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| 1. interest in this Inquiry. What are your 1. the sources, you need to make sure that you have proper 1. with the PCC actually before this Inquiry started, and 1. I'll give you an example. I worked for a long 2. recommendations, please? 2. witness statements when you need it, you need to decide | 2. I was the very first national newspaper journalist to be 2. exonerated is because I'd had the stories lawyered 2. I would argue that is an entirely beneficial 2. time -- well, quite a long time, when they set up the 3. A. Well, I mean, when I was at the Daily Telegraph, I did 3. exonerated in a PCC inquiry. And the reason I was 3. process. 3. deterioration in the last ten years in a lot of ways | 3. a large number of investigative stories in a slightly 3. backwards, forwards, up and down, and they were as tight 3. I would also say that I think there's been a disastrous 3. I worked for a long time -- well, quite a long time, when they set up the 4. odd climate, because if you'll recall, the Telegraph at 4. that cost and that meant there was a constant 4. because more and more stories are written by freelance 4. story, but it was a very high profile -- I won't refer to the actual details of the | 4. the time was owned by Conrad Black, Lord Black, current 4. regime of due diligence going on and he was frightened 4. more journalists and they do not have the same access to the 4. I worked for a long 5. address Cell Block H somewhere in Florida. He was 5. that having unresolved defamation actions on the book 5. same legal resources. 5. story, but it was as very high-profile couple who were | 5. forever, if you recall, buying and selling the newspaper 5. would damage the potential valuation of the paper. 5. because more and more stories are written by freelance 5. I worked for a long time -- well, quite a long time, when they set up the 6. or shares in the newspaper. He was either privatising 6. that there was a lot of moaning at the Telegraph among 6. that more and more stories are written by freelance 6. I worked for a long time -- well, quite a long time, when they set up the 7. it or floating it and that meant there was a constant 7. the journalists that what they saw as innocuous pieces 7. journalists and they do not have the same access to the 7. I worked for a long time -- well, quite a long time, when they set up the 8. regime of due diligence going on and he was frightened 8. that were routinely being put into other newspapers were 8. same legal resources. 8. I worked for a long time -- well, quite a long time, when they set up the 9. that having unresolved defamation actions on the book 9. being held out of the Telegraph by the in-house 9. that more and more stories are written by freelance 9. I worked for a long time -- well, quite a long time, when they set up the 10. would damage the potential valuation of the paper. 10. defamations lawyers. So it was a quite repressive, they 10. defamations lawyers. So it was a quite repressive, they 10. I worked for a long time -- well, quite a long time, when they set up the 11. So there was a lot of moaning at the Telegraph among 11. said, regime. 11. said, regime. 11. I worked for a long time -- well, quite a long time, when they set up the 12. the journalists that what they saw as innocuous pieces 12. that were routinely being put into other newspapers were 12. that more and more stories are written by freelance 12. I worked for a long time -- well, quite a long time, when they set up the 13. that more and more stories are written by freelance 13. that were routinely being put into other newspapers were 13. that more and more stories are written by freelance 13. 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I worked for a long time -- well, quite a long time, when they set up the 17. and ask one simple question, which is what do I have to 17. that were routinely being put into other newspapers were 17. that more and more stories are written by freelance 17. I worked for a long time -- well, quite a long time, when they set up the 18. do to this story in order for you to be happy to run it? 18. do to this story in order for you to be happy to run it? 18. that more and more stories are written by freelance 18. I worked for a long time -- well, quite a long time, when they set up the 19. And they said, well, you know, you need to check all of 19. And they said, well, you know, you need to check all of 19. that more and more stories are written by freelance 19. I worked for a long time -- well, quite a long time, when they set up the 20. if I possibly could, so I adopted a different approach, 20. if I possibly could, so I adopted a different approach, 20. that more and more stories are written by freelance 20. I worked for a long time -- well, quite a long time, when they set up the 21. which was to go along to the in-house defamation lawyers 21. which was to go along to the in-house defamation lawyers 21. that more and more stories are written by freelance 21. I worked for a long time -- well, quite a long time, when they set up the 22. and ask one simple question, which is what do I have to 22. and ask one simple question, which is what do I have to 22. that more and more stories are written by freelance 22. I worked for a long time -- well, quite a long time, when they set up the 23. do to this story in order for you to be happy to run it? 23. do to this story in order for you to be happy to run it? 23. that more and more stories are written by freelance 23. I worked for a long time -- well, quite a long time, when they set up the 24. And they said, well, you know, you need to check all of 24. And they said, well, you know, you need to check all of 24. that more and more stories are written by freelance 24. I worked for a long time -- well, quite a long time, when they set up the 25. if I possibly could, so I adopted a different approach, 25. which was to go along to the in-house defamation lawyers 25. that were routinely being put into other newspapers were 25. that more and more stories are written by freelance 26. and ask one simple question, which is what do I have to 26. and ask one simple question, which is what do I have to 26. that more and more stories are written by freelance 26. that more and more stories are written by freelance 27. do to this story in order for you to be happy to run it? 27. do to this story in order for you to be happy to run it? 27. that more and more stories are written by freelance 27. that more and more stories are written by freelance 28. And they said, well, you know, you need to check all of 28. And they said, well, you know, you need to check all of 28. that more and more stories are written by freelance 28. that more and more stories are written by freelance 29. if I possibly could, so I adopted a different approach, 29. which was to go along to the in-house defamation lawyers 29. and ask one simple question, which is what do I have to 29. that more and more stories are written by freelance 30. and ask one simple question, which is what do I have to 30. do to this story in order for you to be happy to run it? 30. that more and more stories are written by freelance 31. And they said, well, you know, you need to check all of 31. and ask one simple question, which is what do I have to 31. that were routinely being put into other newspapers were 31. that were routinely being put into other newspapers were 32. do to this story in order for you to be happy to run it? 32. do to this story in order for you to be happy to run it? 32. that were routinely being put into other newspapers were 32. that were routinely being put into other newspapers were
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<td>1</td>
<td>whistle-blower and I thought we needed to go back and do</td>
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<td>some more checks, but they ran the story anyway. And</td>
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<td>I and Mr Caplan down here, the barrister for the Mail on</td>
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<td>Sunday, had to actually dig them out of the hole</td>
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<td>5</td>
<td>afterwards, and I would argue that the freelance</td>
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<td>6</td>
<td>journalists should have been talking to the lawyers</td>
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<td>7</td>
<td>before it was published, not afterwards.</td>
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<td>8</td>
<td>LORD JUSTICE LEVESON: All right.</td>
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<td>9</td>
<td>MR JAY: Thank you very much, Mr Rowland. You've given your</td>
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<td>10</td>
<td>evidence very clearly, thank you very much. May I just</td>
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<td>11</td>
<td>check, is there anything you would wish to add?</td>
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<td>12</td>
<td>A. Yes, there is one thing.</td>
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<td>13</td>
<td>Q. Yes, okay.</td>
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<td>14</td>
<td>A. When you had the seminars, sir, there was talk there</td>
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<td>15</td>
<td>about press practices in the 1970s and how they've</td>
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<td>improved greatly because of the regime that's been put</td>
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<td>17</td>
<td>into place by the PCC. One of the examples that was</td>
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<td>given was the theft of photographs, and I think it was</td>
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<td>Mr Dacre, the editor of the Daily Mail, who said that</td>
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<td>such a practice was outrageous and that it no longer</td>
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<td>21</td>
<td>took place.</td>
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<td>22</td>
<td>Well, I would disagree. I think that there are</td>
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<td>23</td>
<td>many, many more photographs that are stolen these days,</td>
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<td>24</td>
<td>but they're stolen electronically. It's not in my</td>
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<td>evidence or my witness statement, but I had examples of</td>
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<td>1</td>
<td>photographs that have been quite blatantly and</td>
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<td>shamelessly stolen by national newspapers, not in the</td>
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<td>3</td>
<td>1970s but almost within the last seven months.</td>
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<td>The example I'm thinking about, I actually have an</td>
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<td>audit trail, because I was involved in it, that I've</td>
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<td>6</td>
<td>pieced together so you can see what was done and when,</td>
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<td>7</td>
<td>or rather what wasn't done and when, and they just</td>
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<td>8</td>
<td>sliced off the watermark on the bottom with the</td>
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<td>9</td>
<td>copyright notice of the photographer, and then refused</td>
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<td>10</td>
<td>to pay him. And that, in Mr Dacre's word, is actually</td>
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<td>11</td>
<td>outrageous and it's an abuse that could be stopped by</td>
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<td>12</td>
<td>a regime of punitive fines and that, I hope, is</td>
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<td>13</td>
<td>something that the Inquiry will think about putting into</td>
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<td>14</td>
<td>place.</td>
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<td>15</td>
<td>I can make that photograph available to you, if you</td>
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<td>16</td>
<td>think it might help, and put it into the record. I'm</td>
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<td>17</td>
<td>prepared to do that.</td>
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<td>18</td>
<td>LORD JUSTICE LEVESON: We'll decide whether we should put</td>
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<td>formally into the material that is read into the record.</td>
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<td>20</td>
<td>Thank you very much indeed.</td>
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<td>21</td>
<td>A. Okay.</td>
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<td>22</td>
<td>LORD JUSTICE LEVESON: Thank you.</td>
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<td>23</td>
<td>MR JAY: Thank you. I don't think we need a break. Shall</td>
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<td>we move on to the next person?</td>
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<td>25</td>
<td>LORD JUSTICE LEVESON: We don't need a break after seven</td>
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2 (Pages 5 to 8)
agreed to give evidence?
2 MR McCANN: I think it's for one simple reason, in that we
3 feel that a system has to be put in place to protect
4 ordinary people from the damage that the media can cause
5 by their activity, which falls well below the standards
6 that I would deem acceptable.
7 Q. Of course, we all here understand that your overriding
8 objective is the continuing search for your daughter.
9 We've seen from your statements, or we will see, once
10 the statements are publicly made available, that in
11 terms of reporting, you've experienced what I might call
12 the good, the bad and the particularly ugly side of the
13 press. One might ask this: is it helpful to have
14 Madeleine permanently in the public eye?
15 MR McCANN: I've talked about this on several occasions in
16 the past, and I do not feel it's helpful, and
17 particularly at the time when there were daily stories
18 running throughout 2007 and 2008. It became very
19 apparent to us early on there was an incredible amount
20 of speculation and misinformation. It led to confusion
21 amongst people. All we need to do is periodically
22 remind the public who have supported us so much that
23 Madeleine is still missing, there's an ongoing search
24 and those responsible for taking her are still at large
25 and have to be brought to justice.

