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Operation Caryatid - Briefing for ACSO John Yates

Brief Chronology of Events

1. Operation 'Caryatid' was an investigation undertaken by the former Anti Terrorist Branch (SO13), now Counter Terrorism Command (SO15) of the MPS which commenced in December 2005. It followed a complaint from the Royal Household about a series of articles in the News of the World newspaper and individual Household staff concerns that the stories may have been obtained through interception activity around their mobile telephones.
2. Through examination of telephone data it became apparent that unauthorised access was being gained to the voicemail direct dial numbers (DDN - also know as Unique Voicemail Numbers UVN) of Royal Household staff. After further analysis one Clive Goodman the Royal Editor for the News of the World was identified as being responsible, however the data showed that he was not acting alone and that other telephone numbers were also accessing these voicemail DDN's.
3. A review of the investigation chaired by DAC Clarke in March 2006 acknowledged that although the scale and breadth of this investigation could be far wider it concluded that the focus of the investigation would remain with Royal Household staff as 'victims' and ascertain the extent of the telephones being accessed by Goodman. In addition work would be carried out with the airtime providers regarding evidential product and crime prevention ideas.
4. In April 06 at least six telephones held by Royal Household staff and those close to the Household were being intercepted by Goodman. The challenge to the investigation was the telephone industries' difficulty in producing data usable in any criminal prosecution.
5. By May 06 Glen Mulcaire was identified as possibly being involved in similar intercept activity. A link was also established between Mulcaire and Goodman and also Mulcaire and potentially the News of the World newspaper, (Financial). At this time it was established that a person using a name of Paul Williams (later identified as an alias of Mulcaire) was contacting O2 purporting to be an employee of O2. By subterfuge he was gaining access to telephone accounts securing data and also having the ability to change voicemail 'Pin codes' of individual telephones he was targeting back to a default Pin code allowing him access to voicemail messages. This almost became a game of cat and mouse with victim's changing and personalizing their codes and Mulcaire changing them back. O2 produced recordings of Mulcaire undertaking this task which he appeared to do with alarming regularity. Enquiries with Vodaphone revealed a very similar process with Mulcaire.

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6. Mulcaire's involvement into this case clearly widened the scope of the investigation and a process was undertaken to get a clear picture of the extent of the criminality these subjects were involved in. This was primarily focused upon the telephones held and accessed by these two suspects. In total Clive Goodman had access to two landline telephones (one home and one office) and two mobile telephones. Mulcaire had access to three landline numbers and one mobile.
7. Police received tens of thousands of lines of data supplied by the telephone companies. Each line of data represented a call from one of the above telephones, accessed by our suspects to random telephone numbers.
8. As the investigation progressed it became apparent that many other people were being targeted. By July 06 the telephone companies informed investigators of other potential victims, amongst these was a cabinet ministers, Tessa Jowell. This posed a dilemma in terms of whether or not to keep the operation covert and continue to scope the potential breadth of what was being discovered. In doing so it would risk the continuing exposure of an unknown number of victims to the activities of Mulcaire, Goodman or indeed anyone else who might be involved. Consequently it was decided that in order to quickly prevent further intrusion to many other potential victims and in the interest of national security to urgently progress an arrest phase. The decision was rationalized by the SIO in the policy log as being essential to prevent further offences and protect national security issues. The executive phase was supported by SCD business group due to workload of the Anti Terrorist Branch at the time, (Operation 'Overt' et al).
9. On the 8th August (Op Overt arrests 9/10th August 2006) 2006 Clive Goodman was arrested at his home address as was Glen Mulcaire. Goodman was taken to Charing Cross Police Station and Mulcaire to Belgravia. A third man Stephen Mills was arrested at the office premises of Mulcaire. He was later NFA'd following consultation with the CPS. Mills was a friend and occasional 'employee' of Mulcaire and 'helped out'. He was not a journalist nor was he a private detective.
10. Searches were then carried out at the home addresses of all three as well as the offices of News of the World (NOTW - also see para 17 below) and 'Nine Consultancy'
11. Goodman and Mulcaire were charged on the 9th August 2006 with a joint offence of conspiracy to intercept communication under S1(1) of RIPA 2000 and then a further sample selection of 21 individual counts showing the unlawful conduct of the two defendants against specific victims (see rationale at para 18 onwards). On the 29th November 2006 both pleaded guilty and were sentenced at the Central Criminal Court to four and six months respectively on 26th January 2007.

