

<p>1 2 (2.05 pm) 3 MR JAY: Sir Denis, we've touched on one aspect of the 4 events of July 2009. I'm going to come back to it in 5 due course, but I know you have some insights you wish 6 to share with us about the pressures on assistant 7 commissioners specialist operations. Can you tell us 8 anything about that?</p> <p>9 <b>A. Yes, well, I think at the top end of policing, where one 10 is dealing with the most serious cases, murder and the 11 like, there have always been pressures, and particular 12 police forces experience that from time to time. The 13 Metropolitan Police, by their very nature, their size, 14 their scale, they experience a significant number of 15 those kinds of inquiry. But over and above that, the 16 whole issue of terrorism, of course, has changed 17 character dramatically, really, in the last ten years, 18 and whilst I think we sometimes, with the benefit of 19 hindsight, may have great regrets about what happened in 20 2009 and everything else, if we reflect back to 2006, 21 I think it's probably fair to say that two features 22 stand out: the momentum of work at that time in relation 23 to terrorism was substantial, to say the least. The 24 Assistant Commissioner at the time, because of the 25 nature of the threat, undertook to help build</b></p> <p style="text-align: center;">Page 1</p>	<p>1 <b>the then -- the office had changed, but the new</b> 2 <b>individual had inherited some of the build issues, but</b> 3 <b>also some of the backwash and terrorist investigations</b> 4 <b>and the like.</b></p> <p>5 <b>Just by way of context, I think 2007, from my own</b> 6 <b>records, there were 175 terrorist-related arrests. So</b> 7 <b>there was a lot still coming through the system, and in</b> 8 <b>2008, in a report not published, again restricted,</b> 9 <b>entitled "Co-ordinating Pursue", I did say that the</b> 10 <b>support of this Assistant Commissioner in co-ordinating</b> 11 <b>the network and other things needed to be revised in</b> 12 <b>order to give them an opportunity to be able to manage</b> 13 <b>all of these separate compelling needs.</b></p> <p>14 LORD JUSTICE LEVESON: I'm not quite sure where this is 15 taking us, Sir Denis. I mean, in relation to 2006, 16 I think I've said to at least half a dozen very senior 17 officers that a decision not to pursue Caryatid was 18 entirely understandable and reasonable, provided that 19 there was put into place the two extra limbs which 20 I mentioned this morning to the Assistant Commissioner. 21 That doesn't detract from the other responsibilities of 22 the Assistant Commissioner ultimately responsible for 23 this work, and by the time we get to 2009, whatever 24 other responsibilities the relevant Assistant 25 Commissioner has, first of all, he needn't have</p> <p style="text-align: center;">Page 3</p>
<p>1 <b>a counter-terrorist network across the country, centred</b> 2 <b>on three major geographical locations, and then five</b> 3 <b>subsidiary locations, in parallel with undertaking --</b> 4 <b>overseeing terrorist investigations and in relation to</b> 5 <b>their work, as a member, if you like, of the management</b> 6 <b>board, the corporate end of the Met, and of course,</b> 7 <b>along the way, to deal with all of the relationship</b> 8 <b>issues with various other agencies and Whitehall that</b> 9 <b>would go along with such a high-profile role.</b></p> <p>10 I thought it was just worth mentioning that and just 11 to contextualise it, I -- we do -- reports we publish 12 much of the time, but we also undertake work which is on 13 a restricted basis, and I undertook a report on the 14 development of the network and the need, entitled 15 "Intercepting terrorism", and internally for the various 16 agencies and Police Service in 2006, and I did at the 17 time say: because an individual would have to face in 18 several directions, the point may have been reached 19 where it was difficult at best even for a talented 20 individual to fulfil these duties effectively and at the 21 same time retain executive responsibilities in 22 a demanding force.</p> <p>23 It was putting down a marker that -- and I then went 24 on to say: we may have to reconsider this as work in 25 progress as we go, and I returned to it in 2008 because</p> <p style="text-align: center;">Page 2</p>	<p>1 undertaken this one, and secondly, it didn't again 2 require too large an input of time; it required an input 3 of appropriate thought to give sensible direction, 4 didn't it?</p> <p>5 <b>A. It required all of those things. I understood -- maybe</b> 6 <b>I misunderstood -- Mr Jay's point was: over a period of</b> 7 <b>time, basically the needs, the stress, if you like, the</b> 8 <b>intensity of the work changed in character and the build</b> 9 <b>of the new network was not a sort of a one-year thing.</b> 10 <b>It was -- it's a sort of three to five-year project,</b> 11 <b>gradually building up in strength, and it was simply to</b> 12 <b>make the point that there were other -- in the</b> 13 <b>context -- and this doesn't put 2006 or 2009 to bed, but</b> 14 <b>is simply to say that was part of this context, and this</b> 15 <b>is quite an unusual thing for an individual to be</b> 16 <b>dealing with that. That is all.</b></p> <p>17 Now, of course, the network is much more 18 established, the routine of support is much more 19 established and the expectations about how much they can 20 do and when they review things I think is stronger and 21 clearer than it certainly was in 2006. 2009 is 22 a different question.</p> <p>23 LORD JUSTICE LEVESON: Yes. Well, I understand and I'm very 24 keen to ensure that the context is correctly described. 25 What I was really getting at was I wasn't quite sure how</p> <p style="text-align: center;">Page 4</p>

<p>1 it gelled with the specific decisions that I have to 2 make, but the context I understand. 3 <b>A. Sir, yes. I guess the point, maybe poorly made by 4 myself, is this: that there isn't been a time in 5 policing when there's not been a considerable amount of 6 reform and change going on.</b> 7 LORD JUSTICE LEVESON: Yes. 8 <b>A. I guess in the context of what you hope to achieve in 9 the end, any proposals will need to survive the rigour 10 of that environment and that's the point: to be able to 11 deal with the rough times as well as when things are 12 going more smoothly. And I say it as somebody who, you 13 know, has supported reform in every way, shape and form, 14 not always with success, I hasten to add.</b> 15 LORD JUSTICE LEVESON: I entirely agree with that as 16 a proposition, and it is for that reason that I have 17 asked each of the retired commissioners, and I think one 18 retired deputy commissioner, to provide me with a view. 19 You, of course, have done so in your report, but if you 20 have any other views in the area of where I should be 21 going, that will be valuable, not least because you 22 understand from the policing perspective what will work 23 in a way that, however much I listen to however many 24 very senior officers, I will not quite have the same 25 feel for. If you want to take that up, you're very</p> <p style="text-align: center;">Page 5</p>	<p>1 quantitative and qualitative, and the findings we can 2 see here. May I ask you this blunt question, if you 3 don't mind: what is the value of public opinion in this 4 domain? 5 <b>A. Well, it's another anchor point, I suppose, in police 6 legitimacy, which is something I guess we'll come back 7 to. With a measure of public sentiment, anything is 8 possible. Without it, progress is very difficult.</b> 9 <b>In relation to this, I was actively interested to 10 see, frankly, whether what had occurred last summer had 11 made a real dent in the police reputation, in the 12 public's belief in them and the trust, and that's why 13 myself and Mr Baker undertook this work, and you will 14 see there was a concern about corruption -- there was 15 a huge minority, a substantial minority -- but there was 16 a residual very strong support for the police, you know, 17 for some people, at enviably high levels.</b> 18 Q. In the use of the term "corruption", you're making it 19 clear that that ranges across a whole spectrum of 20 behaviours, with frank corruption, money passing hands, 21 at one end of the spectrum, which is relatively rare, 22 and the much softer corruption at the other end of the 23 spectrum? 24 <b>A. Yes, and the public -- as appears in the text, it's 25 doing favours, treating something much more favourably,</b></p> <p style="text-align: center;">Page 7</p>
<p>1 welcome. 2 <b>A. I hope to have an opportunity to do that, sir.</b> 3 MR JAY: Sir Denis, may I come to your report, "Without fear 4 or favour". I don't know whether you have this as 5 a separate document which you've brought along? 6 <b>A. I have.</b> 7 Q. It is, of course, in our reports bundle, tab 4. We've 8 looked at the overview section with Mr Baker and then we 9 get to the meat of it. Chapter 1 to begin with, which 10 on the internal numbering is page 21. I think on our 11 wider numbering it's page 04396. 12 This report, of course, goes further than 13 difficulties in the relations between the police and the 14 press. It's looking at police integrity issues more 15 widely, self-evidently. Can I ask you this question: on 16 the narrower issue of police relations with the press, 17 is it your understanding or perception that this is 18 a problem which is particular to the Metropolitan Police 19 Service or is it a problem which is country-wide? 20 <b>A. I think the conflicts of -- the emerging conflicts of 21 interest evidence is country-wide. I think the issues 22 with the press are most intense in the most intensive 23 environment, which is London.</b> 24 Q. Thank you. Now, chapter 1, "What the public think". As 25 Mr Baker pointed out, the approach here was both</p> <p style="text-align: center;">Page 6</p>	<p>1 <b>one institution than another, you know, a place where 2 hot dogs or something are served, one particular 3 franchise much more favourably than another. That would 4 raise a question in their mind because they're obviously 5 seeing things on the street every day, and it kind of 6 anchors us a little bit that even at the lower end, as 7 some people would see it, of what happens, there is an 8 expectation of the police, thankfully, which is hugely 9 inspiring. 89 per cent of the public think that they 10 should be better than others in regard to their mission 11 and what they do and be very even-handed about it. 12 That's how I interpret that.</b> 13 Q. The importance of perceptions -- and I suppose therefore 14 the part of the answer to the penultimate question 15 I posed to you -- you deal with at page 25 of the 16 internal numbering, 04400. Really, I think this part 17 speaks for itself. 18 Chapter 2, though, Sir Denis, 04402, page 27, 19 "Relationships with media and other parties". May I ask 20 you, please, to elaborate or clarify the paragraph which 21 deals with the over-arching principle, level with the 22 lower hole punch, four paragraph down, where you say: 23 "The over-arching principle of police relationships 24 with the media is that the Police Service should not 25 seek to constrain the media but allow them to accurately</p> <p style="text-align: center;">Page 8</p>