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1 MRS McCANN: I was just going to say obviously there was a
2 period when Madeleine was on the front page of a paper
3 every day, and I know occasionally people would say to
4 me "That has to be a good thing, hasn't it? She's in
5 the public eye", and that isn't the case because when
6 the story is so negative about her, and we'll come into
7 that, obviously then that is not helpful. As Gerry
8 said, I think it's a reminder that that's important, that's
9 all.
10 Q. That's Madeleine. What about you both being in the
11 public eye? Is that helpful?
12 MR McCANN: I don't think it is helpful. Obviously we
13 realise that as Madeleine's parents, and particularly
14 given what's happened to us, that if we are delivering
15 the message, then it offers more appeal and is more
16 likely to get coverage. And of course we have also
17 acknowledged that the media have been very helpful on
18 occasion particularly when we have launched appeals, and
19 huge amounts of information have come into the inquiry
20 as a direct result of our appeals, and we'd like to
21 thank everyone in the public who have come forward.
22 Q. Finally can I ask you this: there are a number of
23 specific things you'll be asked about and Mr Jay is
24 going to take you through your statement, but it might
25 help Lord Justice Leveson and the Inquiry if you could

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1 just outline in very general headline terms what your
2 concerns are about the culture, practices and ethics of
3 the press.
4 MR McCANN: I think there are four main areas I would be
5 keen to give evidence on that we have direct experience
6 of. One is obviously libel, which has been very well
7 publicised, but then also the lasting damage it causes.
8 Secondly, the privacy laws and current, I would say,
9 gaps in legislation at the minute where companies can
10 use photographs, can hound you, without your consent,
11 for commercial gain.
12 I think there has been contempt demonstrated by the
13 media, primarily the press but to some extent
14 broadcasters as well, both for the judicial process and
15 also at times Madeleine's safety. And the fourth thing,
16 which probably is not regulated by law and I hope this
17 Inquiry will deal with, is about what are acceptable
18 standards and how individual journalists and corporate
19 entities, editors and subeditors, are held to account.
20 MR SHERBORNE: I'm very grateful. If you wait there, Mr Jay
21 has more questions for you.
22 Questions from MR JAY
23 MR JAY: Dr McCann, I have an eye on those four themes and
24 if you don't mind, I'll come back to them at the end of
25 your evidence. Your witness statement is publicly

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1 available and I can see it out of the corner of my eye
2 on a screen, but if you could have it in front of you in
3 print, you tell us in terms of your career you're
4 a consultant cardiologist.
5 MR McCANN: That's correct.
6 Q. And in terms of fixing ourselves back into the dates,
7 the abduction of your daughter, I think was it 3 May
8 2007?
9 A. That's correct.
10 Q. You tell us in your witness statement that a photograph
11 was made immediately available, provided to the
12 broadcast media and to the press, and was, as it were,
13 displayed everywhere. Is that correct?
14 A. There's two elements to that. The first element was
15 what we were doing on the night and obviously we had
16 digital cameras and we were trying to get photographs
17 printed of Madeleine from the holiday.
18 Q. Yes.
19 A. To give to the police, but secondly, a very good friend
20 of ours who we spoke to in the early hours of 4 May took
21 upon himself to issue photographs of Madeleine to all
22 the major media outlets in the UK.
23 Q. Within a very short space of time, the British press and
24 perhaps the international press had descended on
25 Praia da Luz; is that correct?
Q. And you had to make a decision as to whether to interact
with them and, if so, on what basis?
A. Yes.
Q. And what decision did you make and why?
A. The first thing to say is it was incredibly daunting.
We had been away all day. It was also apparent to us
whilst we were in the police station of Porto Mario(?)
in the Algarve that there was already extensive
coverage, particularly on Sky News, which was running in
the police station, somewhat bizarrely, and when we were
driving back towards the apartment, it was in the
evening and we could literally see tens, if not hundreds
of journalists outside the apartment and satellite vans,
et cetera, a large number of cameras.

There were two things going through my head: what
are they going to be saying? And we've seen, I think,
over many years our privacy being invaded and what
stories could be published, but ultimately, possibly
because we've seen the same thing being done in the UK,
I thought it was an opportunity to issue an appeal.
I was given no guidance one way or the other whether to
do that. I knew there could be a very heavy downside to
interacting, but I made the decision at the time with
the information I had that it would probably be in the
best interests of the search for our daughter, and
decided to interact.

Q. Yes. You say in your statement, paragraph 15, that in
the initial stages, your engagement with the press
worked well. Are you able to amplify that just a little
bit for us, please?
A. I think for those people who can remember, it was a very
unusual scenario, and we got a distinct impression that
there was a genuine want to help attitude from the
journalists there, and I think also many of the
executives who perhaps saw what had happened to us and
there was a huge amount of empathy. So I really did
feel early on there was a desire to help.

Q. As you explain, the position changed, but the segue
perhaps into that change is some evidence you give in
relation to the Portuguese criminal system. Now each
culture, each nation has a slightly different criminal
system, and obviously there can be no criticism about
that, but what you say in Portugal is that there is no
permitted interaction between the law enforcement
agencies and the press; is that correct?
A. That's correct.
Q. Do you have a view as to the possible drawbacks of that,
without necessarily being critical, but it's pretty
obvious it gives rise to the possibility of leaks,
doesn't it?
A. Sure. I think the system is open to abuse is the first
thing, and clearly there was a ferocious appetite and
perhaps in the United Kingdom with the SIO and the press
office for the constabulary leading the investigation
would have had a very clear agenda on how to work with
the media, what information could be disclosed, what
might be helpful, and steering journalists away from
certain areas.

Q. In terms of the conduit type of information, is this
accurate, it was exaggerated and often downright
didn't know the source, didn't know whether it was
true or not, which was then reported, often
followed every single one of them with, "I can't give
you any details because of judicial secrecy".
A. Yes.
Q. So there was a huge appetite, and we quickly realised
that there was a tremendous amount of speculation in the
coverage both in the newspapers and also you had 24-hour
news channels there constantly, and we found that to be
unhelpful.
Q. The British press did not have the means of verifying
hundreds of front page headlines.
A. I cannot tell you for certain that it was the Portuguese
police who were leaking information, but for anyone who
followed the headlines in July, August and September
2007, I think it would be a perfectly reasonable
assumption to make that elements of the inquiry were
speaking to the Portuguese police -- sorry, Portuguese
press. I do not know whether they were speaking
directly to the British media, but what we clearly saw
were snippets of information which as far as I was
concerned the British media could not tell whether it
was true or not, which was then reported, often
exaggerated and blown up into many tens, in fact
hundreds of front page headlines.
Q. The British press did not have the means of verifying
the information, but your complaint is that the
information was distorted and magnified; do I have it
accurate, it was exaggerated and often downright
false?
A. I think I'm complaining on all of the grounds, that they
Q.  In paragraph 24 of your statement, Dr McCann, you deal with the suggestion, well, here you are dealing with the press and then in parentheses, on your own terms, that almost allows the press open season to deal with you on their terms.  Maybe I'm slightly over-exaggerating the point, but in your own words, please, what is your view about that suggestion?