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How did the suspect's access telephone voicemails?

12. In broad terms each mobile telephone is sold to customers with two unique telephone numbers. One is the number we all recognise and use to contact each other, the phone number. The second is created to access our voicemail messages attached to our telephones and is only used to remotely access our messages, so for instance we can access our own voice mail messages from a landline telephone by ringing this number. It is in effect what your telephone does automatically when you dial 121 on your handset. There is a slight variation with Orange who give customers a generic voicemail number into which you then input your individual phone number followed by Pin number. The only level of security after accessing this voicemail number is to have a Pin number which many customers simply leave at default or factory setting. For those who had customised their Pin, Mulcaire used the subterfuge detailed above to simply change it back to default and then access the messages.
13. It should be noted, however, that the initial benchmark set by the CPS to prove the criminal offence of interception was that the prosecution must prove that the actual message was intercepted prior to it being accessed by the intended recipient. In plain English it equates to a person intercepting a letter in the post and physically opening the envelope prior to the addressee. Further the initial level of proof being worked upon was, a) to prove a mail message had been left, b) to prove that message had been accessed prior to it being opened by the intended recipient.

Evidence recovered from Searches

14. The offices of 'Nine Consultancy' used by Glen Mulcaire and his home address of 108 Alberta Avenue, Cheam, and his parents address were all searched yielding a huge quantity of documents. Hundreds of handwritten sheets showed research into many people in the public eye. These included those linked to the Royal Household, Members of Parliament, military staff, sports stars, celebrities and journalists. There was also a quantity of electronic media recovered including recordings of some apparent voicemail conversations. It is clear from these documents that Mulcaire had been engaged in a sustained (years) period of research work in various levels of completion. In many there is simply the name of a celebrity or well known figure in others there is more detail with names addresses, dates of birth, telephone numbers, DDN's, passwords, PIN numbers and scribbles of private information. On some there are names which probably relate to journalists and cash sums. (As yet unconfirmed)
15. It should be noted that no evidence existed to suggest that those possible journalists detailed on these sheets had knowledge of the illegal methods undertaken to supply these stories, however, it should be pointed out that in one of

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the recordings recovered from Mulcaire it is clear Mulcaire is giving instruction to an unknown person (possibly a journalist) on the telephone, on how to access the messages of Gordon Taylor. (As yet unconfirmed as to who this person is)

16. Also recovered were a number of contracts between Mulcaire and the News of the World, some show agreements to pay Mulcaire a wage of £104,988 per year. These are dated 1st July 2005 and July 03 and at least one is signed by Greg Miskew of the NOTW. In addition to these contracts other financial documents recovered highlighted individual payments to Mulcaire from the NOTW for instance in the case of Gordon Taylor an agreement to pay £7000 once a story had been printed. (All used by counsel in the criminal prosecution)
17. On the day of the arrest Clive Goodman's office in NOTW was searched under the authority of a search warrant and some material seized and subsequently used in the prosecution. NOTW immediately engaged their lawyers to prevent a fuller search taking place and thereafter Andrew Falk, MPS Legal Services, with support from the NTFIU and Counsel considered the merits of obtaining production orders to secure additional material that we believed might exist to show the relationship between Mulcaire and NOTW. Some material was provided, but it centered on Goodman, e.g. finance/expenses claims that in turn may have gone to pay Mulcaire etc. Despite further requests for cooperation around understanding how their internal phone system operated this was not forthcoming and therefore beyond what we had seized/been served with there was no evidence of anything wider.

How were victims identified?

