

Statement made on behalf of: The Commissioner of Police of the Metropolis

Witness: Keith Surtees

Statement No: 1

Exhibits Referred to:

Date Statement Made: 30 September 2011

In the matter of Judicial Review Proceedings:

THE QUEEN
on the application of

- (1) CHRIS BRYANT MP
- (2) BRIAN PADDICK
- (3) LORD PRESCOTT
- (4) HJK
- (5) BEN JACKSON

Claimants

- and -

THE COMMISSIONER OF POLICE OF THE METROPOLIS

Defendant

Witness: Keith Surtees

Occupation:

Address: c/o New Scotland Yard

I believe the facts stated in this witness statement are true

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1. I have been an officer in the Metropolitan Police Service (MPS) since 1988 and currently hold the rank of Detective Chief Superintendent.

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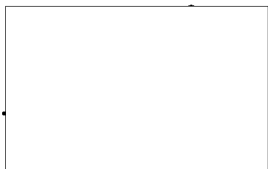
2. I make this statement purely for the purposes of the Judicial Review case. It is therefore not to be taken as a comprehensive account of all my actions within the period 2005-2010. I also make this statement on the understanding that I am not under investigation for misconduct matters arising out my role within the investigation.

3. I am currently a Detective Chief Superintendent working within Specialist Operations of the Metropolitan Police in charge of planning an extensive live exercise that will test the police, government and military readiness on security for the forthcoming Olympic Games in 2012.

4. In terms of my personal record, I have no criminal or discipline matters recorded against me, my annual appraisal reports have always been to a very high standard. I have a number of letters of appreciation ranging from members of the public to government departments and other agencies acknowledging the service provided. Over the course of my career I have personally received nine official commendations. Five at Chief Constable Level and four at Commander level all for detective ability and leadership.

5. Prior to holding this role I was the Detective Superintendent and operational head of covert human and technical surveillance within SCD11 covering national terrorism and serious and organised crime, a role that required close working relationships with the British Security

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Service, MI5, and the Military. During this time I was also the deputy chair for the 'July Review Group' the MPS strategic group implementing the learning from the incident on July 22nd 2005 leading to the death of Mr. Jean Charles DeMenezes. I held this role from February 2009 until June 2011.

6. In March 2006 I joined SO13, the MPS Anti Terrorist Branch as a Detective Chief Inspector. Later that year (2006) the Anti Terrorist Branch, (SO13) merged with the MPS Special Branch, (SO12) to become the Counter Terrorism Command (SO15). I was appointed within SO13 and latterly SO15 the role of Senior Investigating Officer (SIO), I worked on one of four investigative Pods consisting of a lead SIO, a detective superintendent, and two SIO's of Detective Chief Inspector rank. Between the three senior staff we had responsibility for four investigation teams made up of a number of investigators and supervisors. From the outset my role as SIO and deputy to the Detective Superintendent was to lead on terrorist investigations working very closely with the Security Services, (BSS and SIS), I also managed the direction, discipline and finance of the operational teams. Additionally I would often represent the MPS at strategic and tactical meetings in areas of government such as the Cabinet Office, (COBR) and the Foreign and Commonwealth Office on terrorism and allied matters.

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7. I was appointed the Investigating officer (I.O.) of Operation Caryatid on the 18th April 2006, following a request by D/Supt Williams and other senior officers that additional support be given to this investigation. My role within the investigation was to work alongside the SIO, D/Supt Phil Williams as the Investigating Officer (I.O.), to carry out the strategy set by him working within any parameters or restrictions laid down. I also undertook the role of SIO in D/Supt Williams' absence during certain specified periods of the investigation. As IO for operation 'Caryatid' I would report to D/Supt Williams on progress and lines of enquiry in the investigation.

8. This investigation was one of a number of investigations I had running at this time. Whilst I was performing the role of Investigating Officer in Operation 'Caryatid' I was also performing the role of Senior Investigating Officer for numerous priority terrorist investigations involving serious threats to life. Additionally I was travelling out of the U.K. frequently at this time due to my commitments as SIO on a kidnap investigation involving a British National in Iraq.

9. The number of investigations I was responsible for increased throughout the duration of the Caryatid investigation. It was envisaged that I manage my time between these competing roles as well as the management functions required to lead operational teams of constables, sergeants and Inspectors.