<p>1 report news in which the principal beneficiary is the 2 public." 3 That part is clear enough. But then the next 4 sentence: 5 "However, forces should take account of the level 6 and intensity of these relationships and not least how 7 they'll be perceived by the public." 8 What do you mean by that, please? 9 <b>A. Well, if the relationships become, as it were, visible 10 and particularly focused on one or two individuals or 11 one particular news organisation -- this really is in 12 more of a national level than a local level, where very 13 often, frankly, there is only one local newspaper -- 14 then the point is that people may have the wrong 15 perceptions of it, or maybe the right perception, but 16 they may -- it may cause them to become concerned.</b> 17 Q. Thank you. Then you say: 18 "No evidence of endemic corruption in police 19 relationships with the media." 20 And that statement applies, presumably, to the 21 Metropolitan Police Service as much as it does to anyone 22 else; is that right? 23 <b>A. On the information available to us -- and I have no 24 special advantages on this, Mr Jay -- that is true.</b> 25 Q. Then the last paragraph: Page 9</p>	<p>1 <b>officer, you are -- have to be in a slightly separate 2 place on these things.</b> 3 Q. On the next page, page 28, you address the Information 4 Commissioner's reports. Then you say in that paragraph: 5 "HMIC has contacted the ICO and established that 6 since this operation [that's Operation Motorman, of 7 course] they have had no additional referrals of 8 police-related information disclosure of which the 9 police were not aware." 10 This relates, does it, to confidential information 11 obtained from the Police National Computer or does it 12 relate to other matters? 13 <b>A. I understand this -- I will check this, sir, but 14 I understand this to relate to investigations into 15 unauthorised disclosure of information by the police in 16 general terms, and the object of the exercise was to 17 check with this body, with the PCC, with others, to see 18 whether there was a broader set of data than usually 19 goes to the IPCC, the people who look at complaints, to 20 see whether there was a broader set of data that painted 21 a different picture. That the was the object of that.</b> 22 LORD JUSTICE LEVESON: The problem with that in relation to 23 the Information Commissioner, however, is that if you go 24 back into Motorman, I think I'm right -- I'll be 25 corrected if I'm not -- that that was started because of Page 11</p>
<p>1 "The boundaries of acceptable relationships are 2 understood." 3 Obviously they exclude the exchange of information 4 for money. About four lines down: 5 "One force gave a view, shared by others in the 6 service, that most leaks come about by staff being 7 loose-lipped and discussing things with friends and 8 family which then get passed on or overheard, rather 9 than deliberate corruption or financial gain." 10 Just explore what is the evidential foundation for 11 that, if any? 12 <b>A. The evidential foundation for that is the -- is looking 13 back on the investigations that had been conducted on 14 unauthorised disclosure of information, and where they 15 have tended to fall, the bulk of them, and very few of 16 those have been actually with the media. That doesn't 17 mean to say the problem doesn't exist, but one can only 18 work with what is in front of one. The bulk have tended 19 to be more of this sort of, as it were, indirect leaking 20 because of -- maybe people have not been as thoughtful 21 or cautious as they should have been.</b> 22 Q. Rather than gossip and similar lack of caution over 23 a social interaction with a journalist? 24 <b>A. Yes. There's always an appetite for gossip and that's 25 understandable. The fact of the matter is, as a police Page 10</b></p>	<p>1 a perception of leaks not from the police but from the 2 DVLA, and it was only when the Information Commissioner 3 went in with support that he discovered the Whittamore 4 papers, which revealed far more extensive data lapses 5 than they'd looked at. But it was reactive. It wasn't 6 that they were looking for what was going on with the 7 police or looking for particular problems; they 8 simply -- correct me if I'm wrong -- went in and found 9 something they weren't expecting, and of course then 10 took it all up and secured all the documents. 11 The question is not: "Have there been complaints?", 12 because there may not have been a complaint there, but 13 whether there is anything to be derived from the fact 14 that they haven't seen anything since, and I just don't 15 know the answer to that question. 16 <b>A. And neither do I, sir. Perhaps I should explain that 17 part of our approach, when we approach an issue, is we 18 try to go from the outside in rather than just simply 19 ask the sector itself, and in preparing this report and 20 other thoughts, we have spoken to journalists and 21 a number of other institutions to see whether they have 22 other information. It may have a bearing -- it may give 23 us, as it were, a better intelligence picture about the 24 issues, and it is really only in there in that context.</b> 25 LORD JUSTICE LEVESON: All right. It's unlikely many Page 12</p>

<p>1 journalists would admit that think were doing something                  2 that was, if not actually and frankly illegal, at least                  3 likely to excite your attention to a very high degree.                  4 <b>A. Well, sir, I can only take them as I find them. The</b>                  5 <b>ones I have spoken to were people I thought were</b>                  6 <b>established, trustworthy and thoughtful, and they did</b>                  7 <b>have views about police corruption, because that was one</b>                  8 <b>of the issues that was put directly to them, and the</b>                  9 <b>rationale varied from people who had looked at it</b>                  10 <b>intensively to those who took account of what was</b>                  11 <b>appearing in the courts, in the press, in their everyday</b>                  12 <b>dealings, and I took some measure of comfort from having</b>                  13 <b>asked. That's all I would say.</b>                  14 LORD JUSTICE LEVESON: Oh yes, that's entirely fair enough.                  15 I'm not for a moment challenging your way of working.                  16 I just have to be careful that I don't derive more from                  17 it than you seek to argue I should derive from it.                  18 <b>A. Yes. I regard -- I have learnt, sir, that you are as</b>                  19 <b>good as what you truly know and what you think you ought</b>                  20 <b>to know, but what we try and to in these things is to</b>                  21 <b>see whether anybody else knows things and they will</b>                  22 <b>share them with you.</b>                  23 MR JAY: Sir Denis, at the bottom of this page, you address                  24 the Metropolitan point as against the regional police                  25 forces. Can I just deal with the point you make four or</p> <p style="text-align: center;">Page 13</p>	<p>1 "... inconsistency across the Police Service in the                  2 use of off-the-record briefings."                  3 What do you mean by that? Not what you mean by the                  4 term "off-the-record briefings" but wherein lies the                  5 inconsistency?                  6 <b>A. Well, I understand by this -- although I will check my</b>                  7 <b>understanding, my understanding is that across the</b>                  8 <b>country, some people have a form in which they will do</b>                  9 <b>nonreportable briefings, some are much less formalised,</b>                  10 <b>some will do it more frequently than others. Some are</b>                  11 <b>less concerned about exclusiveness in these things in</b>                  12 <b>terms of how many people they speak to. It's of that</b>                  13 <b>kind of nature, really, that I am -- that's the point</b>                  14 <b>I'm making.</b>                  15 Q. Thank you.                  16 <b>A. If it must happen, I suppose the suggestion would then</b>                  17 <b>be: well, it would do to have some bit of structure on</b>                  18 <b>it, at the very least.</b>                  19 Q. The next paragraph. You found some evidence of                  20 corporate entertaining with the media:                  21 "However, there was little clarity with the                  22 boundaries of acceptability, with forces and individuals                  23 instead relying on a common-sense approach."                  24 Are you referring there to different media and gifts                  25 and hospitality policies or are you referring to the</p> <p style="text-align: center;">Page 15</p>
<p>1 five lines from the top of page 29 in the internal                  2 numbering. You say:                  3 "HMIC believes this misses the point."                  4 The point being tangible differences in London.                  5 "We are living in a virtual communications world and                  6 issues are being followed in real time through a range                  7 of new technology and social media."                  8 What point are you making there and what point has                  9 been missed?                  10 <b>A. I think intense inquiries which will generate</b>                  11 <b>competition for information can happen anywhere in this</b>                  12 <b>country. That's a fact. If you look at Cumbria --</b>                  13 <b>you know, think of the last couple of years. Cumbria,</b>                  14 <b>Northumbria, Bristol. So those kind of inquiries which</b>                  15 <b>draw the most intense scrutiny can happen anywhere and</b>                  16 <b>with that potential conflicts of interest and issues,</b>                  17 <b>but running alongside that is a whole new world which is</b>                  18 <b>unwrapping around us, as people twitter this Inquiry and</b>                  19 <b>as people engage in a huge range of social media, and</b>                  20 <b>that includes people who are serving police officers and</b>                  21 <b>members of staff who may or may not be aware of just how</b>                  22 <b>much of themselves they are revealing, and we did not</b>                  23 <b>find that that issue was restricted to the Metropolitan</b>                  24 <b>Police.</b>                  25 Q. The next paragraph:</p> <p style="text-align: center;">Page 14</p>	<p>1 common-sense approach differing as across the country?                  2 <b>A. Well, I guess the point is that here we didn't really</b>                  3 <b>find an enormous amount of corporate entertaining of the</b>                  4 <b>media. That's the major point. Inasmuch as there was,</b>                  5 <b>it was at the common-sense end, sandwiches and tea end</b>                  6 <b>of it -- that's my understanding -- rather than some of</b>                  7 <b>the more fashionable alternatives that you've heard</b>                  8 <b>about.</b>                  9 LORD JUSTICE LEVESON: That's one way of describing them.                  10 MR JAY: Level with the lower hole punch, you say:                  11 "We found that forces lack the capacity and                  12 capability to proactively identify any inappropriate                  13 relationships. Forces conveyed a sense of inevitability                  14 that resourcing complex investigations into media leaks                  15 rarely yields any positive result. Forces should                  16 explore options for identifying and monitoring emerging                  17 and inappropriate relationships with leaks to the                  18 media."                  19 It might be said you're not giving the forces many                  20 hints as to what they should be doing; you're asking                  21 them to formulate the options. But if you were to                  22 suggest even tentatively some ideas as to how this could                  23 be taken forward, could you share those with us, please?                  24 <b>A. Well, police forces actually have developed systems for</b>                  25 <b>protective monitoring of their internal security</b></p> <p style="text-align: center;">Page 16</p>