18. A spread sheet was compiled using a number of sources of data: -
 - The sheets recovered from the offices and home address of Mulcaire with the details in various stages of completion.
 - The examination of computer material recovered from Mulcaire on which he had 'computerised' his rough notes above.
 - Media data, recordings.
 - Telephone data records of the possible 'victims, - albeit O2 as part of their own data protection policy would not supply victim data until they had contacted victims direct and only then would pass details to police with prior approval, an example is Max Clifford.
19. It was clear from the spreadsheet and the lines of data supplied by the telephone companies that many potential 'victims' existed and had been subject to their voicemails being called, but that is not sufficient to prove the criminal offence of interception. The burden is on the prosecution to show the activity led to the defendant gaining access to voice messages prior to the intended recipient gaining access. The data alone does not even show whether or not messages existed only that the voicemail had been accessed.

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20. It is important to explain at this juncture that each phone company uses its own software/data management systems to provide and monitor their service. In terms of prosecution these layers of engineering tools/software are not used for court purposes as in many case the integrity of what they show is not sufficiently accurate. Vodafone used engineering software called 'Vampire' data that showed with a higher degree of accuracy what was going on in terms of data entering and leaving mailboxes including timings. These could be matched to events/witness statements. There was also an additional proactive phase of the operation with regards to the Private Secretaries to try to overcome some of the inadequacies of the data systems through corroboration.
21. When it came to working with the CPS/Counsel as to who was a victim and how could they be used to support a prosecution, best evidence lay with the original complainants. In terms of those that were chosen to subsequently reflect the wider scale of the criminal activity there is a degrading level of proof when measuring it against the precise definition of interception. It would be fair to say that this case was groundbreaking in seeking to push the boundaries and establish greater clarity of what was meant by interception.
22. Add into this sheer scale of data, complexity of what the data might and might not be showing and factors like O2 being unwilling to supply fuller details of victims from their own research, the true scale of Mulcaire's activity is not known; suffice to say that the data sources outlined above are a good indicator of where his interests lay at the time.

CPS and Senior Counsel

23. As part of DAC Clarke's review in March 2006, close liaison with Carmen Dowd, the head of the Specialist Crime Division of the CPS was established and then as the case progressed towards an anticipated prosecution phase, senior counsel in the form of Mr. David Perry QC was engaged.
24. From the onset it was recognised that proving any criminality was extremely challenging for all manner of reasons. Advice indicated that S1 RIPA interception or Computer Misuse Act might be the potential offences for what was happening. The latter apparently had a poor track record in terms of conviction, because of the complexity of what had to be proved and the latter had not been used in respect of telephone voicemail. In terms of sentencing Computer Misuse had a maximum custodial sentence of 6 months whereas Interception attracted a sentence of up to 2 years and on points to prove simpler to present in court.
25. Full disclosure of the potential scale of victims was provided and advice from counsel/CPS was that subject to the necessary cooperation from appropriate victims, the telephone companies, their technical support and the use of a telecoms expert witness a case could be presented. The greatest chance of a

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successful prosecution was to proceed with the Interception offences, which even then was groundbreaking in terms of case law.

26. To best reflect the interests of justice in terms of the breadth of what we had discovered CPS/Counsel advice was that in addition to our main three Royal Household victims, against whom there was best evidence of interception, a further 5-6 'victims' would be added to be representative of the scale and breadth of background/standing in society of all those Mulcaire may have been targeting. Additional criteria were built into the selection of these victims including willingness to give evidence, frequency and duration of call, strength/integrity of available data, availability of any other corroborating evidence and that the overall number of victims was representative of the mobile phone industry as a whole to ensure proportionality in terms of business reputation and continuity. In terms of total victim numbers for a prosecution the view was that any number beyond this would not add anything to the sentencing powers of a court in the event of a guilty finding and that therefore this was the most proportionate means of meeting the needs of justice and use of resources based upon what we had found.

Which victims were informed by whom, when and how?