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10. I was fully briefed on Operation Caryatid from the outset by D/Supt Williams, as to the current stage, scope and the parameters of the investigation. I appointed two officers to this investigation - they were: Detective Sergeant Mark Maberly, as the case officer, and Detective Constable Robert Green to assist. My understanding of the situation was that Operation Caryatid was a covert and sensitive investigation, which was tasked to investigate potential criminal offences, directly linked to members of the Royal Household. These persons believed that their messages were being listened to with increasing regularity, although they did not know how this was being done. I fully understood the rationale as to why SO13 had been tasked to deal with this given the national security implications and the potential consequences of a person having access to such sensitive information.

11. It was established early within the investigation that voicemail messages of Royal Household staff were being accessed without authority. An early challenge to the investigation was in relation to the phone companies and our reliance on them to provide the technical data we would require in order to illustrate that intercept of voicemails was taking place. I was also aware of the advice given to D/Supt Williams by the Crown Prosecution Service a few weeks before I joined the investigation. This concerned the possibility of pursuing offences under section 1 of the Regulation of Investigatory Powers Act 2000 (RIPA) and also possible offences under Section 1 of the Computer Misuse Act 1990. I was briefed by D/Supt Williams on the

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CPS advice and more specifically on the challenges of prosecuting under the RIPA offence. The evidential requirement of the CPS would be for the police to be able to prove an unlawful interception taking place into a victims' telephone voicemail before it had been accessed by the intended recipient. I and others on the investigation likened this to opening an undelivered letter without the addressee's authority.

12. This was a covert investigation and briefed on a need to know basis within SO13. This meant that only a very small number of staff were aware of the details of the investigation. The parameters of the investigation at that time were restricted to the members of the Royal Household we were treating as victims for any potential prosecution.
13. I was made aware that officers had fully briefed Clarence House as to the need to keep this matter covert and that persons within the Royal Household were being targeted for journalistic purposes. My overarching concern was of the possible serious national security implications of ready access to this material, not least in that it could possibly identify the movements and whereabouts of principle members of the Royal Family.
14. The only way to establish whether illegal access to voice messages was taking place was to obtain the incoming telephone data to the voicemail of the complainants, Jamie Lowther-Pinkerton (JLP) and Helen Asprey (HA.). In other words, a list of telephone numbers

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ringing into the voicemails of the victims. Applications were made for this data from the telephone providers. This was challenging aspect of the investigation as the airtime providers were unsure as to whether the incoming call data to the unique voicemail numbers (UVN) were retained for any prolonged period of time or how the UVN's were being accessed. This is separate to the incoming call data into the actual telephone number of a handset. An application for the subscriber account information under Part 1 Regulation of Investigatory Powers Act 2000(RIPA) was made to the airtime provider providing Clive Goodman's telephone data. These data showed clearly that a telephone belonging to Clive Goodman had been used to call the voicemails of JLP numerous times since October 2005. It was not possible at this time to prove at what point in the process the illegal access had actually taken place, i.e. whether this was before or after the message had been opened by the intended recipient.

15. Vodafone and O2 had been briefed on this from the outset initially prior to my appointment as I.O. and a very good working relationship continued between senior representatives of Vodafone and O2 and the investigation team. I was also aware that at some stage later in the investigation both Orange and T-Mobile were also briefed and asked to assist. I know that T-Mobile could provide no real assistance to the enquiry due to technical challenges internally and Orange was, to a limited extent, able to provide some support.

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16. From the outset, the phone companies had not appreciated that this illegal access was possible, nor had they a means by which they could assist us to ascertain how often and how widespread this was. The issue of how we could prove evidentially illegal access occupied much of these early meetings with the phone companies. My view of this working relationship with Vodafone and O2 was that they were an integral part of the investigative team. I took the view that without their co-operation, this investigation would become almost impossible. I should point out that the initial engagement with only these two companies in particular, was simply to do with the fact that these were the companies used by our complainants from the Royal Household.
17. Through analysis of the incoming call data, a rogue telephone number was identified as accessing the voicemail number of members of the Royal Household including JLP and HA. Further analysis identified this number as one registered to Clive Goodman, the Royal Editor for News of the World. From this analysis a number of victims within the Royal Household were identified. This was immediately briefed to Commander Loughborough, the Head of Royalty Protection within the MPS.
18. As the investigation progressed over a number of months we established by the same method described above a total of nine rogue numbers being used by two suspects to access the complainants' telephone voicemails.