<p>1 systems. For example, the PMC. It took a little while                  2 and now they have well-rehearsed systems and testing                  3 procedures and they even have software, things like                  4 that, that help them spot anomalies in the system.                  5 When it comes to what's appearing in social media or                  6 media in general, that's much less the case. We did                  7 find three forces who looked at that kind of thing.                  8 There are mechanisms that will now -- actually                  9 relational databases that, if you seek to use them well,                  10 will actually show you that some things are suddenly                  11 appearing in some part of the media, when maybe, if you                  12 have some kind of view about what should be going out of                  13 the organisation, might raise a question in the mind.                  14 This will not necessarily tell you who, how or when, but                  15 it actually means that you have some kind of radar.                  16 Now, there are a number of companies that provide                  17 these kind of sentiment relational database activity.                  18 They're quite established. We looked at it, for                  19 example, in relation to public order. Big organisations                  20 do it now. People who are concerned with their                  21 marketing and branding do it. You have -- and I don't                  22 want to advertise them particularly, but you have people                  23 like Trufflenet and others on the Internet who actually                  24 offer services. This will not actually give you who                  25 done it, but it will tell you maybe something is</p> <p style="text-align: center;">Page 17</p>	<p>1 You make a recommendation towards the top of                  2 page 31, the next page, where you say it's your view                  3 that forces and authorities should record all                  4 interactions between police employees and media                  5 representatives:                  6 "Time and date of the meeting, brief details of                  7 purpose, content and persons involved should be                  8 recorded, and appropriate mechanisms should be in place                  9 to audit these records."                  10 So presumably there you're including off-the-record                  11 conversations?                  12 <b>A. I'm including -- I know I keep returning to it. I'm</b>                  13 <b>referring to briefings that are not reported, indeed,</b>                  14 <b>definitely. This is a recommendation for ACPO and</b>                  15 <b>others to consider in order to try and establish some</b>                  16 <b>consistency to how this is dealt with.</b>                  17 <b>Q.</b> And presumably in order to avoid the complaint of                  18 overbureaucracy, you're looking only for a brief epitome                  19 of the conversation; is that correct?                  20 <b>A. Personally, I would go for the brief as possible, but</b>                  21 <b>different individuals would have a different appetite</b>                  22 <b>for these things. I think the point is that you were</b>                  23 <b>showing that you had a contact and that's not something</b>                  24 <b>you're ashamed of, and -- later on I would like to</b>                  25 <b>return to the basis, though, for those contacts and that</b></p> <p style="text-align: center;">Page 19</p>
<p>1 happening and a pattern of activity that you should be                  2 aware of that nobody else is telling you about. It                  3 improves your intelligence for your environment.                  4 <b>I think it's time to patrol that environment piece.</b>                  5 <b>Q.</b> Thank you. Then the next page, on the internal                  6 numbering page 30. It's going to be 04405, I think.                  7 Can you help us, please, with the paragraph slap in the                  8 middle, the notifiable association policy. Could you                  9 explain that to the uninitiated?                  10 <b>A. There have been a number of investigations about the</b>                  11 <b>relationship individuals have with the media. Some are</b>                  12 <b>married to people in the media, some know people in the</b>                  13 <b>media, and if you look later on the report in business</b>                  14 <b>interests, I believe there are at least two cases --</b>                  15 <b>I will be corrected if I am wrong -- where as part of</b>                  16 <b>their business activities outside the police, they</b>                  17 <b>provided some assistance in relation to the media.</b>                  18 <b>In other words, here are some connections that can</b>                  19 <b>be perfectly appropriate and correct, but it's useful to</b>                  20 <b>be aware of them. That is the point.</b>                  21 <b>Q.</b> Then in the following paragraphs you deal with the                  22 variable procedures around recording interactions and                  23 conversations with the media and the lack of                  24 relationship between policies, procedures on the one                  25 hand and practical application on the other.</p> <p style="text-align: center;">Page 18</p>	<p>1 <b>might help inform how one would want to note anything</b>                  2 <b>like this.</b>                  3 <b>Q.</b> You make the point at the bottom of the page that these                  4 specific policies should be seen against the backdrop of                  5 wider ethical policies, and you draw analogies from the                  6 New South Wales experience, which is one of the exhibits                  7 to your witness statement, which does draw that nexus;                  8 is that right?                  9 <b>A. That's correct.</b>                  10 <b>Q.</b> Then the next page, you're looking for a national media                  11 policy to include appropriate levels of social                  12 interaction relationships alongside practical guidance.                  13 So the policies should be the same regardless of whether                  14 you're in the Metropolitan area or wherever; is that the                  15 point you're seeking to drive at?                  16 <b>A. I -- I think what's intended here is the framework is</b>                  17 <b>the same. Clearly, different environments will have</b>                  18 <b>different -- and events will have different levels of</b>                  19 <b>intensity and -- in the way any framework or policy is</b>                  20 <b>applied, will require different levels of training,</b>                  21 <b>different considerations, different views on</b>                  22 <b>vulnerabilities, depending where you are and what is</b>                  23 <b>happening. But what we're looking for is a common frame</b>                  24 <b>of reference, and by the way, I do not -- again, I'd</b>                  25 <b>like to return to this. The last thing I would wish to</b></p> <p style="text-align: center;">Page 20</p>

<p>1 <b>do is constrain the relationship between the police and</b>  2 <b>the press. That would defy reality.</b>  3 LORD JUSTICE LEVESON: Yes. The problem is to find the  4 right balance, isn't it?  5 <b>A. Exactly, sir.</b>  6 LORD JUSTICE LEVESON: Encourage a relationship but in the  7 context of transparent and open dealings which are not  8 in any sense covert and which don't carry with them even  9 the perception of inappropriate hospitality or the like.  10 <b>A. That's the general end game, sir.</b>  11 LORD JUSTICE LEVESON: Yes, it's easy to state. The problem  12 is trying to do it.  13 <b>A. I do have, you know, a -- some thoughts on that and</b>  14 <b>perhaps we can return to them at the end to try and</b>  15 <b>frame that.</b>  16 MR JAY: After that paragraph in bold lettering, you observe  17 that police authorities are, in your view -- this is the  18 implication -- not carrying out much oversight in this  19 area, and you're looking for more from them and from the  20 new bodies post November; is that right?  21 <b>A. Yes. Underlying all of this is the legitimacy issue,</b>  22 <b>the legitimacy of the police, and I think, you know, the</b>  23 <b>probity of the police is a hugely precious, important</b>  24 <b>issue, and it should be the subject of some governance</b>  25 <b>at some point. It is in other organisations, that</b>  Page 21</p>	<p>1 <b>I think they should have a view about this, because this</b>  2 <b>comes back to: there has to be some separation between</b>  3 <b>personal life and professional life, and certainly</b>  4 <b>a measure of separation for people who want to be police</b>  5 <b>officers.</b>  6 Q. And of direct concern to this Inquiry, the  7 paragraph level with the upper hole punch, page 38.  8 I think it's page 04413, where you speak of evidence of  9 relationships or at least dialogues being facilitated  10 through social networking sites between officers and  11 journalists from the national media, particularly  12 evident in the online conversations being held on  13 Twitter.  14 You say:  15 "Whilst such conversations are transparent and may  16 be viewed by any interest party, the nature of this  17 communication channel enables journalists to cast their  18 net more widely for sources and quotes."  19 In one sense, as you say, it's all entirely  20 transparent, but on the other hand, if the police  21 officer is communicating anonymously, as it might be on  22 some occasions -- even if it's clear it is a police  23 officer, it gives rise to obvious difficulty; is that  24 correct?  25 <b>A. It is. I mean, the example that comes to mind is</b>  Page 23</p>
<p>1 <b>arguably, some would say, have less to lose than the</b>  2 <b>police.</b>  3 Q. Chapter 3, starting on page 34, this is going much wider  4 than the media --  5 <b>A. Yes.</b>  6 Q. -- and probably is of marginal relevance to us, save for  7 what you say about the Police National Computer, which  8 we're going to deal with as a separate sort of chapter  9 of your evidence in due course.  10 You do have something to say about social  11 networking, which you may already have covered, the  12 bottom of page 36. You recommend that all forces need  13 to have a policy in place.  14 <b>A. Yes. Yes, Mr Jay, a number have, but this -- you known,</b>  15 <b>particularly as the demographics of the police change,</b>  16 <b>this is becoming a much, much bigger issue.</b>  17 Q. The problem here is twofold. Do I have it right: one,  18 photographs -- and we've heard a bit about that last  19 week from Mr Baker -- and secondly, perhaps more  20 obviously, disclosure of inappropriate information via  21 this medium?  22 <b>A. Well, some people are declaring that they are police</b>  23 <b>officers. Some people declare -- making some commentary</b>  24 <b>about their organisation. This may be a personal view.</b>  25 <b>I hope to address this issue with ACPO shortly. I mean,</b>  Page 22</p>	<p>1 <b>somebody commenting on some programme or Question Time.</b>  2 <b>If it's known they're a police officer, it could suggest</b>  3 <b>that perhaps, you know, they had a political view, which</b>  4 <b>is not really what we particularly want to hear from</b>  5 <b>a police officer. Unless they make it darn clear that</b>  6 <b>they are not a police officer or in police officer mode</b>  7 <b>at that point in time, it becomes very difficult to</b>  8 <b>start doing that -- disentangling that kind of thing.</b>  9 <b>Likewise, if people know one is a police officer and</b>  10 <b>one is seeking advice on a good pub to have a drink at,</b>  11 <b>at one level this is entirely innocent. You know, who</b>  12 <b>cares? But in another level, particularly if it's not</b>  13 <b>somebody who's just come into policing, you would think</b>  14 <b>there are other ways to find this kind of information</b>  15 <b>out, particularly other ways without people knowing</b>  16 <b>you're a police officer.</b>  17 <b>It's -- but this -- I have to say this: I don't</b>  18 <b>think the HMIC can be absolute arbiters of the right way</b>  19 <b>on this, but I think what we need is a way, and we need</b>  20 <b>to address these issues. Nor do I think we are the</b>  21 <b>absolute arbiters on transparency, because sometimes</b>  22 <b>I think transparency can be seen to suit particular</b>  23 <b>sectors and I'm sure that would be the view of the</b>  24 <b>media, for example, about the police. My point really</b>  25 <b>is we ought to give people some points of reference to</b>  Page 24</p>

6 (Pages 21 to 24)