27. On the 24th August 2006, following a case conference that set the strategy for the optimum means of proceeding to prosecution the SIO set out his strategy for dealing with potential victims.
28. In broad terms it stated that anyone on our spreadsheet described above, who had had their voicemail called by our suspects would be informed. In terms of by who, when and how the strategy was to be: -
- The police would inform as soon as practicable those that fell into the following categories;
 - Royal Household
 - MP's
 - Police
 - Military
 - The rationale for this distinction was one of potential 'National Security Concern.'
 - In addition briefings of the emerging security risks in relation to mobile phone voicemails were given to SCD14, The Security Service, Cabinet Office, The Royal Household and SOCA.
 - Those 'victims' not in the above categories should be informed by their respective airtime provider. In terms of timing this was not an immediate action, but ongoing bearing in mind the desire to not unduly prejudice any court case.

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- At the time the strategy recognized that there was still extensive research to be done with the phone companies to identify what the full extent of victims might be and therefore as outlined under the section above '*How were victims identified*' this could be a vastly bigger group of people and in reality we would probably never know the true scale. This strategy was therefore seeking to alert potential past victims in a proportionate manner without causing undue alarm (i.e. contact via Phone Company as opposed to police) and set in motion measures within the overall mobile phone industry to prevent it happening in the future.

The SIO's entry also recognised that to try to identify all victims and inform them could have a disproportionate affect on SO13 resources. Whereas this reason of 'resource implication' might be a sensitive one, given the challenges and effort that went into simply identifying the 'victims' that were used for court purposes with a 'beyond reasonable doubt' judgement of integrity, the resources needed to bring any clarity to all other potential victims would be enormous. Hence, putting into balance that there was nothing to suggest life was at risk, national security had not been breached, the activity in the case had been stopped, exposed and measures were in place to introduce national preventative measures the strategy was adopted and put into motion.

29. As part of the above process a meeting between police and Jack Wraith of the Mobile Industry Crime Action Forum was held in August 2006 to agree protocols around this activity. Individual agreements with O2 and Vodafone reinforced this position and in particular at the time of the trial a fully coordinated media strategy between the mobile phone industry was in place so that public concern could be reassured and reminders of good practice reinforced.
30. It is not known in detail what each mobile phone company actually did, but anecdotally we know that upon learning of the flaws in their processes the phone companies took steps to prevent future breaches and albeit these measures varied from company to company they included contacting customers who they thought might have been a victim, changing internal procedures and processes overlaid by a revamping of their customers service guidance and advice to ensure that customers were aware of the measures necessary to ensure security of their phones.

Summary

31. From the beginning of this enquiry the SIO set the investigative strategy around establishing what was happening within the Royal Household. As it became apparent that voicemail was being intercepted the strategy developed to try to bring about a prosecution of those responsible based predominantly upon technical data thereby shielding any potential victim-witnesses from any embarrassing disclosures around why they were targeted or what was said in any

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voice messages. As the number of potential victims expanded the strategy in terms of prosecution was to continue to minimize the exposure of victim-witnesses in any court case, but ensure that the scale of what was uncovered was proportionately represented in any proceedings.

32. The potential widening scale of what was uncovered was recognised early on in the investigation and its implications fully considered throughout at all levels.
33. The investigation led to an immediate plea of guilty by both parties, which ironically, the downside of which may be a factor as to why there is current heightened concern around this case: -
 - All the available evidence in terms of scale and potential role of News of the World was part of the prosecution case. Due to the pleas of guilt this was never played out and allowed to be tested/fully explored in public court. It was referred to in both Mr. Perry's summary of the case and indeed the judge's summing up, but perhaps not in the same depth that would have emerged had a full case been heard. Nothing has been hidden from the public as to what was found it has just not had the opportunity to be fully heard.
 - As outlined under 'How were victims identified' this was a potentially groundbreaking case in terms of what is meant by interception and the evidence put forward by the prosecution was certainly pushing the boundaries both in terms of definitions and the use of engineering data. We are still not sure what the pleas of guilty means in respect of either of those issues as they have not actually been tested in court. Albeit a basis for future cases, the level of effort and resources that is required to investigate this area of criminality should not be underestimated.

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