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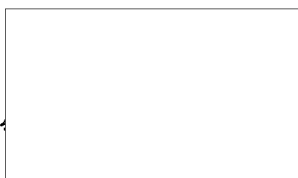
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19. On 20th April 2006, Phil Williams and I attended a meeting with Carmen Dowd (Head of the Special Case Section) of the Crown Prosecution Service (CPS). Carmen Dowd was fully briefed by us on the investigation. Prior to this briefing, I was aware that there had been an initial telephone consultation in March '06 between Phil Williams and Sue Hemming of the Counter Terrorism Unit of the CPS where the range of potential offences had been discussed. These offences were the S.1 RIPA 2000 - interception offence and S1 Computer Misuse Act 1990 - unauthorized access to computer material.
20. D/Supt Williams had drafted a detailed briefing note in preparation for the meeting with Carmen Dowd. This briefing note sets out the initial circumstance as they were presented to the Police, the relevant phone companies involved and the current analysis of the data together with the confirmation of the likely offences. Carmen Dowd was asked to advise and provide guidance on whether the interception of these voicemails by Clive Goodman could constitute a criminal offence. She was also asked to offer advice on the extent of the searches and the likelihood that further supporting evidence could be found at various locations. It was made clear during this meeting that only one person - Clive Goodman - had been identified as a suspect but also that it was *'highly unlikely in our view to be restricted only to Goodman and was probably quite widespread'*.

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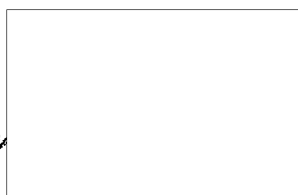
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21. At the meeting with the CPS on 20th April 2006, I can recall specifically discussing the challenges of proving the s.1 RIPA offence and the point at which this offence would be proven. The analogy was used of the unopened envelope as mentioned above.
22. After this meeting with Carmen Dowd, it was clear to me that the advice had been structured with the intention of proving a s.1 RIPA offence, although the offence under the Computer Misuse Act was still a consideration to be taken into account. However, the latter was a summary only offence punishable on conviction with a maximum sentence of 6 months imprisonment. Whereas the RIPA Offence was an indictable offence and punishable on conviction with a maximum of 2 years imprisonment.
23. The CPS advice emphasised that this was very much an untested area of law and that, because of this, the investigation had to be very focused on the specifics of the evidence gathering process. There would need to be a specific focus on capturing the evidence, which indicated that Goodman had intercepted the victims' voicemails prior to the victims themselves accessing them. It was accepted that this was a narrow interpretation, but there was a need to put together robust evidence to ensure an effective, expeditious prosecution. This would achieve the aims of protecting members of the Royal Household, obtaining convictions for those responsible, and sending

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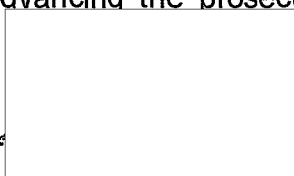
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out a warning to anyone else attempting to commit similar criminal offences.

24. I have already mentioned within this statement my obligations within SO13 as an SIO responsible for a number of serious threat to life investigations. These investigations were prioritized according to which posed the greatest risk to human life. The finite resources of my teams and other investigative resources within SO13 had to reflect this prioritization. In some investigations experience dictated that they needed a proportionate and timely response with decisions made as to whether there was reasonable prospect of securing a conviction. Other investigations could remain live and the evidence and intelligence gathering process continue for an indefinite period of time, even if a prosecution was unlikely. Each operation is risk assessed on the basis of the threat level and where these are highest, then the allocation of resources must reflect this. Essentially, an important aspect of my role as an SIO was to mitigate the risk to the public of catastrophic loss of life as a result of a successful terrorist attack and prioritise the assets under my command according to this. These considerations were foremost in my mind throughout Operation Caryatid.

25. Consequently, an overarching consideration throughout the investigation and in the discussions with the CPS was to consider the limitations of the evidence and the best and most effective way of advancing the prosecution to ensure convictions were obtained. It

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should be stressed that the investigation had only identified one suspect at this stage.