<p>1 <b>deal with this age we're in. That's the essence of it.</b></p> <p>2 LORD JUSTICE LEVESON: You could test it by reference to</p> <p>3 those who might express views which border upon the</p> <p>4 racist. I say "border upon" because obviously if it's</p> <p>5 criminal, that's quite different.</p> <p>6 <b>A. Yes.</b></p> <p>7 LORD JUSTICE LEVESON: But although somebody could be</p> <p>8 speaking in their personal capacity, if they express</p> <p>9 views which are not consistent with their independent</p> <p>10 upholding of the law, then that creates a problem,</p> <p>11 however much they are careful to say that they're</p> <p>12 speaking in a personal capacity.</p> <p>13 <b>A. It does, sir, and that goes to the heart of it. If</b></p> <p>14 <b>one -- for example, one of the reference points in here</b></p> <p>15 <b>which must tie into any frame is: if your activity on</b></p> <p>16 <b>here suggests that you are less than impartial, then in</b></p> <p>17 <b>a sense you've undermined the main mission. That's</b></p> <p>18 <b>basically the starting point into framing something like</b></p> <p>19 <b>this, because that's really important clearly to the</b></p> <p>20 <b>British public and part of the British policing model.</b></p> <p>21 MR JAY: It locks in exactly with the very title of the</p> <p>22 report, "Without fear or favour".</p> <p>23 <b>A. It does.</b></p> <p>24 Q. You make some recommendations about social networking</p> <p>25 sites on page 39, which no doubt are self-explanatory.</p> <p style="text-align: center;">Page 25</p>	<p>1 senior staff to be more attune to the moral issues,</p> <p>2 owing to greater experience, but maybe, save, for cases</p> <p>3 of frank corruption where money passes hands, there</p> <p>4 isn't much of a risk of substantial gifts and</p> <p>5 hospitality being provided to senior staff? Is that</p> <p>6 right? Or are you making a different and deeper point</p> <p>7 there?</p> <p>8 <b>A. Mr Jay, I doubt it's that deep a point, but what I do</b></p> <p>9 <b>think is this: there is a serious point here that a lot</b></p> <p>10 <b>of people join the police, a huge lot of people, and</b></p> <p>11 <b>they join it on a vocational basis. It is -- they join</b></p> <p>12 <b>it for the mission, and it is a very noble mission,</b></p> <p>13 <b>to -- you know, encapsulated in the Queen's Police</b></p> <p>14 <b>Medal: "To guard my people". They don't come that much</b></p> <p>15 <b>more noble than that.</b></p> <p>16 <b>And I think this is -- if never quite expressed in</b></p> <p>17 <b>that way, this is a driving force for a lot of people,</b></p> <p>18 <b>and so when our staff at HMIC put scenarios to them,</b></p> <p>19 <b>they are pretty much able to thankfully determine right</b></p> <p>20 <b>from wrong and whether something is inappropriate or</b></p> <p>21 <b>not. This is not to say that more senior staff can't,</b></p> <p>22 <b>but the point is that more senior staff perhaps,</b></p> <p>23 <b>depending on what role they're in, may be more exposed</b></p> <p>24 <b>sometimes to more obvious conflicts of interest.</b></p> <p>25 <b>The exception to this are junior staff in work in</b></p> <p style="text-align: center;">Page 27</p>
<p>1 Chapter 4, "Gratuities and hospitality", which is</p> <p>2 page 40, 04415, I think. At the bottom of the page:</p> <p>3 "All forces and authorities have a recording</p> <p>4 mechanism for gratuities and hospitality, but these are</p> <p>5 not consistently completed in most cases."</p> <p>6 So are you saying there that they're very often not</p> <p>7 completed?</p> <p>8 <b>A. Can you just draw my attention to the --</b></p> <p>9 Q. The very last paragraph on that page 40.</p> <p>10 <b>A. Yes. We don't think they're always completed, and this</b></p> <p>11 <b>may -- there may be innocent explanations for that,</b></p> <p>12 <b>I imagine, because of the relatively trivial nature of</b></p> <p>13 <b>the hospitality. However, the unevenness of the way it</b></p> <p>14 <b>is recorded suggests it's because there</b></p> <p>15 <b>isn't a system-wide approach to the whole thing.</b></p> <p>16 Q. Then the next page, second paragraph on the page:</p> <p>17 "Whilst not all staff members are formally aware of</p> <p>18 their force's specific policy or guidance, the review</p> <p>19 found that they were able to demonstrate a strong</p> <p>20 inherent moral compass and common sense approach to the</p> <p>21 boundaries of acceptability in tune with this local</p> <p>22 approach. This was particularly apparent amongst junior</p> <p>23 staff."</p> <p>24 On one level, that may be said to be a somewhat</p> <p>25 anomalous conclusion, because you would expect the</p> <p style="text-align: center;">Page 26</p>	<p>1 <b>particular specialised units, squads, particular parts</b></p> <p>2 <b>of policing, but this finding about a common sense</b></p> <p>3 <b>approach that most of you would -- most of us would hope</b></p> <p>4 <b>for, is, I think, something of great comfort.</b></p> <p>5 Q. And the scale of the problem is indicated by the</p> <p>6 paragraph which lies just above the lower hole punch,</p> <p>7 beginning:</p> <p>8 "A review of force hospitality registers across</p> <p>9 England and Wales supplied to the HMIC for the last five</p> <p>10 years showed 9,500 entries, of which less than</p> <p>11 1 per cent [in other words, 68 entries] of gratuities</p> <p>12 and hospital were received from the media."</p> <p>13 LORD JUSTICE LEVESON: That's been corrected, hasn't it?</p> <p>14 <b>A. Yes. I believe Mr Baker has updated that.</b></p> <p>15 MR JAY: Yes, he did, pardon me.</p> <p>16 LORD JUSTICE LEVESON: Because it was over a period of time</p> <p>17 and the 68 has become 298.</p> <p>18 <b>A. That's correct, sir.</b></p> <p>19 LORD JUSTICE LEVESON: That's right?</p> <p>20 MR JAY: I missed that one.</p> <p>21 <b>A. It was about the completeness of the record in relation</b></p> <p>22 <b>to the Metropolitan Police.</b></p> <p>23 LORD JUSTICE LEVESON: Yes, timing. It's whether you're</p> <p>24 with comparing like with like.</p> <p>25 <b>A. Yes, and fully bringing the Metropolitan Police into the</b></p> <p style="text-align: center;">Page 28</p>

<p>1 <b>picture.</b></p> <p>2 MR JAY: Even with that revised statistic, we get a feel for</p> <p>3 the problem against the wider issue of hospitality</p> <p>4 across the country.</p> <p>5 You recommend on the next page, page 42, in the</p> <p>6 emboldened type, the need for a national standard as</p> <p>7 well as recording practices which illustrate both what</p> <p>8 is accepted and what declined, so the full nature of the</p> <p>9 relationship is transparent.</p> <p>10 <b>A. Indeed. I think I should make it clear that this isn't</b></p> <p>11 <b>in the shape of £5 is okay but £5.50 is not. I think it</b></p> <p>12 <b>is -- this would be, I hope, more grounded in what is</b></p> <p>13 <b>appropriate in the circumstances. It will be more of</b></p> <p>14 <b>that character, because otherwise we will be chasing our</b></p> <p>15 <b>tails.</b></p> <p>16 Q. Thank you. Then there's a case study on the next page.</p> <p>17 You have a mnemonic gift. That, of course, is applying</p> <p>18 to hospitality in general, not just hospitality from the</p> <p>19 media?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. Chapter 5 I don't think is going to be of direct</p> <p>22 interest to us, nor really chapter 6, save for a small</p> <p>23 point in chapter 6 on post-service employment, which is</p> <p>24 page 51 on the internal numbering, which I think is</p> <p>25 page 04436. You've identified an issue here with</p> <p style="text-align: center;">Page 29</p>	<p>1 <b>We do think that this is an issue, but it needs some</b></p> <p>2 <b>careful consideration as to how one could put any kind</b></p> <p>3 <b>of frame on it.</b></p> <p>4 LORD JUSTICE LEVESON: Yes, one size might not fit all.</p> <p>5 <b>A. Quite.</b></p> <p>6 LORD JUSTICE LEVESON: The more senior the officer, the more</p> <p>7 appropriate it may be to require a cooling-off period,</p> <p>8 but it may be that different rules ought to apply to the</p> <p>9 extent to which former officers can effectively use the</p> <p>10 contacts which they have acquired to access information</p> <p>11 or support or anything else to assist them in working</p> <p>12 outside the police.</p> <p>13 Equally, the other way around: if the police are</p> <p>14 going to employ representatives of the press in their</p> <p>15 press and media relations departments, it's very</p> <p>16 important that that doesn't carry with it some favoured</p> <p>17 nation status or some perception of a back door.</p> <p>18 <b>A. Quite, sir. It is an issue and it has the potential, if</b></p> <p>19 <b>not gripped in some way, to become even more significant</b></p> <p>20 <b>than perhaps it has been in this Inquiry, and that's why</b></p> <p>21 <b>we draw attention to the dilemma.</b></p> <p>22 LORD JUSTICE LEVESON: Even more so if there is, as is being</p> <p>23 discussed, outsourcing of what are traditional police</p> <p>24 areas of activity.</p> <p>25 <b>A. Yes, and that will not be good for the private sector or</b></p> <p style="text-align: center;">Page 31</p>
<p>1 restraint of trade and recommend that some specialist</p> <p>2 legal advice be obtained first, which is no doubt</p> <p>3 sensible. But you're not directly addressing the</p> <p>4 revolving door issue as between the police and the press</p> <p>5 or indeed vice versa; is that correct?</p> <p>6 <b>A. I think what we're endeavouring to show is that our</b></p> <p>7 <b>revolving door between the police and the press or</b></p> <p>8 <b>between the police and the security sector or between</b></p> <p>9 <b>others where there may be a conflict of interest is</b></p> <p>10 <b>difficult ground, because of the present legal position</b></p> <p>11 <b>as I understand it.</b></p> <p>12 <b>We did take the trouble of looking at -- in the</b></p> <p>13 <b>wider arena, at institutions like the advisory committee</b></p> <p>14 <b>on business appointments, which is a short cooling-off</b></p> <p>15 <b>period and then limitations on lobbying and the like.</b></p> <p>16 <b>I would have thought, though, if there was a will, it</b></p> <p>17 <b>must be possible to progressively adopt some acceptable</b></p> <p>18 <b>standards so that people do not think that people --</b></p> <p>19 <b>particularly as there is more private sector contact</b></p> <p>20 <b>with the police, that people are not moving --</b></p> <p>21 <b>negotiating contracts, as it were -- let's take the</b></p> <p>22 <b>worst scenario -- on this week, and next week retiring</b></p> <p>23 <b>or resigning and moving into the private sector and</b></p> <p>24 <b>whatever. I'm simply doing it in the abstract rather</b></p> <p>25 <b>than particularly the media. It's the same broad idea.</b></p> <p style="text-align: center;">Page 30</p>	<p>1 <b>particular media outlet or the police, so there is</b></p> <p>2 <b>a good reason to put some shape on it.</b></p> <p>3 MR JAY: I move forward to chapter 8, Sir Denis, "Governance</p> <p>4 and oversight". On the internal numbering, page 55.</p> <p>5 I think it's page 04430.</p> <p>6 You make it clear -- "corporate governance", of</p> <p>7 course, is a term this Inquiry has been using</p> <p>8 consistently, quite a lot in Module 1. It's more, in</p> <p>9 your view, than systems and processes. It requires</p> <p>10 those in charge of the organisation and who represent it</p> <p>11 to be consistent in demonstrating appropriate behaviours</p> <p>12 and promoting its values in pursuit of its objectives.</p> <p>13 So it's leadership behaviour setting the example, and</p> <p>14 that example will then be seen by those lower down and</p> <p>15 followed. Those are the key points I think you're</p> <p>16 making on that first page.</p> <p>17 <b>A. Yes, they are. They are stewards of the reputation of</b></p> <p>18 <b>the organisation.</b></p> <p>19 Q. At the top of the next page, page 56, you say you</p> <p>20 consider that:</p> <p>21 "Chief office teams should review their corporate</p> <p>22 governance and oversight arrangement to ensure that they</p> <p>23 are fulfilling their function in helping promote the</p> <p>24 values of their force and the delivery of its</p> <p>25 objectives, and that they are, through their actions and</p> <p style="text-align: center;">Page 32</p>