A.  Well, it has been argued on many occasions that by engaging with a view to trying to find your daughter, that the press can write whatever they want about you without punishment.

Q.  The next section of your statement deals with accuracy of reporting and you point out that after a period of time, there was little new news to report.

A.  Yes.

Q.  It may be at that point that the agenda started to morph and in paragraph 27 you state "clearly it didn't take long before innuendo started to creep in".  Are you able to elaborate on that, if you were to wish to?

A.  Yeah, I mean I think there were two elements.  The reporting quickly became highly speculative, and often stories -- for example, there must have been "McCann fury" on the front page of many newspapers over that summer that would quote an unnamed source or friends, and unless our phones were hacked, which I don't think they were, then these were made up because they were simply not true.

So there was clearly pressure to produce a story.  The reporters who were based in Praia da Luz, first thing they did each day was get the Portuguese press, get it translated, and decide what they were going to write about, and I don't think any of it was helpful.

Q.  The date you give for the shift of the emphasis of the media reporting is about June 2007, is it, but then you feel the mood may have been moving or turning a bit in the British press?  Or perhaps a bit later than that?

A.  Yeah, I mean obviously I think we've realised that if you're in the spotlight for anything, then not everything that's going to be written about you is...
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Press articles were often based on bits and pieces. In paragraph 32, you make the general point that UK secrecy and couldn't speak about the details of the event. But that -- it was probably towards the end of June 2007, and slowly deteriorated through July, culminating in September 2007. If I can move you forward to early autumn of 2007. If I can move you forward to paragraph 39 of your statement. You're making the point that the story in terms of objective fact is beginning to run dry and reporters now are thrashing around for something new.

Q. One key event in this narrative is you becoming, if I pronounce it right, arguido, under Portuguese law, which occurred on 7 September 2007, and this is paragraph 34 of your witness statement. To be clear about it, and you'll correct me if I'm wrong because you know more about this than me, arguido does not mean "suspect"; is that correct?

A. That's what we were advised was the closest correlation or translation within UK law at the time, and I think it is probably important to emphasise that as a witness in Portugal at that time you were not entitled to any legal representation. So if the police wanted to ask any question, which your answer may give incriminating evidence, then they must declare you arguido, then you were entitled to have a lawyer there. And in many ways you could argue that all parents of a missing child, certainly those who would have been the last to see them, could have to answer questions like that. So being labelled arguido was not necessarily such a bad thing.

However, I will acknowledge that there were leaks by elements of the investigation team which clearly were trying to portray that there was strong evidence that Madeleine was dead and that we were involved. Madeleine was dead and that we were involved. Q. Maybe there are two points here. The first point is the obvious one that needs to be stated. There isn't an equivalent concept of arguido in English law?

A. No. And I think the aspect on that is we've never been arrested, we've never been charged with anything. We've never stood trial.

Q. Do you happen to know whether under Portuguese law they have a category of suspect?

A. I think it is loosely used, but you could have multiple arguidos within any investigation, and at that time, the title "arguido" stayed with those involved until the file was closed.

Q. Do you think, rightly or wrongly, the British press somehow interpreted "arguido" as equivalent to "suspect", which carried with it, therefore, its own connotations?

A. Yes. I mean clearly the word was used that way almost exclusively.

Q. At this point we are in the late summer, obviously, or early autumn of 2007. If I can move you forward to paragraph 39 of your statement. You're making the point that the story in terms of objective fact is beginning to run dry and reporters now are thrashing around for something new.

A. I think it's probably worth just clarifying that within ten days of being made arguidos, the prosecutor made an announcement that all lines of inquiry, including the abduction of Madeleine, were open and no charges were being brought at that time, but that didn't stop the continued reporting of inaccurate, untruthful and incredibly damaging reports.

Q. From the perspective of the newspaper and the sort of economic calculation they may wish to conduct -- you deal with this in paragraph 39 -- but you have evidence that弹簧25
that this story was, at least in the opinion of those
running one of the newspapers, boosting their
circulation figures. Is that right?
A. I think that's clear, and Peter Ellis testified that to
the Parliamentary Select Committee.
Q. The specific tone of the articles changes in September
2007. We're going to look at that particularly in
a moment. In paragraph 40, however, you refer to one
piece in the Evening Standard, which is I think the very
day you were declared arguidos, 7 September 2007:
"Police believe mother killed Maddie."
A. Mm.
Q. Was that the first time that point was made so baldly
and so falsely?
A. There's been so many headlines of similar gravity that
I can't tell you honestly whether that was the first
time.
MRS McCANN: I think that may have been the first time it
was in a headline. In August 2007, we were told by
a BBC journalist, in fact he stopped us and said, "Have
you seen what's getting reported? They're saying
there's blood in the apartment, they're saying that you
were involved. Madeleine's been killed and you were
involved." So actually it was stirring up in August
2007, but I think the headlines like that became very
prominent once we were made arguidos.
Q. Then you refer to two articles in the Daily Mail which,
unless I've missed something, we don't have available
today, but the first one published in September 2007 you
summarise in paragraph 41, the subheading:
"I pray the Portuguese police are careering down the
wrong track, but from the start a terrible nagging doubt
has refused to leave me."
That, for what it's worth, was corrected by another
piece as late as 4 May 2009, which you deal with in
paragraph 43; is that correct?
MR McCANN: It is. I should probably clarify that
paragraph 41 refers to Kate rather than myself, but yes,
that's correct.
Q. In paragraph 46, you deal with a theme which you're not
the first to address, namely presence of photographers.
We know, of course, that you came home at a certain
point, I can't remember precisely when it was, but once
you're home, you then have photographers outside your
home. Can you just tell us a little bit about that, and
in particular the impact that had on you?
A. I think the first thing probably to say is it started
when we said we were leaving Portugal, which we'd
already told the police we were going to leave before we
were declared arguidos, and the journey to the airport
was one of the most terrifying experiences, I think,
anyone could have, where cars were coming across,
cutting in front, cameras, people hanging out of
windows, motorbike riders. It was just dangerous,
frankly dangerous.
When we got back to our home in Rothley, again there
were tens of journalists -- we live in a cul de sac, at
the end of it -- camped outside our house, cameras,
helicopter crews following us. We were hemmed in the
house for a couple of days before the police moved them
to the end of our drive.
Q. Then you tell us that photographers were still banging
on car windows, even with one or more children in the
car; is that right?
MRS McCANN: And they stayed there until December 2007.
That was only after we had help to get them removed, but
they were there every day, and they'd wait for Gerry to
go and they knew I'd have to come out of the house at
some point with the children. It would be the same
photograph every day, we'd be in the car, myself and two
children, the photographers would either spring out from
behind a hedge to get a startled look that they could
attach "fragile", "furious", whatever they wanted to put
with the headline, but there were several occasions
where they would bang on the windows, sometimes with the
helicopter crews following us. We were hemmed in
the end of it -- camped outside our house, cameras,
tens of journalists -- we live in a cul de sac, at
the beginning of it, but from the start there was a terrible
nagging doubt
There was a photograph of you, Dr Gerald McCann, on
the golf course, which obviously is a private place, and
then the distortion of photographs of you, Dr Kate
McCann, to present, no doubt, a certain image. Often
coupled with the adjectives "frail" or "fragile", which
you've told us about.
In terms of the effect on you, you described it, and
of course it will be obvious to us, but looking more
broadly, the effect on the continuing investigation,
which after all is your primary focus then, as it is
now, are you able to quantify that for us and describe
it?
A. Well, I think from -- reputational aspects aside, the
distress that was caused to us was the clear message
that was going out nationally throughout Europe and
internationally was that there was very strong evidence
that our daughter was dead and that we were somehow implicated in her disappearance, and we knew that if people believed that, then there couldn't be a meaningful search, and it was incredible. And any aspects of campaigning for a search with what happened to us and how it was portrayed in the media meant we were completely hamstrung in our ability to counter anything.

MRS McCANN: These were desperate times. You know, we were having to try and find our daughter ourselves. We needed all the help we could get, and we were faced with -- I know we'll come on to headlines, but "Corpse in the car"; I don't know how many times I read "Body fluids in the car". And it gets repeated that often, it becomes fact. There were no body fluids. We desperately wanted to shout out "It's not true, it's not true", but when it's your voice against the powerful media, it just doesn't have a weight. We were desperately shouting out internally "Please stop, what are you doing? We're trying to find our daughter and you're stopping our chances of finding her".

