>8 2006 -- did you have occasion to look at the Mulcaire</p> <p>9 notebook?</p> <p>10 A. I don't know whether I did or I didn't. I can't recall.</p> <p>11 Q. When if at all did you become aware of first names, the</p> <p>12 corner names, the top left-hand side of relevant pages</p> <p>13 of the notebook?</p> <p>14 A. I think in terms of notebook, I'm not familiar with</p> <p>15 a notebook. What actually was recovered was quite a lot</p> <p>16 of loose A4 pieces of paper, and I describe them in this</p> <p>17 decision log as research in various forms of completion,</p> <p>18 and they ranged from simply first names all the way</p> <p>19 through to first names, surnames, account numbers,</p> <p>20 addresses, DDNs, telephone numbers, et cetera,</p> <p>21 et cetera.</p> <p>22 So I don't recognise a notebook, because I don't</p> <p>23 recall actually finding one or seeing one. I do recall</p> <p>24 lots of loose-leaf A4 pieces of paper, as I've said,</p> <p>25 with various stages of research on, and I think I refer</p> <p style="text-align: center;">Page 49</p> | <p>1 various bits of information that is supplied by the</p> <p>2 telephone companies as well.</p> <p>3 Q. Is the version we see under tab 94 the final iteration</p> <p>4 of the Blue Book, with the 418 names or 419 names?</p> <p>5 A. I'm pretty sure it is.</p> <p>6 Q. Can I ask you one point on this decision log because</p> <p>7 you've accurately summarised a lot of what is contained</p> <p>8 in the book. Look at the second page, level with the</p> <p>9 upper hole punch:</p> <p>10 "To establish the full picture as to whether</p> <p>11 individuals have been intercepted or the amount of times</p> <p>12 they have been intercepted all of the airtime providers</p> <p>13 will need to search their databases to give us those</p> <p>14 details."</p> <p>15 Could you explain what that was a reference to?</p> <p>16 A. Yes, and this comes back to an earlier conversation</p> <p>17 where I was explaining perhaps very badly the process</p> <p>18 that we had to go through to establish that evidence.</p> <p>19 To establish a full picture as to whether individuals</p> <p>20 have been intercepted and the amount of times, the</p> <p>21 airtime providers would need to go through their</p> <p>22 databases.</p> <p>23 What I have is I have the DDNs now of some people.</p> <p>24 I have the DDNs on these documents and I need the</p> <p>25 airtime providers to tell me whether some rogue numbers</p> <p style="text-align: center;">Page 51</p> |
| <p>1 to that within this decision. I see that through the</p> <p>2 process of -- I think it's probably from August 9, 10,</p> <p>3 onwards. I firstly negotiate a group of officers,</p> <p>4 I think somewhere in the region of 20 or 30 officers,</p> <p>5 who I negotiate because they're not anti-terrorist</p> <p>6 branch officers because they're all busy doing Operation</p> <p>7 Overt and everything else. They're Special Branch</p> <p>8 officers, they're vetted to the highest level, and it's</p> <p>9 those officers, I negotiate their overtime, because</p> <p>10 they're working through weekends when they should be</p> <p>11 off, and they work through I think for a period of five</p> <p>12 to seven days to go through all of the documentation,</p> <p>13 and with that they're briefed by me at the beginning</p> <p>14 around what I want them to do with that in the first</p> <p>15 instance, which is to ascertain whether there's anything</p> <p>16 to undermine or assist the police case with regard to</p> <p>17 Goodman and Mulcaire, because by then we've charged both</p> <p>18 Goodman and Mulcaire and my obligations under CPIA kick</p> <p>19 in.</p> <p>20 Is there anything to undermine or assist? Is there</p> <p>21 any evidence around any other people on these documents?</p> <p>22 They're given that brief and they work through that for</p> <p>23 the next five to seven days, and that's what makes this</p> <p>24 document which is now known and referred to as the</p> <p>25 Blue Book. That is added to days and weeks later with</p> <p style="text-align: center;">Page 50</p> | <p>1 or any other numbers have accessed that, and this is</p> <p>2 what I was trying to explain right at the beginning.</p> <p>3 Here I have just what I was talking about. I have</p> <p>4 a start point, if you like: telephone companies, can you</p> <p>5 tell me whether anybody's accessed these DDNs, please?</p> <p>6 Q. Was this something that you were intending to do at the</p> <p>7 time this decision log was completed?</p> <p>8 A. Yes. But indeed through the days and weeks following</p> <p>9 this that was done in various guises, because as I said</p> <p>10 where you see the numbers in this Blue Book on the</p> <p>11 right-hand side in the columns to the right, those</p> <p>12 numbers, if you like, have been added as a result of</p> <p>13 that action.</p> <p>14 So where you see sort of randomly 1, 9, 11, 4, 5,</p> <p>15 that is where the telephone companies have supplied the</p> <p>16 information I was talking about.</p> <p>17 Q. So if, for example, we look -- this is the third column</p> <p>18 from the right in the Blue Book, is it?</p> <p>19 A. No, it's the two columns that are on the right. It's</p> <p>20 the far right column and the one in from the far right</p> <p>21 column. So the first time you see a number appearing is</p> <p>22 number 9 on page 2.</p> <p>23 Q. So what is that 9 a reference to, Mr Surtees?</p> <p>24 A. That is the telephone company is telling us that</p> <p>25 somebody had gone into the DDN of that particular person</p> <p style="text-align: center;">Page 52</p> |