<p>1 behaviours, promoting the values of the organisation and                  2 making sure good corporate governance is seen as a core                  3 part of everyday business."                  4 I think that's one of your principal recommendations                  5 at the end?                  6 <b>A. It is.</b>                  7 <b>Q.</b> Can I ask you, please, about managing the risks,                  8 page 57. What, in essence -- this is obviously                  9 a preventive strategy. What, in essence, are you                  10 considering and recommending there, Sir Denis?                  11 <b>A. Well, it -- there are patterns and lessons to be learnt</b>                  12 <b>in the way relationships can develop, and something that</b>                  13 <b>started relatively innocently can become more</b>                  14 <b>problematic. It's bound to be associated with</b>                  15 <b>particular kinds of posts, the targeting of individuals</b>                  16 <b>and particular kinds of posts, and with individuals' own</b>                  17 <b>obligations, whether they're financial -- for example,</b>                  18 <b>currently it's been assessed about 8.8 per cent of</b>                  19 <b>police officers and staff are financially stressed.</b>                  20 There are ways of looking at people who work for                  21 your organisation and what they do, and looking at the                  22 potential to safeguard, as it were, them, to prevent                  23 things happening, and during the 1990s, when it was                  24 looked at in relation, as it were, to conventional                  25 corruption, criminal activity, they profiled the shape                  Page 33</p>	<p>1 Then you're going to carry out a further assessment                  2 ahead of that consultation, but in time for the new                  3 regime coming into force, which I think it will on                  4 1 November; is that correct?                  5 <b>A. It is. I should just probably explain that although</b>                  6 <b>this may look very police-y in the way it is addressed</b>                  7 <b>here, we did extensive work outside the police and,</b>                  8 <b>particularly given the Bribery Act and all of the issues</b>                  9 <b>going on in the private sector, what we found</b>                  10 <b>consistently were the best in the public sector and the</b>                  11 <b>private sector is that they had four features: there was</b>                  12 <b>a framework that people could easily relate to; it can't</b>                  13 <b>be over-complex or people basically will not follow it;</b>                  14 <b>there had to be some education, whether you're working</b>                  15 <b>for British Petroleum or you're working for the police,</b>                  16 <b>about the issue and vulnerability; there had to be --</b>                  17 <b>and we've alluded to this earlier -- some kind of</b>                  18 <b>intelligence system, some way of looking to see what's</b>                  19 <b>happening in relationships and the rest of it; and there</b>                  20 <b>had to be some sanction, clearly, if things didn't --</b>                  21 <b>buy those are consistent featureless, looking across the</b>                  22 <b>best private and public sector, and so these, in</b>                  23 <b>a number of ways, relate to that.</b>                  24 I have to say that I think I would take that general                  25 reference point, but in relation to the press, having                  Page 35</p>
<p>1 of this so that there was, if you like, an intelligence                  2 profile of the most vulnerable areas.                  3 I guess what we're looking at is if you want to                  4 avoid conflicts of interest, if you want to avoid                  5 a slippery slope, it is worth considering how you                  6 profile vulnerabilities of your organisation and its                  7 relationships with whatever other people or sectors you                  8 engage with.                  9 <b>Q.</b> Thank you. Your recommendations, chapter 9. You pick                  10 up a number of themes we've already examined. The                  11 principal recommendations are listed page 62. I think                  12 is page 04437.                  13 You're looking, in the emboldened characters:                  14 "Robust systems to ensure risks arising from                  15 relationships, information disclosure, gratuitous                  16 hospitality are identified, monitored and managed.                  17 Clear boundaries and thresholds."                  18 Then you're looking for consistent and service-wide                  19 policies. Recommendations in relation to training                  20 courses. Chief officer teams reviewing corporate                  21 governance. We've just looked at that.                  22 Then, towards the bottom of the page:                  23 "HMIC expects the service to have detailed proposals                  24 in the above areas ready for consultation with all                  25 relevant parties by April [of this year]."                  Page 34</p>	<p>1 watched how things have developed since I joined as                  2 a very young constable a long time ago in the                  3 Metropolitan Police, I would want to then take that and                  4 I'd want to customise that for the benefit of your                  5 Inquiry, more particularly about dealing with the press.                  6 Some of these conflicts of interest are new kids on the                  7 block. Basically, a few years ago, you worked for the                  8 police and that was it, and actually you could be sacked                  9 for working outside the police, moonlighting in any                  10 sense.                  11 <b>But the issues with the press are enduring, and</b>                  12 <b>going back to your mission on this Inquiry, I am mindful</b>                  13 <b>of that in thinking about coming up with a solution. So</b>                  14 <b>whilst that is useful in the most general terms for</b>                  15 <b>dealing with conflicts of interest and broadly for the</b>                  16 <b>media, I think I'd want to customise that, and I have</b>                  17 <b>some thoughts about that.</b>                  18 <b>Q.</b> Thank you. May we begin to develop those thoughts,                  19 Sir Denis? I know you've given consideration to the                  20 issue, I suppose, of diagnosis, what went wrong, and                  21 you've subdivided that into a number of separate                  22 rubrics, but in your own words, please, and in order to                  23 summarise some of the points you've made -- I think                  24 Lord Justice Leveson and I have seen the additional note                  25 you've prepared and no one else has. It's more                  Page 36</p>

<p>1 a speaking note for you. But what would you like to say 2 in particular about what I have called diagnosis? 3 <b>A. I'd like to say a diagnosis has to step a bit outside 4 the police for a moment here. I'm struck by three 5 things, really. This Inquiry is occurring because the 6 journalist actually broke this story, again. I have 7 seen this happen before. I saw it happen in 1969 when 8 the Times had a heading "A firm within a firm within the 9 Metropolitan Police", which was part of the beginning of 10 some significant change. So number one, a journalist 11 broke this story.</b> 12 <b>The second thing is our look at it -- Elizabeth 13 Filkin's suggested there isn't a framework that deals 14 with this age, that deals with these issues, very well. 15 I'll come back to that.</b> 16 <b>The third point I think we have to look at in police 17 terms as well as in broader somebody terms is public 18 interest, and defining "public interest" is problematic, 19 which is why I think the police need to take some care 20 around it. Those three issues are in the back of my 21 mind in looking at where we've come to, and I'm looking 22 across the past 40 years.</b> 23 <b>So coming to number one, journalists actually have 24 been a spur for change. It's been uncomfortable. My 25 goodness, I know that. If you're utterly devoted to</b> Page 37</p>	<p>1 <b>somewhat over the time I have been in the police. It's 2 not brand new, but it has certainly developed a great 3 deal, and I guess what I deduced from all of that is 4 a great concern in the police about whether they're 5 getting the story across, a concern that their 6 legitimacy would be undermined. By "legitimacy", I mean 7 their competence to operate, their authority, as it 8 were, to use discretion and get general support, and 9 that has kind of led the police to want to do more with 10 the media, which, in my terms, they have -- over the 11 last 30-plus years, they have sought good relations, and 12 I think good relations are fine. One does not need to 13 be unfriendly, one does not need to be extremely austere 14 in one's contact, as I've illustrated earlier on, but 15 that's not the same as the right relationship.</b> 16 <b>That is a different entity, and I hope that what 17 this Inquiry can do is move beyond having aspiration for 18 a good relationship, good news, as it were, accentuating 19 the positive, to the right relationship, which 20 acknowledges that actually the press, the media, are 21 part of our society, but the police have to operate 22 within certain boundaries when dealing with them.</b> 23 <b>Now, that's the trick --</b> 24 LORD JUSTICE LEVESON: To what extent is that impacted by 25 a natural reluctance to reveal or permit to be exposed Page 39</p>
<p>1 a mission and uncomfortable information is put in front 2 of you, it can be daunting at times, and wearying. But 3 I could rehearse several of those, and I'm particularly 4 aware of it, of course, because of the Lawrence Inquiry, 5 and I well recall just one particular point, going on 6 a BBC programme "The heart of the matter" and having 7 a video played to me of a case that had been written off 8 a suicide, which actually, when one looked at the 9 evidence as presented, suggested something else indeed 10 had happened, and we reopened -- at the end of that 11 programme, we reopened that investigation. 12 <b>This has happened from time to time. Corruption, 13 cases that -- if you like, miscarriages of justice. 14 This isn't all of the time, but it has happened, as well 15 as assisting to catch some of the most -- the 16 worst-possible criminals.</b> 17 <b>So I don't want to overdo this, but one has to -- 18 for a healthy solution, one has to understand this 19 function very, very well, even if it's uncomfortable. 20 Now, I think that the issue is that over time I have 21 noticed how it's developed in terms beyond, as it were, 22 those pretty straightforward things which most people 23 would say are in the public interest to the personal 24 interests in people's lives, people's personal lives, 25 which I think is much more arguable. That's developed</b> Page 38</p>	<p>1 what is, in reality, bad news? 2 <b>A. Police are in the bad news business, sir.</b> 3 LORD JUSTICE LEVESON: Well, that's the point. 4 <b>A. Police are in the business -- they start quite a lot of 5 their activity where -- at a point of human failing and 6 human error. The best of them -- and there are a lot of 7 them -- try very hard to recover that, whatever that is: 8 a missing person, a murder, a domestic situation. They 9 try and recover it. But part of growing up -- and it's 10 a hard lesson -- is that you have to be prepared to deal 11 with bad news about how you operate as well.</b> 12 LORD JUSTICE LEVESON: That's the point, where you haven't 13 been Sherlock Holmes; you've been more like -- I'm not 14 sure Dr Watson is being unfairly criticised for being -- 15 <b>A. Some people have theories about Watson, that he really 16 was the smart one, but I absolutely understand your 17 point.</b> 18 LORD JUSTICE LEVESON: Yes. Certainly there's a decision in 19 the House of Lords where one of their Lordships speaks 20 about the perception of Sherlock Holmes or the 21 less-than-adequate performance of Dr Watson, which was 22 probably unfair, but you understand the point I'm 23 making. 24 <b>A. I do. I think the essence of it is that the police want 25 this good news to get good results, which is quite</b> Page 40</p>

1 legitimate in itself, to want to look -- they win  
 2 sometimes in recovering these errors.  
 3 I think that good results are important, but the way  
 4 you get those good results into the media or the way you  
 5 deal with bad news has to be by the standards and values  
 6 of the police. They must have their own anchor points  
 7 in dealing both with the good and the bad, and I think  
 8 the desire for results is usually laudable, but the  
 9 whole thing about the police, rather like justice, is  
 10 how you do it is at least as important as the result you  
 11 get, and I think that's got lost a little along the way.  
 12 And it hasn't just got to be good for the police.  
 13 This is why you have to be able to deal with the bad  
 14 news. It has to be good for the public. You know, good  
 15 for the victim, back to where we were earlier on with  
 16 critical incident training.  
 17 This has been a long, hard lesson, you know, and  
 18 I hope this can be compressed for people in the future.  
 19 Maybe I've been a slow learner, but I have seen this  
 20 unwind, as it were, over the years.  
 21 I do hope that part of what the Inquiry can do is  
 22 assert the importance of the legitimacy for the police.  
 23 It's an essential building block. Everything else tends  
 24 to fall away if the how you deal with things is seen to  
 25 be wrong, and when people pursue results, sometimes not

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1 everybody will see the value of going the extra mile.  
 2 If they attach value to legitimacy, they will.  
 3 MR JAY: Thank you. Now, under the subheading "Current  
 4 investigations" in your speaking note, as it were, you  
 5 address a number of issues. Maybe we can go straight to  
 6 paragraph 12. Can I invite you to deal with that point,  
 7 please?  
 8 **A. I should say the speaking note is informed by two more  
 9 evidential pieces, Mr Jay, in your terms. One is  
 10 a piece of work we asked the MPIA to do on police  
 11 reform, a summary of how things land, as it were, work,  
 12 and the second is with Cambridge University on  
 13 legitimacy. So it is not mercifully just the thoughts  
 14 of myself; it is more informed than that.**  
 15 The point, at 12, which actually arises from this  
 16 research is that you can have lots of guidance, you can  
 17 have lots of policy, and you can even have a measure of  
 18 regulation, but the point is in this particular case  
 19 they have not been effective in the prevention,  
 20 detection or reaction to illegal interception of  
 21 information, and that's a broader finding around: formal  
 22 policies and guidance are all very well and they're  
 23 useful up to a point, but they're not enough necessarily  
 24 to get things done, get things implemented.  
 25 In fact, as I've said, investigative journalism