MR McCANN: The point being, which I alluded to earlier, is that we were told in no uncertain terms that if we disclosed anything publicly which we knew to be in the judicial file, it could be used against us, which we knew were not what was being reported about DNA, then we were threatened with a two-year imprisonment for breaking judicial secrecy, so we were being tried by the media and unable to defend ourselves adequately.

A. Sure. I think there's two elements. Within the first week of being back, we had appointed solicitors, Kingsley Napley, and Angus McBride, who is one of the solicitors who represented us at that time, he thought it was very important that he would -- we should try and modify the content of the press articles, and he went with Justine McGuinness, who was campaign manager at that point, and met with all the editors from the major newspapers and emphasised to them that it was his strong belief that there was no evidence to support what they were reporting. But it seemed to have very little effect.

In fact, I think Kingsley Napley then pressurised Leicestershire police to write to the broadcasters and editors, and there's a letter from Matt Baggott, who was Chief Constable at that time, urging restraint and saying there was very inaccurate reporting.

We organised another round of meetings with Angus and Clarence, who then came back to work for us later on in September 2007, and that was followed up with another letter from the Chief Constable, I think on 17 October, if my memory --

LORD JUSTICE LEVESON: 8 October.

A. Thank you. Failed.

MR JAY: 17 September, 8 October.

A. And obviously these things were done because the coverage was continuing such a bad way.

Q. You identify the worst offenders, and we'll be looking at this quite carefully in a moment, amongst the Express Group newspapers, which included the Daily Star and the Daily Express, the Sunday Express and the Sunday Star?

A. Yes.

Q. Did there come a point when warnings were given by your lawyers in the context of possible claims in defamation, by which I mean libel?

A. Yes. Kingsley Napley had written to the Express Group
identified in paragraph 66 of your witness statement we can look at, but first of all, we can get the flavour of some of the headlines.

9 October 2007: "DNA puts parents in frame. British experts insist their tests are valid".

17 October 2007: "Parents' hire car hid a corpse. It was under carpet in boot, say police."

Then "Priest: I was deceived".

I haven't counted them up, but there are probably about 25 similar pieces running over a three or four-month period.

Let's just look at some of them, if you don't mind.

MR McCANN: Sure.

Q. We're in GM2, and the first of them --

LORD JUSTICE LEVESON: We're not intending to put these on the website, are we, Mr Jay?

MR JAY: Well, if there's a problem, we won't. I didn't understand there to be, but at the moment these are not on any website, no.

LORD JUSTICE LEVESON: No. I just don't particularly want to give greater prominence or currency to articles that have caused enough distress in their time.

MR McCANN: And at that point they continued to hold a weekly vigil for Madeleine, so obviously saying that the Church community in Praia da Luz were incredibly supportive to Kate and I spiritually.

LORD JUSTICE LEVESON: Is the town and the Portuguese locals had turned their back again was not true.

A. Well, the police weren't speaking to the media under judicial law, and we haven't had any of the police identified who have given these statements. I would like to know who they are. Perhaps they could face contempt of court proceedings.

Q. Okay. Page 17, this is another headline you refer to in paragraph 66:

"Priest 'bans' Madeleine. He takes down posters as Praia da Luz" and then I think this should be open inverted commas "wipes her from its memory."

What's the innuendo there? It's pretty obvious.

A. It is, and I think the key thing here is obviously that the Church community in Praia da Luz were incredibly supportive to Kate and I spiritually.

MRS McCANN: And still are.

MR McCANN: And at that point they continued to hold a weekly vigil for Madeleine, so obviously saying that the town and the Portuguese locals had turned their back on us was a clear innuendo from this article, which again was not true.

Q. In GM3, if we can quickly navigate our way through that, this is another schedule of articles; this time, however, we're looking at the Daily Star and the Daily Star Sunday. There's a similar number of articles, really. No, it's more. Maybe about 50 of them. What is similar is the broad dates, from 27 September 2007 to 22 January 2008.

Two of the articles you specifically referred to in 27 September 2007 to 22 January 2008.

"Madeleine: McCanns are main suspects, say police."

Was that correct?

A. Well, often you'll find that there would be something down in the article. They weren't published in the prominence that they were in these papers. And no way of checking the source, which is a recurring theme.

These are all sources, unnamed sources in the original articles.

MR JAY: If we move, please, to page 15, the headline reads: "Madeleine: McCanns are main suspects, say police."

Worse.

Q. -- of course I won't. So I'll do this as quickly and as lightly as I can, Dr McCann, just to give the flavour.

If you look, please, at the internal numbering, it's page 10 of GM2.

A. Yes.

Q. There's an article:

"It was her blood in parents' hire car, new DNA tests report."

The overall flavour or thrust of this article was that there was DNA evidence which linked your daughter with a hire car. What do you say about that? I'm sure you have a lot to say about it, but in a nutshell --

A. The first thing to say is it's simply untrue.

Madeleine's DNA was not uncovered from the hire car, that's the first thing.

Q. Yes.

A. The inference from this is, and I think the public who think that DNA is a very strong evidence in cases would take this to mean, absolutely, that Madeleine was in the hire car that we hired more than three weeks after she disappeared. It's incredible.

LORD JUSTICE LEVESON: Interestingly enough, what they're doing is reporting a newspaper as saying that, so that's how it comes out. A Portuguese newspaper.

A. Yes.

Q. Okay. Page 17, this is another headline you refer to in paragraph 66:

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| 1 | Express by now had taken expert advice and they now indicated that their articles were defamatory; is that right? | 1 | A. Yes. |
| 2 | Q. Could you give us a sense of the timescale here? The first offer from the Express was 7 February, this was the Hello magazine offer, but when did the admission of wrongdoing, as it were, come in? | 2 | A. It did drag out a bit. I can't give you the exact dates. I do have it on file. But there was an acknowledgment that they might be prepared to make an apology and also consider damages. We wanted to make sure that those damages reflected the seriousness of what they had published and it was -- to be honest, the damages for us were a secondary consideration. It was more about getting a front page apology to send a clear message that we wouldn't tolerate these ongoing allegations in other newspapers either. |
| 3 |  | 3 | A. Mm. |
| 4 | Q. £550,000 was paid to Madeleine's Fund, and there was also an apology on the front page, is this right, both of the Express and of the Star? Or is it just the Express? | 4 | Q. The statement in open court was read out on 19 March 2008. |
| 5 |  | 5 | A. Mm. |
| 6 |  | 6 | Q. The final one, I've read all of these, Dr McCann, last night. We could look at all of them. These are representative. |
| 7 |  | 7 | LORD JUSTICE LEVESON: Yes. Sorry. |
| 8 |  | 8 | MR McCANN: No. |
| 9 |  | 9 | MR JAY: There's a generic reference to a bombshell new police theory, but completely non-attributed. |
| 10 |  | 10 | LORD JUSTICE LEVESON: Just to make the comment, there's absolutely no source for that assertion in that article. |
| 11 |  | 11 | MR McCANN: Yes. |
| 12 |  | 12 | A. Yes. |
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| 24 |  | 24 | LORD JUSTICE LEVESON: Just to make the comment, there's absolutely no source for that assertion in that article. |
| 25 |  | 25 | MR McCANN: Yes. |
| 1 | "-- cops: body had been moved." | 1 | A. No, both. |
| 2 | And then there's a reference to a possible grilling by the British police, they have sensational new evidence. Are you going to dignify this with a comment or not? | 2 | LORD JUSTICE LEVESON: Express Newspapers, and given that we've gone into it, it's probably sensible just to read that: |
| 3 |  | 3 | "In addition to the allegations referred to above, the Daily Star published further articles under the headlines which sought to allege that Mr and Mrs McCann had sold their daughter in order to ease their financial burdens. A further article alleged that Mr and Mrs McCann were involved in swinging or wife swapping. As the defendant now acknowledges, all of these allegations were and remain entirely untrue. In particular, there is no evidence whatsoever to suggest that Mr and Mrs McCann were responsible for the death of their daughter, they were involved in any sort of cover-up and there was no basis for Express Newspapers to allege otherwise. "Equally, the allegations that Mr and Mrs McCann may have sold Madeleine or were involved in swinging or wife swapping were entirely baseless. Naturally the repeated publication of these utterly false and defamatory allegations have caused untold distress to Mr and Mrs McCann. Indeed, it is difficult to conceive of a more serious allegation." |
| 4 |  | 4 | That just provides some context. |
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| 25 |  | 25 | MR McCANN: Yes. |

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A. Thank you.

MR JAY: What may be worthy of consideration though is the possible rapidity of change of stance. On the one hand, they were maintaining their articles, they get leading counsel's advice, then all of a sudden they say it's all entirely wrong and maybe it's worth a consideration how and why that volte face occurs.

LORD JUSTICE LEVESON: Could you tell me this. They presumably published something as well. Where was it published?

A. The apologies?

LORD JUSTICE LEVESON: Yes.