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| <p>1 nine times.</p> <p>2 Q. This is the footballer, nine times?</p> <p>3 A. Yes.</p> <p>4 Q. But it's not telling us from which phone number that</p> <p>5 person is calling into nine times?</p> <p>6 A. The top of the book, if you go back to page 1 of the</p> <p>7 book, look at the very badly copied tab at the top.</p> <p>8 Q. Yes.</p> <p>9 A. I think from memory that is likely to say either Goodman</p> <p>10 or Mulcaire in terms of those accesses. So that's</p> <p>11 telling me either Goodman or Mulcaire has done that nine</p> <p>12 times.</p> <p>13 Q. Is this right, the enquiry did not go beyond Goodman or</p> <p>14 Mulcaire?</p> <p>15 A. As I explained right at the beginning, it's very</p> <p>16 difficult because I didn't have telephone numbers to</p> <p>17 actually start point at.</p> <p>18 Q. Okay, so the picture was being built up with reference</p> <p>19 to the rogue numbers you knew, namely the nine rogue</p> <p>20 numbers we've referred to earlier, but it wasn't being</p> <p>21 built up with reference to any other rogue numbers?</p> <p>22 A. No.</p> <p>23 Q. Is that right? Although you did know in relation to</p> <p>24 some, if not many, of these victims that people were</p> <p>25 phoning in from the News of the World hub number; is</p> <p style="text-align: center;">Page 53</p> | <p>1 fact that News International have for a number of years</p> <p>2 paid substantial cash payments to his bank accounts."</p> <p>3 And then I go in to talk about the various states of</p> <p>4 some of those documents and the varying stages of the</p> <p>5 research that I think they're in.</p> <p>6 Q. Thank you. In relation to these substantial cash</p> <p>7 payments, were they limited to £12,300?</p> <p>8 A. No.</p> <p>9 Q. What sort of figure were we talking?</p> <p>10 A. I think from memory he was on a wage of £100,000 plus</p> <p>11 per year, and I saw a number of other invoices, if you</p> <p>12 like, we found from his address where I think he was</p> <p>13 individually paid for stories. I saw at least one for</p> <p>14 7,000, and I think there are one or two others also.</p> <p>15 Q. Yes, but to be fair, the sums he was receiving pursuant</p> <p>16 to his monthly retainer -- I think he was actually paid</p> <p>17 weekly -- was just over £2,000 a week in 2006. That was</p> <p>18 paid by bank transfer, it wasn't a cash payment, was it?</p> <p>19 A. It was into his HSBC bank account, yes.</p> <p>20 Q. But were you drawing the inference that those sums were</p> <p>21 being paid for the same unlawful activity: namely</p> <p>22 accessing voicemails?</p> <p>23 A. Broadly, yes. What I was seeing here was an</p> <p>24 investigator. In terms of the extent of illegal</p> <p>25 activity, so for instance was his whole week</p> <p style="text-align: center;">Page 55</p> |
| <p>1 that correct?</p> <p>2 A. I know the News of the World hub number was ringing into</p> <p>3 DDNs in treble figures, ie hundreds of times, yes.</p> <p>4 Q. And that was in relation to people who were not, as it</p> <p>5 were, in Mr Goodman's natural habitat, namely the Royal</p> <p>6 Family and those associated with it; is that correct?</p> <p>7 A. That is correct, yes.</p> <p>8 Q. Okay. So is this right, that that sort of information</p> <p>9 was fuelling your suspicions that others outside Goodman</p> <p>10 at News International may well be involved in this</p> <p>11 conspiracy?</p> <p>12 A. Yes.</p> <p>13 Q. Can I just understand your analysis of -- I call it</p> <p>14 a notebook, it isn't a notebook, it's the sheets of</p> <p>15 paper which is the 11,000 pages. Did this to you create</p> <p>16 a picture of a consistent trade craft, namely someone</p> <p>17 who was building up the means unlawfully to access</p> <p>18 voicemails? In some cases he'd got to last base and had</p> <p>19 acquired means, but in other cases he had only acquired</p> <p>20 some of the means to access voicemails?</p> <p>21 A. Yes, and I think I phrase that in my decision log:</p> <p>22 "It is clear from the documents recovered from the</p> <p>23 searches conducted that Mulcaire has been engaged in</p> <p>24 a sustained (years) period of research on behalf of</p> <p>25 News International. This assumption is based on the</p> <p style="text-align: center;">Page 54</p> | <p>1 100 per cent spent in illegal activity? I don't know.</p> <p>2 I think a substantial amount of his time was spent in</p> <p>3 illegal activity, and it's difficult for me to actually</p> <p>4 put a figure on whether the whole of his time, half of</p> <p>5 his time or whatever amount of his time was put to</p> <p>6 illegal activity.</p> <p>7 There was also research activity which was taking</p> <p>8 place, as I have mentioned, with regard to the documents</p> <p>9 we found in various stages of research. Now, that may</p> <p>10 well have been legitimate, open-source research and</p> <p>11 other perhaps nefarious research that he would have been</p> <p>12 undertaking. Whether that would have breached the</p> <p>13 criminal law, I don't know.</p> <p>14 So broadly the answer to your question is: yes.</p> <p>15 Q. Yes, I follow.</p> <p>16 You must have been disappointed, then, that in the</p> <p>17 criminal proceedings the amount of money that was</p> <p>18 forfeited was £12,300 and that was it?</p> <p>19 A. We had some discussions in court around that and the</p> <p>20 answer to that question is yes, I was disappointed.</p> <p>21 Q. Can I ask you please to look at paragraph 52 -- or maybe</p> <p>22 before we come to 52, if we could take a short break?</p> <p>23 LORD JUSTICE LEVESON: Yes, let's have five minutes.</p> <p>24 (3.29 pm)</p> <p>25 (A short break)</p> <p style="text-align: center;">Page 56</p> |

14 (Pages 53 to 56)

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| <p>1 (3.35 pm)</p> <p>2 MR JAY: Mr Surtees, paragraph 52 of your statement, please.</p> <p>3 You refer to the spreadsheet which is our tab 94. About</p> <p>4 eight lines down you say:</p> <p>5 "It was also clear that on some of the sheets of</p> <p>6 paper generated by Mulcaire that he had written names on</p> <p>7 the top corner, which may have been the intended</p> <p>8 recipients of the information from within News of the</p> <p>9 World. Whilst the most probable explanation for the</p> <p>10 corner names was that journalists at the News of the</p> <p>11 World were in receipt of this information, and that they</p> <p>12 could be aware of the illegal practices, the difficulty</p> <p>13 was proving this."</p> <p>14 When did you become aware of the existence of these</p> <p>15 corner names? Can you recall?</p> <p>16 A. Probably during the weekend and the days after when the</p> <p>17 Special Branch officers I'd tasked to go through the</p> <p>18 11,000 or so sheets of paper had been completed.</p> <p>19 Q. Did you not think it likely that not merely would these</p> <p>20 journalists -- or rather the corner names be the</p> <p>21 individuals who were, as it were, commissioning</p> <p>22 Mulcaire, but that they would also know Mulcaire's trade</p> <p>23 craft, because Mulcaire would be sharing with them the</p> <p>24 fruits of his illegal activities, namely what was on the</p> <p>25 voicemails?</p> <p style="text-align: center;">Page 57</p> | <p>1 the management team and was aware of, by that point, the</p> <p>2 70 or so major terrorist investigations that were taking</p> <p>3 place. I was part of them.</p> <p>4 So in terms of what I would have liked to have done</p> <p>5 coupled with my obligations and the seriousness of the</p> <p>6 investigations I was involved in, I knew where my</p> <p>7 priorities lay, and those were with the issues of</p> <p>8 serious threat to life investigations. That's where</p> <p>9 I needed to be and that's where my staff needed to be.</p> <p>10 Q. Did you consider and discuss with your senior officers</p> <p>11 the possibility of a more limited investigation in the</p> <p>12 first instance, namely target the most senior</p> <p>13 journalists, arrest them, see what can be done with the</p> <p>14 call data, because you'd be able to find out their</p> <p>15 mobile phone numbers or other relevant numbers, and just</p> <p>16 see what the fruits of that enquiry might reveal?</p> <p>17 A. I can't remember exactly the extent of the conversations</p> <p>18 we had at this particular time, which would have been</p> <p>19 around the late September/October time of 2006, but</p> <p>20 certainly having had the Blue Book compiled and having</p> <p>21 had the documents that were gone through and the</p> <p>22 information with regard to potential journalists at the</p> <p>23 top corner of some of those documents, the extent of the</p> <p>24 conversations I had around scoping a possible</p> <p>25 investigation in the future and the extent of what that</p> <p style="text-align: center;">Page 59</p> |
| <p>1 A. Potentially, yes.</p> <p>2 LORD JUSTICE LEVESON: There's no point in using him if</p> <p>3 you're not going to use him.</p> <p>4 A. Absolutely right. I know he was supplying journalists</p> <p>5 with his product. The issue was whether or not those</p> <p>6 journalists knew how he was obtaining that product and,</p> <p>7 knowing how he was obtaining that product, were either</p> <p>8 tasking him or receiving it, or whether they were simply</p> <p>9 blindly receiving product.</p> <p>10 MR JAY: You rightly point out at the bottom of this page:</p> <p>11 "This would have meant potentially arresting those</p> <p>12 journalists listed on Mulcaire's documents."</p> <p>13 Because obviously you couldn't have proceeded</p> <p>14 without doing this. Then you say:</p> <p>15 "To effect this, there would need to be a full scale</p> <p>16 criminal investigation sanctioned by senior officers of</p> <p>17 SO13."</p> <p>18 You're rather suggesting there or you might be</p> <p>19 suggesting there that was something you would rather</p> <p>20 have liked to have done. Is that correct?</p> <p>21 A. Absolutely. But if I can potentially -- or if I can add</p> <p>22 something to that -- I need to stop saying</p> <p>23 "potentially" -- if I can add something to that, yes,</p> <p>24 I would have liked to have done that, but I was an SIO</p> <p>25 on a number of terrorist investigations, I was part of</p> <p style="text-align: center;">Page 58</p> | <p>1 investigation would look like, I can't remember the</p> <p>2 exact details of that. I certainly can't remember going</p> <p>3 into -- we could have a major investigation or we could</p> <p>4 have a smaller investigation.</p> <p>5 Q. I understand. In paragraph 56, towards the bottom of</p> <p>6 that paragraph, you say that you:</p> <p>7 "... contacted several potential victims to inform</p> <p>8 them that their phones had been illegally intercepted</p> <p>9 and to request they provide statements and assist any</p> <p>10 future trial. One of these victims was Tessa Jowell.</p> <p>11 All of the potential victims declined to assist us with</p> <p>12 the prosecution."</p> <p>13 Did they give any reasons?</p> <p>14 A. Most of the conversations were greeted with shock,</p> <p>15 incredulity and surprise. I can't remember specifically</p> <p>16 whether one person said something or another person said</p> <p>17 something else. It resulted in me asking them whether</p> <p>18 they would support an investigation, ie supply</p> <p>19 a statement to me to say that, "I didn't give anybody</p> <p>20 permission to access my voicemail box", and they</p> <p>21 declined that request. I can't remember precisely how</p> <p>22 that was relayed across to me.</p> <p>23 Q. It's important that this piece of evidence comes out,</p> <p>24 because it demonstrates that it wasn't necessarily that</p> <p>25 straightforward in all aspects of this, at least in</p> <p style="text-align: center;">Page 60</p> |