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1 revealed this particular case, and lawsuits and hearings  
 2 of this Inquiry are revealing more about what we know  
 3 today.  
 4 LORD JUSTICE LEVESON: So it's a cultural thing, as much as  
 5 anything?  
 6 **A. Um ... it --**  
 7 LORD JUSTICE LEVESON: Or a mindset.  
 8 **A. Yes. I think -- I actually prefer the second to the  
 9 first, in the sense that the way we do business -- in  
 10 other professions, if I may say so, from the little  
 11 I know of the law or medicine or some of the things that  
 12 my friends and acquaintances -- a lot of how they do  
 13 business is hard-wired in at the very start. For  
 14 example, in medicine, confidentiality on records or the  
 15 like.**  
 16 This hard-wiring -- there is, of course, training  
 17 for the police and there is some of this that happens,  
 18 but the hard-wiring can't come from guidance alone, and  
 19 I will come to that later. I think you have to  
 20 reinforce it on a number of fronts in order to land your  
 21 point about confidentiality or whatever it is that you  
 22 hold precious in that profession. That's the point.  
 23 And in the fast-moving, noisy world of the police, where  
 24 everybody expects a kind of instant television-type  
 25 result -- or certainly in the next half hour or hour,

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1 everything will be wrapped up, pursuit of results, then  
 2 a lot of this legitimacy work, concerns, can easily get  
 3 knocked out of the way unless it's reaffirmed in  
 4 a number of ways.  
 5 LORD JUSTICE LEVESON: But this is a much, much bigger point  
 6 than just the issue that we're talking about. I mean,  
 7 I've made the point before that one of the consequences  
 8 of television programmes like CSI is that they create  
 9 the perception that everything can be solved  
 10 forensically, when every single police officer knows,  
 11 (a) it can't be, and (b) there aren't the resources to  
 12 do it, even if it could, and therefore there is an  
 13 educative role as to what is in fact achievable, which  
 14 it's critical for the police to be involved in, not  
 15 least to demonstrate why they need the support of the  
 16 public, with the ultimate aim of promoting confidence in  
 17 the system -- the criminal justice system and the  
 18 maintenance of law and order throughout the country. Or  
 19 is that too broadbrush?  
 20 **A. No, it's not broadbrush; it's the most fundamental  
 21 thing. The British policing model is based on the  
 22 notion of policing by consent, and you absolutely  
 23 depend -- there has not been a major inquiry I've ever  
 24 been involved in that hasn't actually, probably, in the  
 25 end, been much less broken -- occasionally, there's**

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<p>1 a forensic breakthrough of brilliance, but the huge bulk                  2 of it is people said, "There's just something I thought                  3 you should know", or they tell somebody who you hope to                  4 goodness sake will draw it to the right attention and                  5 from that you solve the case and protect them better,                  6 and that's the fundamental exchange.                  7 LORD JUSTICE LEVESON: Or not even solve it, but you get                  8 bricks in a wall. You get a piece of a jigsaw. There                  9 are lots of analogies which one could pick out.                  10 <b>A. Yes, and that's why this engagement, so that people                  11 understand what you're trying to achieve, is so                  12 important and why the last thing one wants to do is                  13 close the whole thing down. That would be a serious                  14 mistake.</b>                  15 LORD JUSTICE LEVESON: I'm sure that's right, so the                  16 question then becomes --                  17 <b>A. How do we do it, sir.</b>                  18 MR JAY: Your paragraph 13, in particular the perception                  19 point --                  20 LORD JUSTICE LEVESON: He's going to tell me how to do it.                  21 <b>A. Sir, I'm not going to tell you how to do it. I know my                  22 place. I know my pay grade.</b>                  23 LORD JUSTICE LEVESON: I wouldn't make assumptions if I were                  24 you, Sir Denis.                  25 <b>A. I have considered some possible causes that lie behind</b>                  Page 45</p>	<p>1 I accept that.                  2 <b>A. No, no.</b>                  3 LORD JUSTICE LEVESON: I hope to receive that in due course,                  4 but that's different. Right.                  5 <b>A. It's some thoughts which I think you've asked others to                  6 provide.</b>                  7 LORD JUSTICE LEVESON: Certainly.                  8 <b>A. And then we'll have hopefully a decent dialogue and get                  9 a strong end product.</b>                  10 I think that the police do -- the senior police                  11 officers and the junior police officers I talked to                  12 understand the need for a legitimate relationship with                  13 the media. However, you have to look at where that gets                  14 pressurised, and that tends to be where there's                  15 competition for information, particularly on top-end                  16 cases; that is, in police parlance, murder, especially                  17 the most difficult murders which are not immediately                  18 solved. If you think of Soham, Milly Dowler, and then                  19 big events like 7/7 and the like. There is a history                  20 about the police management of information around those                  21 top-end issues which has had a lot of learning in it                  22 over the last 20 or 30 years. Very intense competition                  23 which, of course, as commercial pressures bite, becomes                  24 higher as the stakes get higher.                  25 Police priorities -- you've already heard from the                  Page 47</p>
<p>1 some of this and we've alluded to them earlier, and then                  2 I've considered what can be done, but this is absolutely                  3 restricted to what I know and what I've been able to                  4 find by those pieces of research and the work with                  5 Cambridge that I have considered. So it is as good and                  6 bad as that, basically, and they are merely some                  7 suggestions on the road, because we are definitely                  8 pilgrims on the road to finding how to do this better,                  9 and I can be led by you in that or we can just run                  10 through the causes. Whichever suits you, sir.                  11 LORD JUSTICE LEVESON: Well, I'll let Mr Jay carry on.                  12 MR JAY: You probably want, Sir Denis, to run through the                  13 possible causes before we get to possible solutions.                  14 <b>A. Yes.</b>                  15 <b>Q. On your fifth page -- but can I just ask you to                  16 summarise --</b>                  17 <b>A. Yes, I will. Conscious of time.</b>                  18 LORD JUSTICE LEVESON: What we'll do is, if that's all right                  19 with you, we will publish this note as an annex to your                  20 evidence, if we may.                  21 <b>A. Sir. And the only sort of (inaudible), I would say, at                  22 this stage, reflecting on it, that it's as good and bad                  23 as that.</b>                  24 I mean, what I have seen --                  25 LORD JUSTICE LEVESON: It's not necessarily your final word;                  Page 46</p>	<p>1 head of counter-terrorism that different parts of police                  2 have different pressures, and I think if you were to                  3 talk to a lot of junior officers, they would probably                  4 pretty uniformly say their first duty is to protect                  5 life. They're not always doing that, but this is all                  6 part of the -- of why they join, in order to protect                  7 people and so on.                  8 I think there have been a lot of priorities over                  9 recent years to achieve results in relation to crime                  10 reduction, and in achieving those results, they've had                  11 to take views, as you said, sir, about where priorities                  12 are allocated, and they are doing that against                  13 a background -- I should just mention, by way of                  14 example, again to help contextualise it for your                  15 solution or the ultimate solution one aims for, there's                  16 15,000 incidents reported to the Metropolitan Police                  17 every day, roughly about 3,000 to the West Midlands and                  18 about 900 to Surrey. So they have to pick their way                  19 through this as well as go these things well. So                  20 there's a juggling act going on.                  21 I think there's an issue about role tension and                  22 understanding. I am familiar -- and I overheard what                  23 Cressida Dick said today about murder inquiries, where                  24 actually there's quite a rehearsed way of dealing with                  25 things ins reviews, but I think there's room to rehearse                  Page 48</p>

<p>1 more strongly the obligations and police around 2 investigation compared to the media.</p> <p>3 The three reference points government tend to use 4 when they're looking at information are confidentiality, 5 integrity and availability. Clearly, there is a shared 6 interest in availability. Where that may differ is in 7 integrity and confidentiality, and I am not sure that 8 that has been as well developed as it should and it will 9 need to be in relation to a solution on the other side 10 of this, because this is the commodity, the currency, if 11 you will, that both have to work on: information.</p> <p>12 That means looking at how well these big inquiries, 13 these specialised units, how they view their obligations 14 around information. The obvious thing is this: you, 15 Mr Jay, or myself, we will have expectations from the 16 police about how they keep things that they will find 17 out about us in difficult moments confidential. It will 18 be precious. It may be more precious, times, than 19 everybody in the police has always understood.</p> <p>20 There is an absence of a radar for information 21 disclosure and conflicts of interests, and I hope I have 22 rehearsed that sufficiently already, and by that I do 23 not simply mean having a ledger; I mean using the kind 24 of software and the kind of modern techniques that have 25 been applied to protect and monitor within, to look at</p> <p style="text-align: center;">Page 49</p>	<p>1 have three components, which I could outline if it's 2 helpful.</p> <p>3 LORD JUSTICE LEVESON: I think you can, but I think we'd 4 better just give the shorthand writer just five minutes, 5 if we could, if that's all right. Thank you.</p> <p>6 (3.34 pm)</p> <p>7 (A short break)</p> <p>8 (3.39 pm)</p> <p>9 MR JAY: Sir Denis, the section "What can be done?". You've 10 dealt with paragraph 29, which is the point about 11 revision of the relationship between police and press, 12 but I think you were about to develop the remaining 13 points you have under this heading.</p> <p>14 A. Yes, Mr Jay. These are some considerations in 15 developing the right relationship, and I think that's 16 probably the best one can say about them, but they're 17 based on the idea that you put some kind of framework of 18 integrity in place and then you support it in a number 19 of ways, which I'll return to in a moment.</p> <p>20 Three considerations in that would be: in their 21 interactions with the media, there must be a legitimate 22 policing purpose, whether it's a constable or 23 a chief constable, and it should be more than 24 relationship-building and relate to the core values and 25 standards of policing. That's why I think it's</p> <p style="text-align: center;">Page 51</p>
<p>1 what information is going out of the organisation. 2 Otherwise you have no intelligence base to watch 3 patterns.</p> <p>4 There are some issues around interpreting the law, 5 but I am confident, sir, you will point the way on that, 6 and that's been raised in your Inquiry. But that's an 7 important thing for police in prioritisation terms.</p> <p>8 Then I conclude, I guess, that if you take the 9 checks and balances in the British policing model, 10 they've all got answers to give you. Not just the 11 operators, but the people in governance mode. By that, 12 I mean people in police authority, the future of the 13 PCCs, the police and crime commissioners, those in 14 regulation. Collectively, we didn't manage to stop 15 this.</p> <p>16 So we then get to: well, what can we think about 17 doing? What ideas? Well, I take the view that there 18 does need to be a significant revision in the way the 19 relationship operates, but I would absolutely want to 20 reassert with you: not actually in order to shrink the 21 relationship but to put it on the right footing.</p> <p>22 Now, getting it right means putting, to me, as 23 a starter at least -- and we are having discussions with 24 colleagues in ACPO and elsewhere -- some kind of 25 framework for integrity in those dealings, which would</p> <p style="text-align: center;">Page 50</p>	<p>1 important to establish those values, standards.</p> <p>2 Now, there's a -- part of the challenge is there are 3 several sets around from the attestation, which I think, 4 if you are familiar with it, you know, is quite moving, 5 all the way through to -- covers professional conduct to 6 a statement of professional values. My instinct is that 7 they're all worthy and as long as they crystallise what 8 we hope from the police, they're a reference point in 9 whether you actually have a legitimate policing purpose, 10 which is likely to prevent crime and help people and 11 help the investigation, than not. But that's currently 12 the subject for discussion with ACPO and others, and I'm 13 hopeful that there will be something forthcoming.</p> <p>14 I know it's of concern.</p> <p>15 The second consideration is how this relationship -- 16 if you like, that's the what. The second consideration 17 is how; the manner in which the relationship is 18 conducted. In essence, I think it should operate 19 without favouritism and with integrity, and I say this 20 is about integrity of the mission policing.</p> <p>21 So that kind of questions exclusive contact. 22 It doesn't eliminate it, but it questions it. So it has 23 real bite in that sense, and it also accepts that 24 because of the police mission to investigate, you will 25 consider what's presented to you, as it were, even if</p> <p style="text-align: center;">Page 52</p>