A. They were on the front page. We insisted. And we would have gone to court to get that.

LORD JUSTICE LEVESON: Do we have that?

MR JAY: We can look at those, if necessary.

MR McCANN: We did settle. They paid damages and there was an apology published in the Evening Standard. The Daily Mail did not publish an apology.

Q. One point you make, these libel proceedings were brought to the ones that we had complained of previously, so it was more again about DNA, blood, suspects, Madeleine being killed, et cetera, rather than anything else.

Paragraph 78 to 80, Associated Newspapers, please.


A. There had been a large number of articles, similar tone to the ones that we had complained of previously, so it was more again about DNA, blood, suspects, Madeleine being killed, et cetera, rather than anything else.


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path if it wasn't for a CFA being in place.

LORD JUSTICE LEVESON: This is going to be your choice. It won't happen to anybody else, but it will be your choice. If you'd like a break for five minutes, we'll have it. If you prefer to carry on, we'll carry on.

A. I'm happy to carry on.

LORD JUSTICE LEVESON: Right. I ought to say, I've confirmed it with the shorthand writer.

MR JAY: There's a fair bit more, I don't want to rush this, but we'll see how we get on.

Paragraph 82, the first anniversary. You explain that you agreed to an interview with Hello magazine.

Just tell us a bit, please, about why you did that?

Q. One rival however wasn't best pleased and you touch on things for the greater good really.

A. I think the first thing to say, it was very specific and we had -- clearly we've talked about our prime objective, which is finding Madeleine, and what we've hoped is that some good would come out of what happened to us. And one of the things, through our own research and having been to the National Centre for Missing and Exploited Children in the USA, was to talk about AMBER Alert, and we decided that we would start campaigning for a joined-up alert system for missing children within Europe, particularly on the continent of Europe.

For that very specific reason, because Hello is distributed, I think, in 14 European countries, they did approach us and said that they would promote the campaign, and at the time we were lobbying MEPs to sign declarations supporting an alert system, so we agreed to do an interview on that basis, which, just for clarity, of course, we were not paid for.

MRS McCANN: Many of the media outlets didn't really want to run with the work we were doing for the child rescue alert, which in itself is disappointing because it is important but obviously it's not as exciting, or whatever the word is, when it comes to headlines and stories. So we saw this as an opportunity of improving things for the greater good really.

Q. One rival however wasn't best pleased and you touch on this in paragraph 84. Maybe this is quite understandable, but tell us a little bit about the call you received from the then editor of the News of the World.

MR McCANN: You're right, this was totally out of the blue. It was Sunday lunchtime, we'd just got back from church and I got the text message from Gail, who works in the nursery where Madeleine, Sean and Amelie went, and it just said, "Saw your diary in the newspapers. Heartbreaking. I hope you're all right." And it was totally out of the blue, and I had that horrible panic feeling, confusion and, you know, what's she on about?

I didn't have a clue. We rapidly found out, it was the News of the World. I went and looked at it online, and it was 2008, transcripts from your personal diary appear or purport to appear in the News of the World. Can you tell us a bit about that, please?

MRS McCANN: You're right, this was totally out of the blue. It was Sunday lunchtime, we'd just got back from church and I got the text message from Gail, who works in the nursery where Madeleine, Sean and Amelie went, and it just said, "Saw your diary in the newspapers. Heartbreaking. I hope you're all right." And it was totally out of the blue, and I had that horrible panic feeling, confusion and, you know, what's she on about?

I didn't have a clue. We rapidly found out, it was the News of the World. I went and looked at it online, which was five pages, including the front page. I got my original handwritten copy of my diary out and sat there, and it was lifted in its entirety and put in the newspaper without my knowledge. Apart from the odd word, which was -- I think it was a translational error, that had obviously been taken -- translated into Portuguese, and then a Portuguese copy had then been translated back to English, which was slightly different from the original, but pretty verbatim and it had been put there.

I felt totally violated. I'd written these words and thoughts at the most desperate time in my life, most
MR McCANN: I think it's clear that the police had copied the journal and had it translated, and of course at the judicial authorities; is that correct?

MR McCANN: Because clearly it was an illegal copy.

MR JAY: I think what it relevant, and I think this has already come out from Dr Kate McCann's evidence, is that one or two things were lost in the translation, or changed, which indicates that the piece in the News of the World was a translation from the Portuguese.

MRS McCANN: An investigation.

MRS McCANN: Because clearly it was an illegal copy.

MR McCANN: It was just handwritten. They'd come and said they had taken clothes from the villa and we had to leave, and when we got back later that day, they said they'd also taken my diaries as well, which I have to say was a little bit of a shock, but it did come back to me about 24, 48 hours later, so I obtained the original copy. Obviously, photocopies were taken during that period.

Q. Yes. It wasn't clear from your statement, but it now is. It was within quite a short space of time that the original was returned to you, you believe by order of a Portuguese judge, so it sounds as if the initial seizure had been a step too far, or whatever. But a copy of the original must have been taken by someone, presumably someone within the Portuguese police or judicial authorities; is that correct?

MR McCANN: I think it's clear that the police had copied the journal and had it translated, and of course at the time we didn't understand why the journal could have been relevant because Kate only started keeping it about a couple of weeks after Madeleine was taken, so we didn't know there was a copy until the file was released the following summer, but within the file, the Portuguese judicial file, there is an order from the judge, who's read the translation and says, "This is of no interest to the investigation, it's Kate's personal thoughts and should not ..." and he actually used the word "violation".

MRS McCANN: He used the word "violation". He said use of which would be a violation of its author.

MRS McCANN: And ordered that any copies be destroyed.

LORD JUSTICE LEVESON: And further investigation of that has revealed, if anything? To unpick where this came from?

MR McCANN: I would like further investigation as to where it came from.

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Q. Yes. They have breached a number of tortious obligations which it is not necessary to spell out. It culminated in a complaint, the possibility of litigation, but that was avoided by an apology from the News of the World and the payment of a further donation to the fund for the search for Madeleine; is that correct?

A. Mn.

Q. I'm just going to touch upon the section continuing the relationship with the press. I am not going to cover paragraph 97 unless I'm asked to specifically. If you wish me to I will, but I wasn't minded to. I was going to ask you though about paragraph 100.

A. I mean, I think 97's probably important.

Q. Okay, well tell us about it in your own words.

A. For one of the stories that was not published and isn't libellous, not defamatory, but we were alerted to it and it was done by a freelance journalist who has written many inaccurate stories, and had submitted it, I think it was to the People, if I'm right, the People on Sunday, and the editor or the deputy editor called it was to the People, if I'm right, the People on

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Clarence just to say they were running this, this was on the evening of the Saturday, and Clarence phoned us and it was complete nonsense, but it was basically saying that we were undergoing IVF treatment with a view to getting a new baby to replace Madeleine.

MRS McCANN: I think the important thing, this demonstrates it's not just the articles that have been published that have been a problem. We've had many weekends destroyed because we've had to try and stop articles like this from actually ending up in the press. And weekends are important for Gerry, that's our only family time. We've had to involve lawyers on --

MR McCANN: Friday nights. Another example there which I don't think is in our evidence, but again it transpired on a Friday evening, is journalists had gone to speak to my mum, I think they said even -- you know, Clarence said it was okay and my mum let them in and a lady journalist took a copy of an unpublished photograph of Kate, myself and Madeleine when we lived in Amsterdam that was very special to us and they were going to publish it in a Scottish newspaper on the Sunday and we had to involve Adam and Isabel from Carter Ruck to get that stopped. I think the only way we managed to get a very stroppy interaction with the editor was that we own the copyright of the picture and they were not in the least apologetic.

MRS McCANN: They were fighting it, actually, saying, "We've got the picture". It was like, "It's our daughter."

Incredible.

MR McCANN: The impact that these things have in what should be a little bit of respite, but there have been several occasions where we've gone behind the scenes at the eleventh hour.

Q. Thank you. Then paragraph 100, you deal with a piece in the Daily Mail, quite recently, July of this year, about an alleged reported sighting in India. What are your feelings about that, please?

A. It's probably one of the most recent examples of what I would say is the contempt for Madeleine and her safety. There was no check. This sighting had been reported to the police, I think we were actually on holiday. They emailed us a photograph and we quickly indicated that it was not Madeleine, and as far as we were concerned, it was dealt with. And then a day or two later, it's published and the newspaper on that occasion have chosen to publish it and they may want to justify why, but from our point of view, they don't know whether it's true, they haven't contacted us, and additionally we have the issue that if this really was a genuine sighting of Madeleine, then her captors may be alerted and move her.