26. The initial oral advice given by the CPS was confirmed by Carmen Dowd via an email to us dated 25th April 2006. The advice reflected the evidential difficulties in attempting to prove the s.1 RIPA offence. We would need to be able to show that the rogue numbers not only accessed the voicemail without permission, but that they listened to the message prior to the lawful intended recipient. Some of the data we had, showed that the rogue numbers had accessed the voicemail of the Royal Household, however, we did not have the technical capability at that time to demonstrate that it was accessed prior to the intended recipient doing so.
27. From speaking to the members of the Royal Household, we were able to establish a period where JLP had not accessed his voicemail, as he had been abroad but a rogue number had. We also had to consider the sensitivities concerning the potential involvement of members of the Royal Household and whether we could secure a prosecution without the need to include the subject matter of the voicemails.
28. The core MPS team at this stage consisted of DS Maberly and DC Green with day to day direction from myself and oversight from D/Supt Williams.

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29. Under my direction the Case Officer, DS Maberly was making a number of RIPA applications for the individual rogue phone numbers as they were being identified. This call data and the rogue numbers were being cross referenced by the telephone companies. Whilst it was clear at an early stage, that the BT landline telephone situated at the home address of Clive Goodman was accessing the UVN's of members of the Royal Household, neither we nor the airtime providers could prove that actual voicemail messages were being listened to or intercepted. The only evidence apparent was that the call had been made into the UVN.

30. A very close working relationship between the investigation team and the relevant airtime providers was operating. To demonstrate this close relationship and the need to rely on the phone companies, it was only possible to identify potential targets of the rogue numbers by two methods. The first was on receipt of the list of call data from the rogue telephones to complete a complex RIPA application on each telephone number called by that rogue number. This would have been a hugely intensive exercise both from a resource and time perspective and would have been logistically impossible to achieve. It involved a paper application for access to each individual line of data (phone number) which would then had to be submitted for independent oversight by an independent Superintendent and submission through a central MPS telephone unit for onward submission to the airtime

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provider. This process repeated for each telephone number as a UVN is indistinguishable from an ordinary mobile number.

31. Alternatively, and the only practical way of identifying a list of victims from the relevant data, was via the mobile companies agreeing to assess the data and identifying them without requiring them to do so under a RIPA application. This was the preferred way to obtain the information, as it was a far more efficient way to achieve the aim of identifying victims. Therefore we were reliant on the phone companies throughout to provide us with the identity of possible "victims" of interception activity. This ongoing process of the transferring and sharing of information had taken place with the mobile companies since the very beginning and was essential to the success of the operation. We provided all the relevant phone numbers of the suspects to the phone companies and asked them to try and ID customers that the rogue numbers had contacted. We were relying, to a certain extent, on the phone companies' co-operation and joint aim of wanting to prevent this interception of messages of their customers. We were also well aware there would be a cost to phone companies to look through the data and they could have refused to do so and asked for individual RIPA applications to be made. The phone companies were also aware of the limited resources that we had available and the huge time delay to have done individual RIPA applications for each piece of telephone data.

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32. We had to strike a balance, and this was achieved by providing sufficient data to the phone companies and then requesting that they revert back to us should any of the rogue numbers have accessed other customers voicemails.
33. In May 2006 as a direct consequence of the advice from the CPS on the s.1 RIPA offence, it was agreed that we would embark on a "test" period using the telephones owned by HA and JLP. During this test period both HA and JLP were instructed only to access their voicemail message at set times twice in every 24 hour period and record when this was occurring. The plan was that any messages left and accessed outside of this period would be sufficient to prove that interception had occurred prior to it being accessed by the intended recipient. It was agreed that Vodafone and O2 would support this "test" period and endeavour to provide corroborative evidence of any illegal access.
34. By 9th May 2006, the only identified suspect of this investigation was Clive Goodman, however at this point in the investigation a "person of interest" by the name of Paul Williams was becoming prominent. I later found that Paul Williams was a pseudonym used by Glenn Mulcaire. I was clear that the strategy of the investigation agreed by D/Supt Williams was to warn those already carrying out this method of intrusion by pursuing a *"timely and successful prosecution based upon strong clear evidence"*. At this time also in May a number of possible victim's details were being supplied to us by the telephone companies.