1 the media are presenting it to you as a real prospect.  
 2 Now, what will need to happen underneath that is  
 3 some very practical things for people who perhaps won't  
 4 have all the time to watch this Inquiry or read all of  
 5 these papers. That can be converted -- "without  
 6 favourite, with integrity" -- to something a police  
 7 force does about the range of contact it thinks is  
 8 acceptable, about records, about briefing,  
 9 authorisation -- I think you follow the drift -- so it  
 10 establishing some boundaries. That's what's hinted at  
 11 in the main report, but now I'm getting more specific  
 12 around this particular issue for this Inquiry.  
 13 And then the third consideration is the police  
 14 handle information and access to it. They must seek to  
 15 avoid a conflict of interest, given their obligations  
 16 around confidentiality in particular but unexclusively.  
 17 I think that those three points will help. If  
 18 developed, can help. I'm quite prepared to accept --  
 19 and there is a dialogue going on with people in the  
 20 Police Service and elsewhere -- that this actually may  
 21 be a prompt for a better set of ideas, but they're  
 22 designed to be specific, although they may appear at  
 23 first blush rather general.  
 24 Then what I would say is that the degree of  
 25 application and support will depend on whether, as it

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1 were, you're in the eye of the storm or you're in the  
 2 busiest part, which is -- frankly is the Metropolitan  
 3 Police, global city and all of that, with all of the  
 4 range of activities and opportunities and so on that  
 5 exist there, compared to somewhere else. But I think  
 6 they should bounce off the same broad framework.  
 7 The work on police reform, risky business that  
 8 often -- too often, in my own experience, falls short of  
 9 expectation, and I make that point because it will need  
 10 support from those in governance role. The governance  
 11 support for legitimacy, as well as other things, has to  
 12 be there, otherwise nobody's probing. This reduces the  
 13 challenge.  
 14 There has to be something too about regulators  
 15 looking to see whether they can do better. We're  
 16 certainly willing to do, that, and clearly operators  
 17 need to implement.  
 18 The one piece I haven't sort of elaborated on out of  
 19 where I started that's perhaps useful -- and I can  
 20 develop the rest of it if you wish -- is this: this  
 21 public interest issue is around us all the time. It is  
 22 a difficult one to crack, this. PCC had a set of public  
 23 interest considerations which, at first look, looked  
 24 reasonable in many respects but didn't quite survive the  
 25 contact at battle.

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1 What I do know is this, though: in order to prevent,  
 2 as it were, the likelihood of an officer who feels  
 3 something is going wrong ever feeling they can have  
 4 contact because we've set up such an austere set of  
 5 arrangements that they can never go and speak to  
 6 somebody else -- whistle-blow if you want to use one  
 7 word, or have a conversation -- we should be prepared to  
 8 consider, depending on what they're revealing, whether  
 9 there is a public interest issue in it, maybe within the  
 10 police.  
 11 I could extend that, but in practical terms it would  
 12 also mean for me that if you're dealing with -- and  
 13 I alluded to this earlier, with the inquiry into leaks  
 14 in government. At the top end, if you're dealing with  
 15 something that's going to generate lots of debate about  
 16 conflict of interest, for whatever reason, maybe you  
 17 need some kind of review group to help challenge your  
 18 operators as to whether what they're really doing is in  
 19 the public interest, just in case they're very busy or  
 20 they're very preoccupied and they might lose their way  
 21 on the public interest.  
 22 Now, there is a process at the moment called gold-  
 23 grouping. This is not the same as what I have in mind.  
 24 Gold group is a bunch of other officers, some of whom  
 25 may be working on the thing, the project, and maybe some

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1 brought in from outside. I'm talking about bringing  
 2 into that, to help inform that, to challenge it, to test  
 3 it, some authoritative people from outside. You  
 4 wouldn't be doing this every day of the week, but then  
 5 you're not doing these cases every day of week. So we  
 6 have to be prepared to think of ways of not freezing  
 7 down the public interest in, as it were, the truth  
 8 emerging or whatever words one wants to use.  
 9 I think I should pause there, because I've been  
 10 talking at you for a while.  
 11 LORD JUSTICE LEVESON: Let me see if I understand that. Are  
 12 you suggesting that there should be some mechanism  
 13 whereby an officer or anybody else who is particularly  
 14 concerned about one aspect should be able to report that  
 15 concern and have it considered seriously without having  
 16 to go to the press and run the risk of a conflict of  
 17 loyalty? Is that the idea or have I misunderstood it?  
 18 A. No, you haven't misunderstood it, but I -- and I would  
 19 also think -- well, what we end up having to do here in  
 20 order to avoid, as it were, freezing contact with a free  
 21 press and all of that, one ends up trying to square this  
 22 circle. And at the heart of the circle, apart from the  
 23 issue of police legitimacy, is the public interest,  
 24 which may be bit more than the police interest, as it  
 25 were.