So the story has precedence over the safety of our child. And that's clear. And that has been done by, I think, every single newspaper, as well as similar instances of amateur sleuthing and details about the investigation which should only be known to the witnesses and the potential to contaminate evidence by having read something that you shouldn't really know about, and all of the newspapers and broadcasters have been guilty of it.

Q. Thank you. Out of sequence, I'm then going to come back to the PCC because it's a more general point, I think, under the heading "Kate's book", paragraph 111. It may be in your hands as to which of you would like to deal with this piece of evidence.

A. Sure.

Q. Book published in May of 2011, so we're at the fourth anniversary, it was to mark that, to coincide with that. Obviously a difficult decision. Do you want to tell us a little bit about that?

MRS McCANN: You're right, it was a very difficult decision for obvious reasons, for all the reasons we've been discussing. But ultimately we are responsible for conducting and funding the search to find our daughter.

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Page 56

14 (Pages 53 to 56)
Q. You talk about a meeting with Rebekah Brooks, which led to a review of your case, a formal review. Just to assist us a little bit with that, can you recall when that was?

A. I think it's probably worth just elaborating a little bit because it's quite a complex decision-making process in terms of agreeing to serialise the book.

News International actually bid for the rights to the book, along with Harper Collins, and one of their pitches was the fact that they would serialise the book across all of their titles, and we were somewhat horrified at the prospect of that, given the way we'd been treated in the past, and the deal was actually done with the publishers, Transworld, that excluded serialisation.

Q. When was serialisation of your book in two News International titles, the Sun and the Sunday Times?

MR McCANN: Yes.

Q. Launching the book, and asking her to update us on where they had got, and we got one letter which really didn't say very much, and then we did the open letter to the Prime Minister, which was published on the front page of the Sun.

Q. Turn back to the issue of the involvement of the PCC. This is covered both in your witness statement and in evidence you gave, Dr Gerald McCann, to the Culture, Media and Sports Select Committee in 2009, and then it was picked up in the second report, I think, of that committee. There's a whole section of the report that goes to that issue.

The position I think is -- I'm back in your statement, paragraph 101 -- the PCC's position is that at an early stage they put a message out that they were ready, willing and able to assist you. This was in May 2007. Do you follow me?

A. Yes.

Q. I think your evidence is, well, you never got that message. Was that right?

A. If I did, it was lost in the time when we were obviously dealing with lots of things, and I would say probably similar to Mrs Gascoigne who gave evidence earlier this morning, that I was only vaguely aware of the PCC at that time.

Now, we were subsequently approached by News International and Associated to serialise the book, and after much deliberation, we had a couple of meetings with the general manager and -- Will Lewis and Rebekah Brooks and others, and what swung the decision to serialise was News International committed to backing the campaign and the search for Madeleine. And that passed our test of how it could help, and we had been lobbying behind the scenes for two and a half years, with successive Home Secretaries, to try and get a review of Madeleine's case, and we felt that having News International helping in that, and ultimately where I think the media have helped in this situation, of galvanising the public, having them reengaged with us and Madeleine, is what tipped the balance.

Q. Her intervention was successful?

A. It was.

Q. There may not be a module three issue.

LORD JUSTICE LEVESON: Yes.

MR JAY: It's right to say in terms of the sequence of events, I think the Prime Minister was involved just a bit before, and then the Home Office the day after?

A. Yes, I think --

Q. The same day announced --

A. We had written to the Home Secretary saying that we'd be Page 57

Q. In paragraph 103 you say:

"We have on a number of occasions had cause to contact the PCC. The PCC was extremely helpful in dealing with the unwanted intrusion into the privacy of our twins."

Are you referring there to the business with the paparazzi taking photographs when you're back in the United Kingdom?

A. Yes.

MR McCANN: That's right.

MR McCANN: I think we had also indicated earlier in the summer of 2007 that although we tacitly agreed to having photographs of us taken in Praia da Luz, largely because we felt that we couldn't stop it, particularly with international media being there, that as the situation dragged on over months, we didn't want continued photographs of Sean and Amelie to be published, and we were obviously concerned at the time, they were just 2, but as they got older, they could be recognised. So there was an agreement -- and I can't remember exactly if the PCC were involved in that, but we asked the media not to publish photographs of Sean and Amelie, and that was adhered to with pixelation up until we arrived back in the UK and then it went out the window again.

Q. In terms of the PCC assisting you in relation to the Page 58 page 60
wider issue of inaccurate, unfair and sensationalist reporting, it may well be that there isn't a factual dispute between you and the PCC at that time, of course, speaking through Sir Christopher Meyer. If you kindly look under tab 9, Dr McCann, you'll see relevant extracts from the report of the Culture, Media and Sports Select Committee published on 9 February 2010.

I invite your attention -- the pagination is working -- on the top right-hand side of each page, to page 87.

A. Yes.

Q. You should find a heading, "The role of the PCC", I hope, and then paragraph 354. There we deal with the message which they say they gave to you and you've told us really, well, you don't recollect it, and of course a lot was going on, but there was a meeting, and this is 355, on 13 July 2007 -- LORD JUSTICE LEVESON: That was just accidental. MR JAY: Yes.

The general thrust of what you were told by Sir Christopher Meyer during the course of an informal conversation, is this correct, if you wanted to deal with the issue of libel, well, then the route was legal recourse, legal action. But if you wanted to deal with the issue of libel, well, then the route was conversation, is this correct, is that if you wanted to -- You were given a message which they say they gave to you and you've told me that you don't recollect it, and of course a lot was going on, but there was a meeting, and this is 355, on 13 July 2007 -- LORD JUSTICE LEVESON: That was just accidental.

MR JAY: Yes.

A. Yes.

Q. Does that capture the sense of that meeting?

A. It's probably fair to put in there that I had a number of conversations with Sir Christopher, primarily because we became friendly with his wife, Lady Catherine, through her work with PACT, so on that first occasion I met Sir Christopher and he broadly asked, "How are the media treating you?" and we were very open and at that point we said, "Considering the interest, not too bad", and we didn't really have too much in the way of specific complaints.

I did have further informal conversations and they also dealt with correspondence from Kingsley Napley over the period, but the gist of the conversations, and most of my dialogue with him, informal rather than written, was that we agreed with our legal advice and we took the best legal advice we could get, that the way to stop this was to take legal action and not to go to the PCC, and I think Sir Christopher agreed with that.

Q. That's a fair summary, Dr McCann. It's what the committee think as well, although Paul Dacre expressed disappointment that you didn't make a formal complaint to the PCC, although Sir Christopher disagreed with Paul Dacre so we have two views --

A. I think the ultimate thing was we discussed a course of action and our advice, which was given in no uncertain terms, this is legal advice, was that the PCC were not fit to deal with the accusations, the nature of them, the number of them and the severity.

Q. The Inquiry will note, but it's not necessary for me to read it out, the conclusions of the Select Committee on these issues. They start at paragraph 364 and 365 in bold. And the direct criticism is made by the Select Committee of the PCC that the press were beginning to ignore the requirement of the code and the PCC remained silent.

Then under the heading "Lessons learnt", they review your case. They rightly point out that this was a very unusual case. They state that the coverage was "freakish", and then their conclusions are set out at paragraphs 373 and 375.

Perhaps I should read those out?

LORD JUSTICE LEVESON: The word "freakish" is the committee saying it's far from clear that the McCann coverage was really so freakish.

MR JAY: Paragraph 373:

"The newspaper industry's assertion that the McCann case is a one-off event shows that it is in denial about the scale and gravity of what went wrong and about the need to learn from those mistakes. In any other industry suffering such a collective breakdown, as for example in the banking sector now, any regulator worth its salt would have instigated an inquiry. The press indeed would have been clamouring for it to do so. It's an indictment on the PCC's record that it signally failed to do so. "The industry's words and actions suggest a desire to bury the affair without confronting its serious implications, the kind of avoidance which newspapers would criticise mercilessly and rightly if it occurred in any other part of society. The PCC, by failing to take firm action, let slip an opportunity to prevent or at least mitigate some of the most damaging aspects of this episode and in so doing lent credence to the view that it lacks teeth and is slow to challenge the newspaper industry."

Is there anything you wish to add or subtract from that?

A. I think I would agree with it, and it's probably for others to decide whether the PCC could have changed it. I think that's a moot point.