15 (Pages 57 to 60)

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| <p>1 terms of identifying victims.</p> <p>2 LORD JUSTICE LEVESON: But in one sense that helped with one</p> <p>3 of your other problems, didn't it, Mr Surtees, because</p> <p>4 there was a pressure on you with other work, some of the</p> <p>5 victims you'd spoken to didn't really want to go down</p> <p>6 the prosecution route, but it wouldn't have been an</p> <p>7 enormous task, would it, to take your Blue Book and make</p> <p>8 sure that everybody on the Blue Book was told that there</p> <p>9 was some information to this effect, it may not be</p> <p>10 possible to prosecute it for reasons which you've</p> <p>11 explained, but they ought to be aware of that fact and</p> <p>12 take appropriate security arrangements and at least be</p> <p>13 alert. That wouldn't have been the work of officers of</p> <p>14 your rank or indeed officers of senior rank of any sort,</p> <p>15 would it?</p> <p>16 A. I accept that. In terms of the Blue Book and in terms</p> <p>17 of the document that was produced later, which was</p> <p>18 a document produced as a result of the analysis of the</p> <p>19 electronic media, which I think came to us on</p> <p>20 23 November 2006, in relation to both those documents,</p> <p>21 I accept that, the Metropolitan Police, could have</p> <p>22 approached all of those people and said, "Look what is</p> <p>23 on a piece of paper", or, "Look what is on a document</p> <p>24 and look how it relates to you". I accept that.</p> <p>25 LORD JUSTICE LEVESON: Of course you could. But the value</p> <p style="text-align: center;">Page 61</p> | <p>1 it, you receive a text on your telephone to say your PIN</p> <p>2 number has been changed. That didn't happen in 2005, it</p> <p>3 happens now.</p> <p>4 So there was remedial action taken by the telephone</p> <p>5 companies to actually stop that. There was other action</p> <p>6 taken by them.</p> <p>7 There was also my understanding that the telephone</p> <p>8 companies for the non-four categories of victims, the</p> <p>9 non-military, royal household, MPs, police, were being</p> <p>10 told by those telephone companies that potentially their</p> <p>11 telephones had been accessed.</p> <p>12 LORD JUSTICE LEVESON: Do you know whether they did that?</p> <p>13 A. I know now that they didn't do that.</p> <p>14 MR JAY: Can I just understand one aspect of the strategy</p> <p>15 for notifying victims.</p> <p>16 A. Can I just follow up on that one point? I know now that</p> <p>17 some of them didn't do that. O2 I know did do that.</p> <p>18 Q. Yes. I think they notified 45 individuals. Other</p> <p>19 companies did nothing.</p> <p>20 Paragraph 58, please, of your statement, the victim</p> <p>21 strategy. Your understanding of what the strategy was</p> <p>22 in relation to the four categories, the royal household,</p> <p>23 MPs, military officials or police officers, was the</p> <p>24 strategy to notify those who were, as you say here,</p> <p>25 suspected to have been targeted or was it to notify</p> <p style="text-align: center;">Page 63</p> |
| <p>1 of it is that then they are alert. They can take it</p> <p>2 further if they want to, and then you have decision</p> <p>3 trees to go through about what you do, but more</p> <p>4 significantly, they can take steps to make sure that</p> <p>5 they change their numbers or whatever, because once it's</p> <p>6 out there, it's out there. Is that not fair?</p> <p>7 A. Yes, I accept that. With the benefit of hindsight,</p> <p>8 2012, I think everybody in the Metropolitan Police might</p> <p>9 accept that. There was a communication strategy which</p> <p>10 was devised in 2006 and it was multifaceted. It dealt</p> <p>11 with the information that was put out for offer. Two</p> <p>12 people had been arrested, two people had been charged</p> <p>13 with these offences. There was various media lines put</p> <p>14 out throughout the process: two men have pleaded guilty</p> <p>15 and then latterly two men have been sent to prison. So</p> <p>16 there were through the process of August into January</p> <p>17 2007 a number of media lines put out and a lot of media</p> <p>18 coverage as a result of that.</p> <p>19 In addition to that, we were talking to all of the</p> <p>20 airtime providers for two reasons. One was to ensure</p> <p>21 that technically the airtime providers were doing</p> <p>22 something, were putting some remedial action in place to</p> <p>23 prevent this from occurring in the future, and</p> <p>24 I understand they did that, and simply it looks like if</p> <p>25 you have your PIN number changed, this is one example of</p> <p style="text-align: center;">Page 62</p> | <p>1 those in these four categories in respect of whom there</p> <p>2 was clear proof that their voicemails had been accessed?</p> <p>3 A. I was very clear on the victim definition at that time,</p> <p>4 and that was where there was some evidence that somebody</p> <p>5 other than the individuals who legitimately ring into</p> <p>6 their DDNs had rung into their DDNs. If I go to the</p> <p>7 Blue Book, the examples of that would be where we have</p> <p>8 numbers supplied by the telephone companies on the two</p> <p>9 right-hand columns of the Blue Book to say there were</p> <p>10 suspicious activity, ie there were rogue numbers</p> <p>11 accessing the DDNs/UVNs of those people. I was clear on</p> <p>12 that.</p> <p>13 Q. So is this your evidence, that even in relation to these</p> <p>14 four, as it were, security categories, there would have</p> <p>15 to be evidence of unlawful activity as evidenced in the</p> <p>16 Blue Book rather than the mere fact that they were in</p> <p>17 Mulcaire's papers?</p> <p>18 A. In terms of the strategy that was set at that time, yes.</p> <p>19 Q. Okay. Paragraph 65, please. Having set out earlier in</p> <p>20 your statement all the competing considerations which</p> <p>21 you've given oral evidence about:</p> <p>22 "Consequently it was made very clear that, given the</p> <p>23 unprecedented amount of operations currently live within</p> <p>24 SO13 and the huge demand this was having on the CT</p> <p>25 command, this matter was not to be investigated beyond</p> <p style="text-align: center;">Page 64</p> |