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1 LORD JUSTICE LEVESON: Yes.  
 2 **A. Ideally, there would be some place or some person an**  
 3 **officer could talk to, visit: "I think that that**  
 4 **investigation's been suppressed."**  
 5 **Now, hopefully they have enough faith in their own**  
 6 **institution to do it. However, if they decide to be in,**  
 7 **sir, in your terms, disloyal, we should be prepared at**  
 8 **least to consider that in weighing this thing up. Do**  
 9 **you see what I mean?**  
 10 LORD JUSTICE LEVESON: No, I was trying to avoid an  
 11 allegation of disloyalty --  
 12 **A. Yes.**  
 13 LORD JUSTICE LEVESON: -- by providing them with an  
 14 alternative mechanism to raise concerns and, if you  
 15 like, to be able to see that the concern is taken  
 16 seriously by involving somebody outside. But that would  
 17 have to go hand in glove with a willingness, on behalf  
 18 of the police, the more readily to admit where things  
 19 haven't gone as well as they might have done, wouldn't  
 20 it?  
 21 **A. It would, and I'm not suggesting a specific mechanism,**  
 22 **but I can see that unless one addresses that then some**  
 23 **of the -- some of the means by which problematic things**  
 24 **get revealed would be closed down potentially, because**  
 25 **one moves to a stronger framework which tightens down**  
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1 **the basis for contact and then you have people who would**  
 2 **say, "Now you've actually closed off the route."**  
 3 LORD JUSTICE LEVESON: Yes, and then what happens is that  
 4 the pressure cooker just increases the pressure --  
 5 **A. And blows.**  
 6 LORD JUSTICE LEVESON: -- until ultimately it explodes in  
 7 a West Midlands serious crime squad or some other  
 8 terrible calamity.  
 9 **A. Indeed.**  
 10 LORD JUSTICE LEVESON: Which nobody has actually seen early  
 11 enough and gripped. Is that the point?  
 12 **A. Yes. So it's a public interest safety valve process in**  
 13 **those terms.**  
 14 LORD JUSTICE LEVESON: Yes.  
 15 **A. But also for those who are engaged at the top end in**  
 16 **these most contested environments, there's a mechanism**  
 17 **for them, with some kind of external review group -- we**  
 18 **use that. Others do from time to time. Not just a set**  
 19 **of police officers, or -- if they're en route to**  
 20 **a decision, there's not just something that they can**  
 21 **resolve with the CPS, as it were, where we can resolve**  
 22 **quite a lot -- is this thing viable or whatever else.**  
 23 **The value of doing this, given all the pressure and**  
 24 **resources, they can test it.**  
 25 **Now, there's an argument that should be with the**  
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1 **Police and Crime Commissioner and that may be so, but**  
 2 **they may well get some comfort from having, as it were,**  
 3 **a group of people, if you like, non-execs, whatever**  
 4 **phrase one wants to use, people who are experienced,**  
 5 **authoritative in their own world, who can give them**  
 6 **a view, to say, "I think it is worth you doing this",**  
 7 **even though you have a lot of other pressures on.**  
 8 LORD JUSTICE LEVESON: And you say non-executive, not merely  
 9 some other chief constables?  
 10 **A. Well, other --**  
 11 LORD JUSTICE LEVESON: I say "merely"; I don't mean that  
 12 dismissively.  
 13 **A. No, indeed. I think other chief constables can be very**  
 14 **good at holding your feet to the fire, but it may not be**  
 15 **enough in broader considerations, particularly when one**  
 16 **gets into the media and politics, as I've already**  
 17 **alluded to this issue in terms of trying to set up**  
 18 **a protocol around the value of these kind of**  
 19 **investigations and politics, where policing meets**  
 20 **politics, but policing meets the media has the same**  
 21 **tensions and difficulties, charging.**  
 22 **Now, I'm sorry I'm not offering you a solution, but**  
 23 **I am trying -- I think that within the police and**  
 24 **beyond, we'll have to think of ways of dealing with that**  
 25 **public interest bit, otherwise we close down the reform**  
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1 **as well.**  
 2 LORD JUSTICE LEVESON: No, I understand that the safety  
 3 valve in some way, shape or form is a very important  
 4 part of actually what the press do.  
 5 **A. Mm.**  
 6 LORD JUSTICE LEVESON: And I'm not trying to limit that  
 7 important role of holding the powerful, in which number  
 8 I include the police, to account. They do it for the  
 9 politicians, they do it for the government, they do it  
 10 for the judiciary, and they certainly should do it for  
 11 the police. I've made the point they don't do it for  
 12 themselves but that's a different point, and we can't  
 13 lose that by whatever else we do.  
 14 **A. Yes.**  
 15 LORD JUSTICE LEVESON: To some extent, it may be that the  
 16 police have to be somewhat less defensive and embrace  
 17 the problems facing the more inquisitive world that we  
 18 live in and the greater amount of information that is  
 19 both out there and capable of being put out there  
 20 through social media outlets.  
 21 **But that, as you say, is a hard-wiring issue or**  
 22 **a mindset issue, which was the word you preferred to**  
 23 **"culture" -- and I understand why -- which it's quite**  
 24 **difficult to get a handle on and say, "Well, if you take**  
 25 **this pill and that pill and the other pill, then it will**  
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<p>1 all come out in the end."</p> <p>2 <b>A. Well, what it might help you to do is not always make</b></p> <p>3 <b>the right judgment but make as good a judgment as you</b></p> <p>4 <b>can, and all professions have ethical dilemmas. The</b></p> <p>5 <b>press come to you: "We've got a story about X", and this</b></p> <p>6 <b>completely diverts the investigation. Do you stand off</b></p> <p>7 <b>or do you intervene? And you're not going to get</b></p> <p>8 <b>a checklist that will do that, but if you do have some</b></p> <p>9 <b>kind of frame of reference where you can say, "I made it</b></p> <p>10 <b>in order to do this", you are on the right path,</b></p> <p>11 <b>I think. At least you have a chance of success, and in</b></p> <p>12 <b>the information revolution you're talking about, I think</b></p> <p>13 <b>there will be a lot more of these challenges and I hope</b></p> <p>14 <b>that you would be able to help the police on that path.</b></p> <p>15 One thing I would say about mindset -- I think it's</p> <p>16 about -- we're all coming to a new mindset about the age</p> <p>17 we're in and I'm sure you don't for a moment, because</p> <p>18 you know far too much about the police -- I mean, there</p> <p>19 are an awful lot of people in the police who are</p> <p>20 absolutely devoted to the mission, the -- in managing</p> <p>21 this change, acknowledging more bad news may be there</p> <p>22 and they have to deal with it, because they feel their</p> <p>23 mission is being tainted and it feels -- at times, they</p> <p>24 feel it reflects on them, when actually what's happening</p> <p>25 is we're all going through a shift in the access to</p> <p style="text-align: center;">Page 61</p>	<p>1 it's paragraph 38.4 -- you refer to transaction</p> <p>2 validation under your command in Essex, and you say that</p> <p>3 three to nine PNC intelligence transactions were being</p> <p>4 validated by supervisors on a daily basis.</p> <p>5 The question is: is that your recommendation for the</p> <p>6 right level of transaction validation?</p> <p>7 <b>A. Mr Jay, I wonder if it would be helpful -- I think</b></p> <p>8 <b>somehow or other our names must have got transposed.</b></p> <p>9 <b>I think that's for Mr Baker. But what I suggest in</b></p> <p>10 <b>relation to the PNC, if it's satisfactory to you, is</b></p> <p>11 <b>we'll provide a written response.</b></p> <p>12 I can broadly tell you what we do at PNC. Obviously</p> <p>13 I don't know all the details of Essex and I can tell you</p> <p>14 what the HMIC do and in essence, we did an intensive</p> <p>15 look at the PNC and leakage between 2005 and 2007,</p> <p>16 established some with the operators, as I would hope we</p> <p>17 can collectively do with this, established a stronger</p> <p>18 system with the support of the National Police</p> <p>19 Improvement Agency, and the thing is now capable of</p> <p>20 being monitored using software, back to our earlier</p> <p>21 point, so that the HMIC are able to relatively stand</p> <p>22 off. That said, we are still checking information, and</p> <p>23 the PNC issue has not disappeared off the radar.</p> <p>24 What I could do, sir, is give you a written specific</p> <p>25 answer to the specific three questions, if that helps,</p> <p style="text-align: center;">Page 63</p>
<p>1 information and challenge and testing and scrutiny.</p> <p>2 LORD JUSTICE LEVESON: Yes, this is exactly the same problem</p> <p>3 as faces the press where the behaviour of a few is</p> <p>4 believed to taint all, and why I've been repeatedly at</p> <p>5 pains to point out that I recognise the vast majority of</p> <p>6 entirely responsible journalism that is produced. It's</p> <p>7 a small corner that is creating so much trouble.</p> <p>8 Exactly the same for the police.</p> <p>9 <b>A. Yes, and so I suppose our role has been to try and look</b></p> <p>10 <b>at the system and say, "Well, if the system isn't strong</b></p> <p>11 <b>enough to deal with that morphing, that evolutionary</b></p> <p>12 <b>thing that's going on, perhaps it needs some</b></p> <p>13 <b>strengthening without closing the whole thing down", and</b></p> <p>14 <b>hence this conversation.</b></p> <p>15 LORD JUSTICE LEVESON: Well, I understand that.</p> <p>16 MR JAY: Sir Denis, those were all the points I had on your</p> <p>17 note. The last topic this afternoon are questions which</p> <p>18 others are asking me to put to you in relation to the</p> <p>19 Police National Computer. I provided you with advance</p> <p>20 notice of these questions. You have the document to</p> <p>21 hand or at least the answers that you would wish to</p> <p>22 give.</p> <p>23 The first question is: in your role as HMIC, you are</p> <p>24 aware of the audits of the PNC security, which are also</p> <p>25 available on the HMIC website, and in this paragraph --</p> <p style="text-align: center;">Page 62</p>	<p>1 or I could recover the document now, whichever is</p> <p>2 easiest. I'm simply trying to contextualise what we've</p> <p>3 done. People have learnt the PNC. They've learnt to</p> <p>4 put systems around it. We have tested it for a period</p> <p>5 of time to help establish that. Then we stand back and</p> <p>6 monitor it infrequently, just to test that the system is</p> <p>7 working, which, in essence, if we can come up with some</p> <p>8 framework in relation to the broader question, is a role</p> <p>9 we may be able to assist in.</p> <p>10 Is that sufficient, sir, or do you --</p> <p>11 LORD JUSTICE LEVESON: I'm perfectly content that you</p> <p>12 elaborate to such extent as you or Mr Baker feel</p> <p>13 appropriate in writing.</p> <p>14 <b>A. Sir.</b></p> <p>15 LORD JUSTICE LEVESON: Thank you.</p> <p>16 MR JAY: Yes, thank you very much.</p> <p>17 LORD JUSTICE LEVESON: Thank you, Sir Denis. There have</p> <p>18 been a number of loose ends left by your evidence, which</p> <p>19 you've actually identified. This thinking, I'm sure, is</p> <p>20 going on and still developing. I would be very grateful</p> <p>21 to learn of any further thoughts that you, either</p> <p>22 through HMIC or in conjunction with ACPO, have on</p> <p>23 a sensible structure, which copes with the issues that</p> <p>24 you've understood I'm addressing and you've understood,</p> <p>25 I hope, the broad recognition that I have provided to</p> <p style="text-align: center;">Page 64</p>



<p>1 you of where I see potential solutions.                  2 In other words, I entirely endorse your view that                  3 over-restrictive tick-boxing exercises will be entirely                  4 unhelpful. It's much more a question of creating the                  5 framework within which everybody can understand the                  6 appropriate moral compass, which you've also identified,                  7 and so make sensible decisions, perhaps with the wider                  8 understanding that these events and other events have                  9 brought, that the public will comprehend things not                  10 going right, but will be less forgiving if they believe                  11 they've been the subject of some -- "cover-up" is too                  12 strong a word, but deliberate restriction of                  13 information, for whatever reason.                  14 I hope that's helpful and agrees with the line that                  15 you yourself have been seeking to identify.                  16 <b>A. I think, hopefully, my line agrees with yours, sir,</b>                  17 <b>which is in the end you will carve a way forward on</b>                  18 <b>this, and we have the benefit of a great deal of</b>                  19 <b>hindsight, too, which not everybody had at the time when</b>                  20 <b>they made the decisions they made.</b>                  21 LORD JUSTICE LEVESON: Yes. Of course, it's very critical                  22 that we can't just use the hindsight. One of the things                  23 that I am addressing, at least in my mind and eventually                  24 in writing, is the extent to which I am relying on                  25 hindsight rather than actually what was there to be seen</p> <p style="text-align: center;">Page 65</p>	<p>1 collect that together and then ensure that it is made                  2 available to me with the balanced view of those who                  3 instruct you as to the appropriate line. I'm not going                  4 to say you'll bind me, of course you won't, but I am                  5 very anxious that individuals feel that they've had                  6 their opportunity to say what they want to say, and I'm                  7 conscious that with the best will in the world I am not                  8 going to be addressing every single factual issue that                  9 has arisen in the course of this Inquiry, because to do                  10 so would lead to a report (a) that would take an                  11 extremely long time to write, and (b) would not achieve                  12 that which I am required to achieve, and I am conscious                  13 that actually in relation to some aspects of the police,                  14 it may be thought that the same absence of                  15 individualisation of concern, which I have afforded to                  16 journalists because of the police investigation and                  17 thereby to others, in fairness, has not been afforded to                  18 some police officers, and I am conscious of that. Of                  19 course, the reason is that this aspect of the module                  20 isn't dependent upon ongoing police investigation, but                  21 I understand why it might feel that some are being dealt                  22 with differently.                  23 MR GARNHAM: Sir, I'm grateful for that and we will act on                  24 what you suggest. The trick, it seems to us, to be for                  25 us, and much more so for you, is to reconcile on the one</p> <p style="text-align: center;">Page 67</p>
<p>1 and, more significantly, why what was there to be seen                  2 wasn't seen, rather than just saying, "Well, in                  3 hindsight, I'd have done this, this and this."                  4 Hindsight is always perfect.                  5 <b>A. The only perfect science, sir.</b>                  6 LORD JUSTICE LEVESON: Thank you very much, that's a very                  7 appropriate moment.                  8 Mr Garnham?                  9 MR GARNHAM: Before you rise, may I mention just one matter?                  10 A number of those whom I represent have listened and                  11 reflected on the evidence they've heard being given to                  12 you during the latter part of this module. There are                  13 particular factual disputes, the relevance of which to                  14 the terms of your reference may be fairly marginal, but                  15 they are often matters that matter a lot to the                  16 individuals concerned.                  17 The advice I have been giving them is that if there                  18 is a matter about which they feel strongly, rather than                  19 my raising it on the floor of this Inquiry, they should                  20 submit to you a short written statement that describes                  21 the piece of evidence they want to advance, that we                  22 should serve it on you and then you will make of it what                  23 you think is appropriate.                  24 LORD JUSTICE LEVESON: Well, I am very comfortable with                  25 that, Mr Garnham. I am equally happy for you also to</p> <p style="text-align: center;">Page 66</p>	<p>1 hand fair dealing with individual points of fact, but on                  2 the other, not disappearing into a labyrinth of factual                  3 disputes when you have a rather higher agenda to                  4 address.                  5 LORD JUSTICE LEVESON: Yes, well, you've understood the                  6 problem. Of course, it's rendered more difficult by the                  7 fact that for some of these issues it is only by                  8 drilling into the detail that you actually understand                  9 where the balance should lie --                  10 MR GARNHAM: Yes.                  11 LORD JUSTICE LEVESON: -- and that must sometimes appear to                  12 those affected rather more focused than they had perhaps                  13 anticipated.                  14 MR GARNHAM: Sir, yes. Thank you.                  15 LORD JUSTICE LEVESON: Thank you very much indeed.                  16 Right. We're making a habit of this, Mr Jay.                  17 Tomorrow morning, 10 o'clock. Thank you.                  18 (4.07 pm)                  19 (The hearing adjourned until 10 o'clock the following day)                  20                  21                  22                  23                  24                  25</p> <p style="text-align: center;">Page 68</p>

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