Q. Can I deal now with some general points, including the four general points you made at the start? But before I deal with those four points, I'm back to your witness statement at paragraph 116.
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| Page 66 | 1 | You refer to the or a culture change which is |
|         | 2 | required. May I invite you, please, to put that in your |
|         | 3 | own words, both to identify the existing culture and |
|         | 4 | then the change which you think is required? |
|         | 5 | A. I think we can speak with experience about how powerful |
|         | 6 | the media are, and how much damage they can do. We've |
|         | 7 | already said how many good things that they have done as |
|         | 8 | well, so there is power, there is no doubt about it. |
|         | 9 | But what we see on a daily basis are front page tabloid |
|         | 10 | headlines in particular, sometimes followed by a clamour |
|         | 11 | with 24-hour news channels and Internet and a blurring |
|         | 12 | of the media, of stories which appear to have no factual |
|         | 13 | basis, or exaggerated, or distorted. |
|         | 14 | You've heard about several of hundreds that were |
|         | 15 | written about us, but we see them, I walk into the shop |
|         | 16 | in the hospital every day and I see front page |
|         | 17 | headlines, whether it's about Chris Jefferyes who is |
|         | 18 | going to give evidence, or contestants on the X Factor, |
|         | 19 | and I think information has been written and lives are |
|         | 20 | being harmed by these stories, and something has to |
|         | 21 | change. A commercial imperative is not acceptable. |
|         | 22 | Q. Thank you. The four specific headings you've given us, |
|         | 23 | in one sense you've largely covered these but it's |
|         | 24 | helpful if we can bring the strands together. |
|         | 25 | The first is libel. Might it be said, and can |

| Page 67 | 1 | they showed a film that supposedly had us showing |
|         | 2 | tablets that were tranquillisers that we'd supposedly |
|         | 3 | given to children, stated as virtually fact. |
|         | 4 | So although we've worked incredibly hard to change |
|         | 5 | things in the UK, the damage is more widespread. |
|         | 6 | So the money is only for me -- and I understand that |
|         | 7 | the costs may be more of a deterrent than the damages, |
|         | 8 | per se, but it's only a partial compensation, and once |
|         | 9 | it's there, yes, the apology goes part of the way, but |
|         | 10 | as we've seen, often the reporting is much wider than |
|         | 11 | the original offending outlet, and the damage is |
|         | 12 | long-lasting. |
|         | 13 | And if you go on the Internet now, which our nearly |
|         | 14 | 7-year-old twins will be doing, most of these |
|         | 15 | allegations are still there and we will have to continue |
|         | 16 | dealing with them going forward. |
|         | 17 | Q. You make two points there, I think, Dr McCann. The |
|         | 18 | first is the point damages are never proper recompense, |
|         | 19 | and it's right, the judges recognise that, whether it's |
|         | 20 | a reputation case or personal injuries case, the money |
|         | 21 | can never provide reparation. |
|         | 22 | The particular point in your case is there's an |
|         | 23 | international dimension and whatever happens in the |
|         | 24 | United Kingdom in terms of statements in open court, |
|         | 25 | they're not going to carry any mileage or impact outside |

| Page 68 | 1 | this jurisdiction. |
|         | 2 | A. No. |
|         | 3 | Q. Hence your experiences in Spain and the Netherlands. |
|         | 4 | A. Correct. |
|         | 5 | Q. That's a helpful observation. What about your second |
|         | 6 | heading, which was privacy laws? Could you help us |
|         | 7 | a bit more with that, please? |
|         | 8 | A. Yeah. I think it's something obviously we probably |
|         | 9 | hadn't thought too much about before we found ourselves |
|         | 10 | in the situation that we are. You take your anonymity |
|         | 11 | for granted. What I find disturbing, clearly, when |
|         | 12 | you're being followed, you're being put in danger by |
|         | 13 | either reporters' or photographers' behaviour and |
|         | 14 | secondly I think it is probably an anomaly within the |
|         | 15 | legal system that a commercial organisation can take |
|         | 16 | a photograph of you, use it in their product, which they |
|         | 17 | sell and make a profit without your consent, and I think |
|         | 18 | that should be remedied. |
|         | 19 | I think if I'm here, I know I'm in public, I'm |
|         | 20 | giving evidence, I understand that images will be used, |
|         | 21 | I fully understand that and I'm implicitly consenting to |
|         | 22 | it, but whether it's us going for a run or driving out |
|         | 23 | of our front drive, and particularly with children, |
|         | 24 | I don't think it should be allowed. I think you should |
|         | 25 | not be allowed to publish photographs of private |

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1  individuals going about their private business without
2  their explicit consent, signed.
3  Q. The existing PCC Editors’ Code speaks of either
4  a private place or a public place where there’s
5  a reasonable expectation of privacy. I think your
6  evidence is suggesting that that latter concept is quite
7  a difficult one to understand and in particular to
8  apply.
9  A. Mm-hm.
10  Q. So that indeed further thought need be given to that.
11  The third issue we may or may not have brought out
12  adequately but please expand it if you wish to.
13  Contempt for the judicial process, namely the secrecy
14  implications of the Portuguese law, I think, and for
15  your child’s safety.
16  A. Yes.
17  Q. You have addressed that issue, but is there anything you
18  would like to expand, bring any strands together?
19  A. Yes, it wouldn’t be explicit to judicial secrecy in
20  Portugal, and by judicial I meant the whole process
21  which in Portugal is obviously overseen by a judge. So
22  you have information. We were told we were under
23  judicial secrecy not to give details of events. What
24  became very apparent was, you know, the media were
25  trying to create a timeline of what happened, and we had

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obviously created a timeline and given it to the police
and tried to narrow down to the closest minutes when we
think Madeleine was taken to help the investigation.
But when that information goes into the public
domain and the abductor shouldn't know it, or the only
person who should know it were the people who were
there, then that's a concern. It can contaminate
evidence. You could incriminate yourself by knowing
something that you shouldn't have known.
So that's the first process, and I think clearly, as
again I'm not a lawyer and I may be speaking out of
turn, but it's probably clear when there is a court case
on in the United Kingdom, about what's to be reported
and what not, and the police are very careful about
which information they give to the media in this
country, but for me there was contempt about that whole
investigative process. There was no regard for the
outcome. It was much more important for the media
outlets to have the detail or perhaps to have the
contradictions, and the salacious aspects that followed
it.
And then the point about Madeleine has never been
raised, I think, before, and clearly every outlet,
I think, has been guilty of this, about reporting
sightings, suspicious people, without giving it to the

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proper authorities. And that is of grave concern, and
obviously our concern and focus is Madeleine, but it
applies to other cases as well.
Q. Your fourth heading is quite a broad one: acceptable
standards.
A. Yes. I did have a quick look at the National Union of
Journalist’s submission and there are standards, but
there are no penalties for not sticking to them, and
whatever your profession is, particularly in this
country, then there is fairly strong regulation which we
have to abide to, and I have seen no individual
journalist or editor brought to account over the
stories, be it within Express Newspapers Group or
Associated or any of the other groups and I think if
there are repeated offenders, then they should lose
their privilege of practising as a journalist.
LORD JUSTICE LEVESON: Quite difficult, that. I understand
exactly why you're saying that, but just let me share
with you the difficulty, that what journalists do is
exercise the right of free speech, and whereas you as
doctors require licence to practise medicine, and if you
are taken to the GMC then the GMC have all sorts of
sanctions available, it's quite difficult in relation to
the exercise of free speech.
That's not to say that there shouldn't be penalties,

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there shouldn't be some mechanism whereby there's
a holding to account for what you've done.
A. Sure.
LORD JUSTICE LEVESON: But --
A. Thank you, sir. I would like to emphasise that
I strongly believe in freedom of speech, but where you
have people who are repeatedly carrying out inaccuracies
and have been shown to do so, then they should be held
to account. That is the issue. I don't have a problem
with somebody purporting a theory, writing fiction,
suggestions, but clearly we've got to a stage where
substandard reporting and sources, unnamed, made-up,
non-verifiable, are a daily occurrence.
LORD JUSTICE LEVESON: Yes. I wasn't criticising you at
all, but I was simply seeking to explain why that
particular remedy may be very difficult to apply in this
context. But it's not to say there shouldn't be
something. Now, I'm not saying what, because that's
part of what I'm here for, if anything, I say
immediately, but you've doubtless read that different
people have been suggesting different models.
A. Sure.
LORD JUSTICE LEVESON: And it's actually that question which
is the burning part of the job that I have to do, which
only underlines how extremely valuable your experience

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<td>1</td>
<td>has been, and how very grateful I am for you sharing it with us.</td>
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<td>2</td>
<td>A. Sure.</td>
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<td>MR JAY: I have no more questions, Dr McCann, Dr McCann. Is there anything you want to add? Maybe Mr Sherborne has a point, but that concludes all I have to ask.</td>
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<td>LORD JUSTICE LEVESON: Thank you very much. Mr Sherborne, did you want to ask something?</td>
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<td>MR SHERBORNE: Sir, I realise that we all need time properly to digest the very uncomfortable evidence that the McCanns have given. As I mentioned last week, we say it's nothing short of a national scandal, but there's one point I do formally want to raise. It was touched on earlier.</td>
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<td>We've seen representatives of the media organisations stand up very quickly to respond to the criticism of their newspapers --</td>
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<td>7</td>
<td>LORD JUSTICE LEVESON: Is there going to be a question, Mr Sherborne?</td>
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<td>8</td>
<td>MR SHERBORNE: There is.</td>
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<td>LORD JUSTICE LEVESON: Then I'd like to hear the question.</td>
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<td>10</td>
<td>MR SHERBORNE: It's not a question. I raise this. It was mentioned by the McCanns and you mentioned it as well, and that is in relation to News International, and what</td>
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ORDINARY APPLIES, NAMELY THE DEFAULT POSITION IS THAT WHICH THE MPS WOULD DESIRE, BECAUSE THAT IS NOT RIGHT, WITHOUT FURTHER SUBMISSION.