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| <p>1 the original parameters." 2 Can you remember when that decision was made, 3 Mr Surtees? 4 A. Not specifically, but it would have been end of 5 September into October of 2006. 6 Q. Is it your understanding it was made by DAC Clarke? 7 A. Yes. 8 Q. Were you present at a meeting where that was discussed 9 or was the decision as it were communicated to you 10 subsequently? 11 A. I can't recall being at a meeting. I think the decision 12 was subsequently communicated to me. 13 Q. When it was communicated to you, what was your reaction? 14 A. As I've already said, I was fully aware of the vast 15 resource requirements on the counter terrorism command 16 at that time with regard to the 72 investigations. 17 I was aware of that because I was leading a number of 18 those, and involved in a number of others. Had I been 19 concerned about the legitimacy or otherwise of that 20 decision, I would have taken that elsewhere. What 21 I mean by that is I clearly am alive to the fact that we 22 have got lines of investigation that had not been 23 pursued in this case. The lines of investigation could 24 have been pursued, and, as a detective, I would have 25 liked to have pursued them.</p> <p style="text-align: center;">Page 65</p> | <p>1 format. I certainly remember having conversations with 2 Phil Williams, Tim White and others, including Peter 3 Clarke, through this investigation. Specifically the 4 late September/October time I don't recall the form that 5 briefing took. 6 Q. When you say in paragraph 69 of your statement, towards 7 the end of it, that consideration was given to 8 outsourcing the outstanding aspects of the investigation 9 to another MPS specialist department, was that something 10 which you were keen to achieve or not? 11 A. Yes, that was a solution that I was putting forward. As 12 I'd already documented in my decision log earlier in the 13 proceedings, I think around May time, 31 May, from 14 memory, I proffered that as an option/opportunity. 15 Again in the latter part of the investigation, 16 September/October time, I was clear, of course, at that 17 time the levels of police resource that were being 18 absorbed by the anti-terrorist branch to fulfil our 19 obligations under current investigations. For instance, 20 both in Op Overt, which was the August 2006 issue, all 21 of the surveillance resource in London and the vast 22 majority of the surveillance resource across the country 23 was used on this operation. 24 Now, what that meant in real terms was that other 25 criminal investigations, such as serious organised</p> <p style="text-align: center;">Page 67</p> |
| <p>1 If Peter Clarke had made a decision based upon 2 resource, and my experience at that particular time was 3 that there was lots of resource, and I thought the 4 decision was perverse, then I would have taken that 5 elsewhere. That was absolutely not my position when the 6 decision was communicated down to me. I was fully aware 7 of where we were within the anti-terrorism branch or 8 counter terrorism command at that time. 9 Q. In relation to the correspondence with Burton Copeland 10 and their response to your requests for information, was 11 it your view that News International, through their 12 solicitors, were co-operating or not? 13 A. No, it was my view that they weren't co-operating. 14 Q. Were you asked to put together, as it were, a briefing 15 pack for DAC Clarke to enable him to reach an informed 16 decision on this important issue? 17 A. With regards to August/September time or -- 18 Q. No, this is September/October time, keeping the 19 investigation within the original parameters, which 20 means not expanding it to include the possibility of 21 bringing in other individuals. 22 A. I don't recall putting together a briefing note as such. 23 And I don't know whether that decision was based upon 24 a verbal briefing delivered or whether it was delivered 25 in a written format. I don't recall doing the written</p> <p style="text-align: center;">Page 66</p> | <p>1 crime, armed robbery, professional standards 2 investigations within the police, fraud investigations, 3 would not have that resource for a considerable length 4 of time. This was the reality of what was occurring in 5 2006, and I was fully aware of that. In addition to 6 that, we had a whole lot of other investigative 7 resources on loan to us. I think at the beginning of 8 2006 it was probably somewhere in the region of 750 to 9 1,000 officers over and above ours. I think as we went 10 towards the end of 2006 that diminished slightly, but it 11 was a constant ebb and flow of requests, both within the 12 Metropolitan Police and outside, for resource to support 13 anti-terrorist branch investigations. 14 So I could understand Peter Clarke's challenge of 15 going again to ask for more resource with regard to this 16 investigation. 17 LORD JUSTICE LEVESON: That takes you back to the issue that 18 we've just mentioned. If you can't go further forward 19 with it, don't you have to do your best to ensure that 20 you got the very widest benefit from the work that you 21 have put in, first of all by ensuring that everybody 22 knows about it who might have been affected, might have 23 been affected, and secondly, that the organisation which 24 you believe has been the hub of instructing this private 25 detective has demonstrably sorted itself out, if I can</p> <p style="text-align: center;">Page 68</p> |

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| <p>1 just put it colloquially, and that wouldn't have taken 2 a great deal of police resource? 3 A. No. On the first issue, I accept the organisation could 4 have taken a different tactic, if you like, and tasked 5 to go to a number of persons of interest -- I won't term 6 them victims -- persons of interest, if you like, and 7 inform them of that. 8 With regard to the second piece, the communication 9 strategy, if you like, and the actions that we'd taken 10 with regard to News International I think delivered the 11 message to News International very firmly that either we 12 have individuals within News International -- certainly 13 we have individuals within News International who were 14 engaged in sustained periods of criminal activity. That 15 was borne out with the prosecution, it was borne out 16 with the opening that Mr Parry on behalf of prosecution 17 led on. 18 I have considered the issue of whether or not we 19 would go to News International and have a conversation, 20 and if we'd done that, it may well have been viewed 21 cynically. Had we done that in 2006, for example, 22 I don't know whether we would be sitting here in 2012 23 trying to answer -- 24 LORD JUSTICE LEVESON: Maybe you would, but then you would 25 be able to say, "Well", as you've just said, actually,</p> <p style="text-align: center;">Page 69</p> | <p>1 sets out the background: 2 "Two individuals who were obtaining details of 3 mobile phone messages ... [et cetera]. Attempts have 4 been made to obtain personal details of one politician 5 and Commander Paddick. It is also believed attempts may 6 have been made to corrupt serving police officers and 7 misuse the Police National Computer." 8 Could you explain that to us, Mr Surtees? 9 A. No, I can't. All I can suggest is that the task has 10 been handed to the officer from the Department of 11 Professional Standards by one of the exhibits officers 12 within the counter terrorism command, DC Hills, who has 13 made various assumptions and briefed on that basis. 14 That's all I can assume this is. 15 The investigation from December 2005 through to 16 August 2006 and beyond that was a very, very tight 17 investigation. There were very few officers who were 18 involved in that who knew the details of what had gone 19 on. Hence when I opened this up to the 30 or so 20 officers who went through and populated the Blue Book, 21 they were developed vetted staff officers. 22 Throughout this investigation and beyond, into 2006, 23 there was a tight investigation, the details of which 24 were known by very few people. 25 What I have here and I can assume is that DC Hills,</p> <p style="text-align: center;">Page 71</p> |
| <p>1 "counter terrorism, armed robbery, the resource is not 2 limitless, so we're doing the best we can." 3 A. Yes. 4 LORD JUSTICE LEVESON: Certainly you'd have been able to 5 say, "And my God, when they started to talk about 6 a single rogue reporter, we put them right. We didn't 7 feel that this was doing justice to the work that we'd 8 done and they knew about." 9 A. I accept that. 10 MR JAY: Can I ask you about one specific document, tab 157 11 of file 3. 03823. This is a report from the 12 Directorate of Professional Standards which relates to 13 an interrogation of one of Mulcaire's computers. Is 14 this a report which you saw at the time, Mr Surtees? 15 A. Yes. I think it was delivered to us either the week the 16 two defendants, Mulcaire and Goodman, pleaded guilty or 17 the week before they pleaded guilty. It was somewhere 18 around 20 November 2006. 19 Q. The week before since it's dated 23 November and the 20 guilty pleas were -- 21 A. Yes, I have seen it and it does relate to a number of 22 computers, not just one. 23 Q. Can I ask you, please, to clarify two points, really. 24 If you look at the second paragraph on the first 25 narrative page of the report under "Tasking", where it</p> <p style="text-align: center;">Page 70</p> | <p>1 who wasn't part of that, has briefed the officer from 2 the Department of Professional Standards, put some 3 context around this, and that's what the officer has 4 written within this tasking. It's not significant 5 I recognise with regard to the investigation. 6 Q. There were names though in the project list, as it were, 7 that according to Detective Sergeant Maberly were on the 8 witness protection programme. Is that something you 9 knew about? 10 A. Yes. It was brought to my attention that some names 11 here within this document may well have been from the 12 witness protection programme. What I instructed DS 13 Maberly to do was to contact the witness protection 14 unit, get them to come across to our office, show them 15 the document, get them to look at it, and if there were 16 any risks to people they were protecting, take whatever 17 mitigation they needed to take to protect them. 18 I didn't ask or seek information from the witness 19 protection people around the quantity or individual 20 details of who -- 21 LORD JUSTICE LEVESON: Not individual details, but weren't 22 you interested to know whether it was in fact the case? 23 A. I knew it was the case on some of them because it was 24 quite obvious it was the case. 25 LORD JUSTICE LEVESON: Didn't that itself create an enormous</p> <p style="text-align: center;">Page 72</p> |

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| <p>1 issue for you? This must be among some of the most 2 confidential information that's held.</p> <p>3 A. Yes, and the officer from the witness protection unit 4 was best placed to take whatever remedial action needed 5 to be taken in regards to that. In terms of the 6 provenance of the information, that also concerned me, 7 yes.</p> <p>8 LORD JUSTICE LEVESON: But you didn't do anything about 9 that.</p> <p>10 A. I had conversations throughout May, June, July and 11 August in terms of the investigation. I had 12 conversations August, September, October, November with 13 regards to the various drips of information that were 14 coming through, and briefed those up.</p> <p>15 MR JAY: But in that context, if the conspiracy was limited 16 to Goodman and Mulcaire, there would be concern but 17 there wouldn't be enormous concern, but if the 18 conspiracy went wider, as you suspected it did, to 19 others at News International, that concern would be 20 multiplied, wouldn't it, in relation to possible 21 prejudice to those on the witness protection programme?</p> <p>22 A. Witness protection programme, access to government 23 ministers, access to military, right across. There were 24 lots and lots of concerns, yes, including the witness 25 protection issues, yes.</p> <p style="text-align: center;">Page 73</p> | <p>1 your role, please?</p> <p>2 A. I was the case officer.</p> <p>3 Q. As its name might suggest, you were hands-on dealing 4 with the evidence as it came in and progressing the 5 case, is that broadly right?</p> <p>6 A. That's right, carrying out the instructions of the SIO 7 and the IO.</p> <p>8 MR GARNHAM: Forgive me for interrupting, I know you were 9 very anxious to know when the statements were free to go 10 onto the Inquiry website. They have now all been 11 checked and are in that state, and since there are 12 people behind who are keen to see them, I thought I'd 13 let you know straight away.</p> <p>14 LORD JUSTICE LEVESON: Thank you very much indeed, 15 Mr Garnham. Possibly we could send a message to make 16 sure that that should be done as soon as possible. I am 17 conscious that today, unfortunately, not only there has 18 been that hiatus, but for part of the day, although no 19 longer now, the web streaming has failed.</p> <p>20 MR JAY: Yes.</p> <p>21 Mr Maberly, I have failed to introduce your witness 22 statement, prepared as it was for the purposes of the 23 judicial review proceedings and not this Inquiry, but 24 it's dated 30 September, signed by you and under 25 a standard statement of truth, so it's the evidence you</p> <p style="text-align: center;">Page 75</p> |
| <p>1 MR JAY: I think I'll leave it there, Mr Surtees. Thank you 2 very much.</p> <p>3 LORD JUSTICE LEVESON: Thank you very much, Mr Surtees.</p> <p>4 MR JAY: The final witness for today is Mr Maberly, please.</p> <p>5 LORD JUSTICE LEVESON: Very good. Apparently he's in the 6 annex. I hope he's not been keeping away because in 7 criminal cases witnesses aren't in court.</p> <p>8 A. No, sir, he was fully aware.</p> <p>9 MR JAY: We'll wait then.</p> <p>10 LORD JUSTICE LEVESON: We'll wait. We'll stretch our legs 11 for two minutes.</p> <p>12 (4.05 pm)</p> <p>13 (A short break)</p> <p>14 (4.07 pm)</p> <p>15 MR MARK MABERLY (sworn)</p> <p>16 Questions by MR JAY</p> <p>17 MR JAY: Your full name, please, Mr Maberly.</p> <p>18 A. My name is Mark Maberly and I'm a Detective Inspector 19 with the Metropolitan Police Service.</p> <p>20 Q. It's Mr Maberly?</p> <p>21 A. Yes.</p> <p>22 Q. Your rank, please, in March 2006 when you were working 23 within SO13 was?</p> <p>24 A. In 2006 was Detective Sergeant.</p> <p>25 Q. Thank you. In relation to Operation Caryatid, what was</p> <p style="text-align: center;">Page 74</p> | <p>1 formally gave within those proceedings; is that right?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Mr Maberly, I'm going to focus on a few discrete points 4 rather than go through the history, because we've got 5 the history substantially through your colleagues. Can 6 I just ask you though to clarify two of the technical 7 issues? In relation to Vodafone, we've heard reference 8 to something called vampire, which is separate from the 9 standard call data which I think you can get from 10 a telephone provider. So that we're clear about it, 11 what is vampire?</p> <p>12 A. My understanding of vampire data is that it was an 13 engineering or a diagnostic tool that Vodafone use to 14 see how their systems were running, including their 15 voicemail systems. And in the process of doing so, it 16 collected and captured information in relation to 17 people's accounts.</p> <p>18 Q. What sort of information?</p> <p>19 A. Information would include when a message is left, when 20 that message is opened, but I think the significant 21 issue in relation to vampire data is it didn't last very 22 long and it required the company to sort of harvest it 23 on a regular basis.</p> <p>24 Q. And the length of time or rather the time when it would 25 expire and you could no longer do the harvesting, was</p> <p style="text-align: center;">Page 76</p> |