LORD JUSTICE LEVESON: IT'S NOT WHAT I'VE SAID. INDEED, QUITE THE REVERSE.

MR JAY: YES.

LORD JUSTICE LEVESON: I'VE SAID THE OPPOSITE.

MR JAY: PRECISELY.

I AM PROPOSING WITH A DEGREE OF RELUCTANCE A PRAGMATIC SOLUTION WHICH WILL SPEED THINGS UP, BUT I'M NOT ENDORSING A PROCEDURE WHICH IS GOING TO APPLY MORE GENERALLY. ANYBODY CAN TURN UP TOMORROW MORNING AND SAY NO, THAT READING IS INAPPROPRIATE, WE SHOULD LIFT IT, OR INDEED, THE MORE EFFECTIVE WAY OF DEALING WITH IT IS THAT WE'LL JUST HEAR THE EVIDENCE AND THEN THE WITNESS STATEMENT CAN BE PUT IN A DIFFERENT FORM ONLINE A LITTLE BIT LATER.

IT'S NOT AS IF THE PUBLIC NATURE OF THE INQUIRY IS GOING TO BE DISRUPTED SAVE FOR A SHORT PERIOD OF TIME, BUT I REALLY DON'T WANT TO SPEND TIME NOW INVOLVING OTHER CORE PARTICIPANTS AND DISCUSSING THE PRECISE TEXT OF REDACTIONS. I WILL LIVE WITH WHAT MR GARNHAM HAS PROPOSED, WITH RELUCTANCE, AND THEN WE'LL HAVE TO THINK OF A WAY FORWARD FOR THE FUTURE.

LORD JUSTICE LEVESON: I THINK IT'S VERY IMPORTANT THAT ONE

LORD JUSTICE LEVESON: THOSE PREPARING THE STATEMENTS KNOW THE POSITION, KNOW WHAT I'VE SAID, THEY KNOW THAT I DON'T WISH TO PREJUDICE ANY CONTINUING INVESTIGATION OR POTENTIAL PROSECUTION IF THERE IS TO BE ONE, AND THEREFORE THEY SHOULD BE PREPARED ON THAT BASIS AND I'LL REQUIRE SOME CONVINCING THAT SENSIBLE LINES HAVEN'T BEEN DRAWN.

MR JAY: YES. WE MAY NEED TO COME BACK TO THAT WHICH WE WERE DISCUSSING THIS MORNING. HOWEVER, IN THE FIRST INSTANCE MAY I INVITE MR BARR TO DEAL WITH HJK WHO IS GIVING EVIDENCE FIRST THING TOMORROW MORNING?

LORD JUSTICE LEVESON: RIGHT. MR BARR, I'VE SEEN THE APPLICATION MADE ON BEHALF OF HJK. I'M CONSCIOUS THAT THE PROTOCOL IN RELATION TO ANONYMITY BY WITNESSES HAS NOT YET BEEN PROCLAMATED. THAT'S IN PART, AS I SAID, BECAUSE EACH TIME I'VE THOUGHT I'VE DONE IT, THERE'S BEEN ANOTHER SET OF SUBMISSIONS AND I'VE HAD TO GO BACK TO IT MERELY TO MAKE SURE THAT I'VE CONSIDERED EVERYBODY'S SUBMISSIONS, BUT IT SEEMS TO ME, AND I'LL HEAR ANYBODY WHO WANTS TO SUGGEST TO THE CONTRARY, THAT THE POSITION OF HJK IS VERY DIFFERENT TO THE POSITION OF JOURNALISTS AND OTHERS WHO WISH TO GIVE EVIDENCE ANONYMOUSLY.

THIS IS A PERSON WHOSE PRIVACY IS PRESENTLY PROTECTED. IN OTHER WORDS, HE'S NOT SEEKING TO SAY OF ANY OUTLET, "THEY ARE ABOUT TO DO SOMETHING OUTRAGEOUS"

ORDINARY APPLIES, NAMELY THE DEFAULT POSITION IS THAT WHICH THE MPS WOULD DESIRE, BECAUSE THAT IS NOT RIGHT, WITHOUT FURTHER SUBMISSION.

LORD JUSTICE LEVESON: IN THE VERY UNUSUAL CIRCUMSTANCES OF THIS CASE, WHERE THERE IS IN FACT A GREAT DEAL ALREADY IN THE PUBLIC DOMAIN, AND ONE KNOWS THAT IF THERE IS TO BE A CRIMINAL PROSECUTION, IT'S A LONG WAY DOWN THE TRACK. BUT I UNDERSTAND MR GARNHAM'S POINT, I UNDERSTAND YOUR APPROACH, I AM CONTENT TO FOLLOW IT, BUT WE HAVE TO DEVISE A MECHANISM WHEREBY THESE CONCERNS ABOUT REDACTIONS ARE PROVIDED PERHAPS RATHER SOONER OR DEALT WITH RATHER SOONER SO THAT WE'RE NOT IN THE POSITION OF ADOPTING THIS APPROACH. RIGHT?

MR JAY: THE WHOLE ISSUE OF REDACTIONS IS BEGINNING TO CAUSE US CONCERN THAT WE HAVE TO PRIORITISE A NUMBER OF THINGS. THE MAJORPriority TO ENSURE THAT THE EVIDENCE COMES OUT CLEARLY, THAT LINES OF QUESTIONING FROM THE CORE PARTICIPANTS ARE ACCOMMODATED, AND WE GIVE PROPER THOUGHT TO THE EVIDENCE, SINCE THAT IS THE PUBLIC FACE OF THE INQUIRY. WE SPEND HOURS ON REDACTIONS EACH DAY THAT WILL DIVERT US FROM --

LORD JUSTICE LEVESON: REDACTIONS SHOULD BE THE EXCEPTION RATHER THAN THE RULE.

MR JAY: YES INDEED THEY SHOULD.

LORD JUSTICE LEVESON: THOSE PREPARING THE STATEMENTS KNOW
I have no doubt there are some people in the room today who will understand that, that he will say something that he didn't mean to say and that would therefore compromise the privacy that he is seeking to protect. But the idea is that the core participants, their lawyers should be here, and they will actually see HJK and hear him, but that it will have no wider promulgation, although immediately after his evidence is concluded, and I emphasise that word, his transcript will be made available.

MR BARR: That's right, sir. The final matter is that he's submitted a confidential annex and unsurprisingly the application is that that confidential annex will not be referred to during evidence.

LORD JUSTICE LEVESON: He explains why he seeks the relief that he seeks.

MR BARR: The information in the confidential annex combined with the closed application does precisely that, sir. And could I submit that these are appropriate measures which are a proportionate way of safeguarding this witness's privacy.

LORD JUSTICE LEVESON: All right. Thank you very much. I make it clear that I do not intend to use HJK as a template. I don't think it's got any relevance at all to the issues of anonymity that are raised in relation to journalists. I don't believe he will be giving any evidence specifically touching a named person or taking any further that which we already know in relation to interception.

Does anybody have any observations to make about the application that's been made?

Right, thank you. I make orders accordingly, and possibly they could be drawn up in appropriate form so that I have complied with the terms of the legislation.

MR BARR: Sir, I'm sure that that could be done.

LORD JUSTICE LEVESON: Thank you very much. So it's important to underline that first thing tomorrow morning we will be closed. I don't apprehend it will take very long, but for the public and the press, save for those who are core participants and attending as core participants, they will have the unenviable problem of just having to wait for us.

Right. Is there anything else?

MR JAY: I have now ingested this correspondence and I'm going to be quite short about it. One core participant is complaining about another core participant's media blog regarding evidence we heard this morning. They can sort it out between themselves.

LORD JUSTICE LEVESON: Thank you very much. If anybody wants to bring anything to my attention because they feel it's necessary, then they can do so, but they'd better have a pretty good reason.

Has the position that was being discussed just before lunch been resolved?

MR CAPLAN: Can I say this, we're not pursuing that matter at the moment.

LORD JUSTICE LEVESON: Right, thank you very much indeed. Thank you very much indeed.

(4.10 pm)

(The hearing adjourned until 10 o'clock the following day)
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