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| <p>1 that one year?</p> <p>2 A. No, I believe it was much shorter than that. I think</p> <p>3 what you're referring to is at the time there was</p> <p>4 a requirement on mobile telephone companies to keep</p> <p>5 their call data for a six-month period. Some of the</p> <p>6 companies kept them for one year, but in relation to</p> <p>7 vampire data, there was no requirement on them to keep</p> <p>8 that data, and it's something that, as I said, it was an</p> <p>9 engineering tool. It ran constantly in the background.</p> <p>10 But if I gave you a date, I would be guessing, but my</p> <p>11 impression was it was a matter of days, maybe a couple</p> <p>12 of weeks.</p> <p>13 Q. In relation to the standard call data, we've had</p> <p>14 evidence that it is rare for people to phone into their</p> <p>15 mobile phone voicemails from another telephone. Most</p> <p>16 people access their voicemails, as I do occasionally,</p> <p>17 from the mobile phone itself. Is that your</p> <p>18 understanding?</p> <p>19 A. The majority of people, on most people's handsets, they</p> <p>20 press and hold 1, that's a short code, and it directs</p> <p>21 them directly into their voicemail account. Probably</p> <p>22 the exceptions that you may have to that are people on</p> <p>23 contracts where they're paying for voicemail retrieval,</p> <p>24 in which case it may be more normal for them to sort of</p> <p>25 recover those from their work address, because they're</p> <p style="text-align: center;">Page 77</p> | <p>1 phone before you would catch on to that.</p> <p>2 But the method of voicemail interception that you</p> <p>3 had from Mr Mulcaire was a much more sophisticated form</p> <p>4 of voicemail interception. He was changing people's PIN</p> <p>5 numbers, he was resetting those by calling into the</p> <p>6 service providers. He had knowledge of their -- the</p> <p>7 language that they would use, for instance. O2 would</p> <p>8 talk about direct dial numbers. Vodafone were</p> <p>9 different, they had unique voicemail numbers, and it was</p> <p>10 clear that he had a knowledge of different company</p> <p>11 systems in order to be able to do so.</p> <p>12 LORD JUSTICE LEVESON: But could you retrieve data that</p> <p>13 identified that an outside call had been directed to</p> <p>14 voicemail and then identify the number of that outside</p> <p>15 call? I'm not talking about me necessarily knowing it</p> <p>16 about my own, but my service provider?</p> <p>17 A. I was not aware -- I don't recall the telephone</p> <p>18 companies telling me that they would be able to track</p> <p>19 who had been listening to the voicemails through that</p> <p>20 method. I think it's almost impossible to know if</p> <p>21 someone is calling someone and they're listening to</p> <p>22 their messages, because that would just show as a call</p> <p>23 to that person's voicemail number.</p> <p>24 LORD JUSTICE LEVESON: But you would be able to tell what</p> <p>25 calls were made and directed to voicemail, even if you</p> <p style="text-align: center;">Page 79</p> |
| <p>1 not paying for it.</p> <p>2 Q. But given that rarity, doesn't that narrow down the</p> <p>3 possibilities in relation to people phoning in to</p> <p>4 voicemails from another number? Because either the</p> <p>5 owner of the mobile phone is doing it exceptionally for</p> <p>6 whatever reason, or it's a rogue call. Do you see the</p> <p>7 point?</p> <p>8 A. I do, and I think it's clear that there is a difference</p> <p>9 in the kind of voicemail interception that was being --</p> <p>10 that we believe was carried out by Mr Mulcaire, in that</p> <p>11 his was a more sophisticated form of voicemail</p> <p>12 interception. You may hear sort of Fleet Street</p> <p>13 folklore about something that they call double whacking,</p> <p>14 and I'll provide that as another example of how</p> <p>15 voicemail interception could happen in that if I ring</p> <p>16 your phone and engage it, and then another person rings</p> <p>17 your phone, they're directed into your voicemail. There</p> <p>18 is with some of the telephone companies a prospect then</p> <p>19 of interrupting that voicemail message that you receive</p> <p>20 and then being diverted into the voicemail account and</p> <p>21 putting in a PIN number.</p> <p>22 So that's double whacking, and you probably wouldn't</p> <p>23 be able to do that for too long because there's only so</p> <p>24 many calls that you could get from someone at the gas</p> <p>25 board or other spurious calls which would engage your</p> <p style="text-align: center;">Page 78</p> | <p>1 couldn't necessarily know that it had been for the</p> <p>2 purposes of accessing voicemail?</p> <p>3 A. I think that's why we needed to concentrate on this</p> <p>4 vampire data, because it's only through that kind of</p> <p>5 information that person A was leaving a message on</p> <p>6 person B's voicemail, and someone else was coming in to</p> <p>7 retrieve that, that's what vampire data provided us</p> <p>8 with, that kind of background information.</p> <p>9 MR JAY: Thank you. Can I ask you about paragraph 9 of your</p> <p>10 statement.</p> <p>11 A. Could you remind me which binder it should be in?</p> <p>12 MR JAY: That one in front of you.</p> <p>13 LORD JUSTICE LEVESON: Behind divider 6.</p> <p>14 MR JAY: Which file is that?</p> <p>15 A. This is file 5.</p> <p>16 Q. Yes. Divider 6.</p> <p>17 A. Yes, and paragraph?</p> <p>18 Q. 9. On the internal numbering in the bold it's 113. You</p> <p>19 say, level with the upper hole punch:</p> <p>20 "DC Green and I made a number of applications for</p> <p>21 phone data and this predominantly centred on the nine</p> <p>22 identified numbers that Goodman and Mulcaire were</p> <p>23 identified as using."</p> <p>24 This suggests that your enquiries went beyond those</p> <p>25 nine rogue numbers; is that right?</p> <p style="text-align: center;">Page 80</p> |

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| <p>1 A. That's correct. We were looking at other potential 2 numbers at the time. I can't give you details of these 3 from memory. What I would say is that in addition to 4 our investigation, Vodafone and O2 were carrying out 5 their own assessments of their systems and who 6 potentially was accessing voicemails. I'm aware of at 7 least one number that O2 flagged up that they'd 8 identified as potentially accessing customers' 9 voicemails. From recollection, when we did research on 10 that, it was an unregistered mobile number, and 11 I believe it was -- there was a similar case with 12 Vodafone as well at the time.</p> <p>13 LORD JUSTICE LEVESON: That all could be sensible trade 14 craft so it couldn't be traced back, wouldn't it?</p> <p>15 A. Exactly that, sir. What I would say is that none of the 16 phone companies flagged up to us that they had a large 17 amount of incoming calls to voicemails that they'd 18 traced -- you know, the rogue numbers that we provided 19 was where the bulk of our information came from.</p> <p>20 MR JAY: Can I ask you about paragraph 22. We can look at 21 the underlying document if it's necessary, but it may be 22 it isn't. You say: 23 "On 10 July I received data from a billing request 24 in relation to a PJ Williams ... On examination this 25 data contained calls to the unique voicemail numbers for</p> <p style="text-align: center;">Page 81</p> | <p>1 possession. Over a period of time, Mr Mulcaire had 2 a number of different office numbers. We looked at 3 those. We also looked at the 5354 number that was the 4 hub number for News International. They also had 5 another number that ended in 312 that was a very 6 similar -- it had the appearance of a mobile number, but 7 again it was another hub number, and the explanation 8 I received at the time from our telephone expert is that 9 it was least-cost routing, so by doing it through this 10 central hub number it saved News of the World money. 11 However, it did cause us difficulty in then identifying 12 who was the other person at the end of that phone.</p> <p>13 Q. Of course in relation to the News of the World hub 14 phone, the 5354 number, I've spotted now the 312 number 15 does look like a mobile phone number, but you tell us it 16 isn't. That could be anybody within the News of the 17 World; is that right?</p> <p>18 A. Exactly that.</p> <p>19 Q. Did you make any enquiry with telephone providers as to 20 whether or not it was possible to ascertain who it might 21 be within the News of the World?</p> <p>22 LORD JUSTICE LEVESON: Or whose desk the phone might be on? 23 You don't ever do that.</p> <p>24 A. Yes. We -- that was part of the conversation that we 25 had with Mr Bristow, our telephone expert, and I believe</p> <p style="text-align: center;">Page 83</p> |
| <p>1 JLP and HA amongst other members of the royal household. 2 Other unique voicemail numbers contained within this 3 data were to be identified later in the enquiry." 4 Can you remember whose those were?</p> <p>5 A. Not off the top of my head. We put in a number of 6 applications to the service providers. Initially they 7 had difficulty, and some of our applications had to be 8 submitted several times because they were saying that 9 number didn't exist, when in reality it was a voicemail 10 number.</p> <p>11 Q. Were these unique voicemail numbers which went outside 12 members of the Royal Family and therefore included 13 victims in a different category?</p> <p>14 A. That's correct, yes.</p> <p>15 Q. When were those numbers identified?</p> <p>16 A. I can't say off the top of my head, but as and when we 17 put in the applications, we would have received the 18 results back over a number of weeks. Because this 19 wasn't a threat to life enquiry, we were just on the 20 standard return rate for our requests.</p> <p>21 Q. After 8 August, when you compiled the list of those 22 potentially compromised, our tab 94 with the 418 or 419 23 victims, did you start to obtain data which related to 24 any of those potentially compromised victims?</p> <p>25 A. We carried out an analysis of the billing data in our</p> <p style="text-align: center;">Page 82</p> | <p>1 that we also made enquiries with Vodafone, it was on 2 their network, the 312 number, and we were told that we 3 would have to get that information from News of the 4 World, News International.</p> <p>5 LORD JUSTICE LEVESON: But that suggests it was available to 6 them.</p> <p>7 A. The advice that I had from Mr Bristow is that no large 8 firm would have unaccounted for billing. For instance, 9 if you had someone at a particular desk, a lady that was 10 calling her boyfriend in America on a daily basis, they 11 would want to know why there was billing data for 12 thousands and thousands of pounds -- why these calls 13 were costing thousands of pounds, sorry. So there was 14 an expectation that News of the World, News 15 International would be keeping that sort of -- that 16 data, that information, for their own records and to 17 make sure that no one was abusing their internal 18 telephone systems.</p> <p>19 MR JAY: I rather lost the thread of that piece of 20 evidence --</p> <p>21 LORD JUSTICE LEVESON: This is all to do with getting to the 22 desk from which calls into voicemail retrieval systems 23 are made. Right?</p> <p>24 A. That's correct, yes.</p> <p>25 MR JAY: So you were being advised that it was likely that</p> <p style="text-align: center;">Page 84</p> |

21 (Pages 81 to 84)

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| <p>1 these records would exist to ascertain whose desk it was 2 within the News of the World that was making the call; 3 is that correct? 4 A. That's correct. And in later applications through BCL 5 solicitors I think one of my requests was to ask for 6 a list of the desk phones and diagrams as to where 7 people were sitting. 8 Q. That's absolutely correct, and I think there was one 9 document only which was provided to you pursuant to that 10 particular request; is that right? 11 A. That's correct. 12 Q. And you must have been very suspicious at that point 13 that you were being as it were fobbed off, to use the 14 vernacular; is that so? 15 A. Definitely. 16 Q. Equipped with that information, you -- well, it's so 17 obvious it goes without saying. I'm not going to even 18 ask the question. 19 If I move on, please, through your statement, I'm 20 only alighting on points which, as it were, are new to 21 us, because your colleagues have -- 22 A. Yes. 23 Q. -- kindly dealt with other points. Paragraph 39, an 24 email received on 29 August 2006, which is in file 3, 25 tab 135. Tab 135 is 03621.</p> <p style="text-align: center;">Page 85</p> | <p>1 LORD JUSTICE LEVESON: If we take somebody who was subject 2 to prosecution, the 2228 number, Mulcaire's office, 3 phoned a mobile and accessed the voicemail of 4 Mr Sky Andrew 23 times? 5 A. Yes. That's correct, yes. 6 LORD JUSTICE LEVESON: Got it. 7 MR JAY: What may be important as well is that the next 8 page, which is the 7275 number, which is Goodman's 9 number, we are solely within the royal household, save 10 for the last entry, a singer, apparently, who was phoned 11 once. 12 A. I can assist with that. I've seen the unredacted 13 document and that particular voicemail number is one 14 digit different to a member of the royal household, so 15 I believe it was a misdial. 16 Q. That's helpful, Mr Maberly. That's giving us some idea 17 what Mr Goodman was doing, what he was interested in and 18 what Mr Mulcaire was doing. But I won't make it more 19 explicit than that. 20 LORD JUSTICE LEVESON: They all are, because JLP, 21 presumably, is Mr Lowther-Pinkerton, the private 22 secretary? 23 A. That's correct. 24 MR JAY: I'm very grateful to Mr Sherborne for pointing out 25 that to me rather late yesterday evening as I was</p> <p style="text-align: center;">Page 87</p> |
| <p>1 A. Tab 135 is an email from Lindsey Hudson. 2 Q. That's right. I just want to understand the 3 significance of this. It's a spreadsheet of other 4 numbers called in by 2228 and 7275, and these were 5 respectively Goodman and Mulcaire's numbers, weren't 6 they? 7 A. Yes. The 2228 number related to Mr Mulcaire's office 8 and was registered to his offices in Kempton Road. 9 Q. I understand, though, the significance of the next page, 10 the list of numbers and names. What is this telling us? 11 A. All right, the information that you have would have been 12 the result of a billing data request. The list of 13 numbers that you have alongside the 2228 number, it has 14 a list of the people that were called, their voicemails 15 were called by the 2228 number, and the number that you 16 have there is the amount of times that they were called. 17 So in the case of the top line, that number there, 18 their voice number was called 43 times. 19 LORD JUSTICE LEVESON: So let me understand this. That is 20 the number that you've identified as Mulcaire's office 21 phone -- 22 A. Yes. 23 LORD JUSTICE LEVESON: -- telephoning somebody else's 24 voicemail, who happens to be a journalist? 25 A. Yes.</p> <p style="text-align: center;">Page 86</p> | <p>1 reading this. I didn't spot it myself. 2 Can I move forward to September 2006. We've heard 3 that a decision was made, possibly the end of September, 4 possibly the beginning of October 2006, that you would 5 keep this investigation within its original parameters 6 and not travel outside down these additional lines of 7 enquiry. What was your view about that, Mr Maberly? 8 A. There were still lines of enquiry that I would have been 9 keen to follow. In particular, I'd identified three 10 names who, if I had the sufficient evidence, I would 11 have liked to have spoken to. I accepted the decision 12 that, you know, the resources were not there to widen 13 the enquiry, and I myself was deployed on other 14 anti-terrorist branch enquiries at the time. 15 Q. And these were three journalists within News of the 16 World, were they? 17 A. That's correct, yes. 18 Q. I don't think we can be more specific than that, because 19 we might begin to start identifying them. 20 A. If I could just clarify that point, I believe one of 21 them may have potentially moved on and was part of 22 another company at that point. 23 LORD JUSTICE LEVESON: All right. 24 MR JAY: I think we'll leave it. 25 LORD JUSTICE LEVESON: When you say "if I had the sufficient</p> <p style="text-align: center;">Page 88</p> |

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| <p>1 evidence", did you believe that there was sufficient to 2 go a comparatively short distance to get to the state 3 that you would have been able appropriately to interview 4 them?</p> <p>5 A. There would have been aspects of the case that I would 6 have liked to have asked them about, but I had no firm 7 evidence of either their knowledge of voicemail 8 interception or of them tasking Mr Mulcaire. That is 9 something that I would have looked to find before 10 speaking to them, because it would have been the case 11 that, you know, if we did bring them in for questioning, 12 the likelihood is that they would have made no comment, 13 as did the other two employees of News of the World. We 14 would have got nowhere.</p> <p>15 LORD JUSTICE LEVESON: But it's all a question of inference, 16 isn't it? You put the building blocks together and --</p> <p>17 A. We had some inference; we had no evidence.</p> <p>18 LORD JUSTICE LEVESON: Well, I'm not sure about that. 19 Circumstantial evidence --</p> <p>20 A. Circumstantial evidence, inference --</p> <p>21 LORD JUSTICE LEVESON: -- is evidence, is real evidence, is 22 usually very valuable evidence.</p> <p>23 A. It is, but it requires something more substantial to 24 obtain a successful prosecution at the end of the day.</p> <p>25 MR JAY: What's your view about the significance of these</p> <p style="text-align: center;">Page 89</p> | <p>1 A. In the billing data for Mr Mulcaire, there were calls by 2 him to other journalists. We were aware in the material 3 he had written down those journalists' mobile numbers on 4 bits of paper.</p> <p>5 Q. Right.</p> <p>6 A. So from that point of view, I could identify, for 7 example, one of these three journalists, I had his 8 mobile number, and I was aware that that mobile number 9 appeared in billing data.</p> <p>10 Q. This is -- yes, well. This is arguably extremely 11 interesting circumstantial evidence, isn't it?</p> <p>12 A. I mean, call pattern analysis, which is the police term 13 that we would refer to it by, it can be very good 14 circumstantial evidence, but as I mentioned earlier that 15 sort of Mr Mulcaire's billing was slightly more chaotic 16 than that.</p> <p>17 Q. There's one other document I'll ask you to look at. 18 Tab 152 in file 3, which is 03765. I just wonder if you 19 could explain the significance of this document. Of 20 course it's heavily redacted. What, if anything, is it 21 telling us? Particularly the second page with the 22 various counts, as we can see them described.</p> <p>23 A. If I just explain the fact it's an email, it's the 24 cover, it's an email from a counterpart at O2.</p> <p>25 Q. Yes.</p> <p style="text-align: center;">Page 91</p> |
| <p>1 what we're now calling corner names?</p> <p>2 A. The three journalists that I was interested in following 3 lines of enquiry, I believed that their first names 4 appeared on some of the documents that were recovered 5 from Mr Mulcaire's files.</p> <p>6 Q. Had you detected a pattern in relation to Mr Mulcaire's 7 activity, whereby he would telephone someone within the 8 News of the World before accessing a voicemail, 9 accessing a voicemail and then phoning that person back?</p> <p>10 A. Certainly we believe that to be the case. The 11 difficulty that we had with Mr Mulcaire's billing is 12 that quite often he would just ring one voicemail after 13 another, and in his billing data, you would just get 14 a long list of voicemail type numbers. So it's quite 15 difficult to judge at which point he may have obtained 16 something interesting that he would then want to speak 17 to a particular journalist about. It wasn't always the 18 case that you think, hang on a second, he's listened to 19 that voicemail for a long period of time, then the next 20 call is -- it didn't always work that way, I'm afraid.</p> <p>21 Q. I can understand it might be more complicated than that, 22 but the person within the News of the World who he'd 23 speak to after accessing in a case where there was 24 evidence of accessing, would that be a person you could 25 identify by call data?</p> <p style="text-align: center;">Page 90</p> | <p>1 A. On the front cover, the actual email itself, he's 2 explaining that this is a spreadsheet of the DDNs -- as 3 I mentioned earlier that the O2 language that was 4 a direct dial number, so voicemail numbers. And it's 5 the number of times that the voicemail numbers were 6 called by the suspect number.</p> <p>7 LORD JUSTICE LEVESON: By any of the suspect numbers. So 8 this is you providing them with some numbers that you 9 think you can link to people in whom you are interested, 10 and he's telling you who they called and how many times, 11 is that it?</p> <p>12 A. That's it, yes.</p> <p>13 LORD JUSTICE LEVESON: So the first one, the number was 14 called 520 times?</p> <p>15 A. Yes.</p> <p>16 MR JAY: To be clear, are these the direct dial numbers of 17 those potentially compromised in our Blue Book?</p> <p>18 A. I'm aware of this document. Obviously the email came to 19 me, and you'll see the rather large numbers at the top. 20 Pretty much they relate to the royal household. Those 21 individuals received the most attention.</p> <p>22 LORD JUSTICE LEVESON: It depends which suspect numbers you 23 were providing then, doesn't it? This doesn't tell 24 us --</p> <p>25 A. No.</p> <p style="text-align: center;">Page 92</p> |

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| <p>1 LORD JUSTICE LEVESON: -- whose numbers you'd asked them to 2 look at. 3 A. That's correct, sir, yes. 4 LORD JUSTICE LEVESON: Yes. 5 MR JAY: The only other document which I'd ask you to 6 consider -- we may already have covered it, but you do 7 address it in your witness statement -- is tab 157, the 8 third file, which is a report from the Directorate of 9 Professional Standards. 10 You make it clear that there were those amid the 11 project names who were -- or you believe to be in the 12 witness protection scheme, and you took steps to notify 13 those who were, as it were, in charge of the scheme, and 14 an officer from the witness protection unit came to you 15 and you drew these matters to his attention? 16 A. That's correct, yes. 17 Q. Do you know what came of that? 18 A. No. That's a matter for the witness protection unit, 19 because I wouldn't want to know who was in the scheme 20 and who wasn't. That's a sensitive matter from a police 21 point of view. 22 LORD JUSTICE LEVESON: Not just sensitive; horribly 23 sensitive. 24 A. (Nods head). 25 LORD JUSTICE LEVESON: I mean, it must be amongst the most</p> <p style="text-align: center;">Page 93</p> | <p>1 Thank you very much. 2 LORD JUSTICE LEVESON: And you passed from this work in late 3 2007; is that right? 4 A. From the -- throughout this investigation -- I continued 5 to service the prosecution until they were sentencing in 6 January of 2007, but I was involved in other 7 investigations throughout this period as well. 8 LORD JUSTICE LEVESON: Yes. Thank you. 9 MR JAY: Sorry, there's one other question I've been asked 10 to put to you. It's a very short one. 11 The Mail on Sunday were notified that four people 12 had been targeted by Mr Mulcaire. Do you recall that? 13 A. I'm aware that was the case. That was my colleague, 14 Keith Surtees, who informed them. 15 Q. Yes, and you were copied in to the email. Do you know 16 why they received arguably different treatment from 17 others? 18 A. This was probably a period of time when we were trying 19 to contact potential victims of the interception. At 20 that time we were concentrating on those who were in 21 a position to give evidence, had been most affected, and 22 probably where our best evidence laid in relation to the 23 investigation. 24 MR JAY: Thank you, Mr Maberly. 25 LORD JUSTICE LEVESON: Thank you very much indeed.</p> <p style="text-align: center;">Page 95</p> |
| <p>1 secretly kept data. 2 A. That's correct, yes. 3 LORD JUSTICE LEVESON: So I can understand why you'd want to 4 look at it a bit further. 5 MR JAY: Did you explain to that person that those who had 6 been, as it were, directly and unequivocally implicated 7 in the voicemail accessing were Goodman and Mulcaire, 8 but there might be others, and therefore the concern 9 was, as it were, increased? 10 A. Who would I be addressing that concern to? Sorry, 11 I missed that point. 12 Q. To the officer from the witness protection unit, because 13 you'd want to brief that individual as to the 14 background. You'd obviously told them, "We have Goodman 15 and Mulcaire who are about to plead guilty on 16 27 November", whichever date it was, "but we must draw 17 to your attention that there may be others within 18 News International who are also illegally accessing 19 voicemails and therefore the risks were compounded"; did 20 you explain that? 21 A. I would have explained to him how our knowledge of the 22 activity had been occurring, but I would have probably 23 also caveated that by saying we do not know to whom that 24 information was provided. 25 MR JAY: Yes. Mr Maberly, those were all my questions.</p> <p style="text-align: center;">Page 94</p> | <p>1 MR JAY: May I raise one administrative matter in relation 2 to tomorrow? Mr Yates is giving evidence by video-link 3 from the Middle East. He's billed for noon. Mr Clarke, 4 I expect, will take about an hour and a half, so subject 5 to your view, may we take an early lunch, because it 6 would be difficult to interrupt the video-link. 7 LORD JUSTICE LEVESON: By early lunch, you mean -- 8 MR JAY: It's brunch, really. 9 LORD JUSTICE LEVESON: Yes, we can take a break in advance 10 of midday. We'd then need a little break in the 11 afternoon as well, I have no doubt. 12 MR JAY: We will. 13 LORD JUSTICE LEVESON: Right. Thank you very much. 14 10 o'clock tomorrow. 15 (4.45 pm) 16 (The hearing adjourned until 10 o'clock the following day) 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">Page 96</p> |

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