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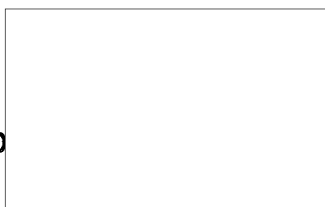
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All but a very small number were linked to the Royal Household. I had been aware of the victim strategy documented by D/Supt Williams on 13th April 2006 in his decision log.

35. On 12th May 2006, I took responsibility as SIO for this investigation as D/Supt Williams went overseas for a period of 18 days. During this period, Glenn Mulcaire had been established as a second suspect in the investigation. A number of additional rogue numbers were identified being linked to him. In total, 9 rogue numbers were identified between the two suspects and these were passed to the telephone companies for the identification by them of any other possible victims who were informed by O2 during this period, that they had identified two of their customers who may have been a victim of unlawful access to their UVN's from the rogue numbers supplied. I was aware that O2 had informed their customers that they may be victims of interception of voicemails. These customers were identified as Max Clifford and HJK, both of whom had requested that police be informed by O2.

36. The test period attempting to gain sufficient evidence was continuing into June 2006. Alongside this "test" period, I also undertook a surveillance period against Clive Goodman. This was intended to provide proof that at a time an interception took place from the home telephone line of Goodman, he was actually present at the address at the time and not elsewhere.

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37. D/Supt Williams returned from annual leave on 30 May 2006 and assumed responsibility for Operation Caryatid as SIO. The role of SIO was becoming more fluid at this stage between myself and D/Supt Williams. Given the sheer volume of operations within S013 that we were dealing with at the time, it was not always possible to maintain the operational structure. It was often a case of reacting and dealing with matters as and when I could. There were a number of operations I was working on as were all the other members of SO13. There were not infinite resources available and in order to fulfil our primary objective of ensuring public security was not compromised, we had to prioritise each operation according to the risk. An operation where there was the real possibility of a threat to life on a mass scale would always take priority. The advantage of focussing the investigation on the current two suspects was that it would mean the investigation would quickly get to the point where a prosecution could be brought against them and thereby provide protection to the individuals who had been targeted and swiftly prosecute the appropriate offenders.

38. I noted in a situation report of 31st May 2006 that the Anti Terrorist Branch rightly were investigating the breaches into the Royal Household and potential national security implications. I made the distinction in the decision log at that time with the challenge around the widening aspect of a number of none Royal Household staff being targeted noting that *"each unlawful interception is a serious offence"*. Consequently, I briefed DAC Clarke, Commander McDowell, and DCS

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White into the widening aspect of the investigation suggesting that another investigative team, outside of SO13, should take responsibility of the widening aspects of the investigation involving a growing number of victims. The decision was taken to keep the investigation within SO13 and not to widen the original parameters of the investigation.

39. The "test" period with JLP concluded on 16th June 2006. Following an assessment of the results by Vodafone and our analyst, it was established that on two occasions evidence existed that would amount to a s.1 RIPA offence. Consequently I attended a meeting with Carmen Dowd on the 26th June 2006, where the results of the "test" were discussed as well as an expanding list of possible victims that were being identified. The decision was made to concentrate on the original Royal Household as victims not least due to the long drawn out process it had taken us to get to a point where a sufficiency of evidence existed.

40. I noted in early July 2006 that the immediate investigative priority was to stop interceptions into high risk subjects due to the national security implications surrounding the method undertaken by our suspects. To achieve this priority, the arrest and more importantly the charging of those identified along with the searches of their respective homes and office premises was the best way to achieve this. I noted on the 6th July that this was the best course of action and if following the

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executive action further victims were identified then a decision on what action should be taken could be made at that stage. Additionally, I noted that the best course of action was to arrest the two suspects given the possibility of continued widespread offending. To delay this in favour of identifying a multitude of victims to load a future indictment was contrary to the strategy of the investigation.

41. My biggest fear would be that sensitive state visits by principle members of the Royal Family to areas such as Iraq or Afghanistan could be leaked with the obvious security risks associated with such knowledge, whilst a trawl for victims continued. I also noted that as far as a prosecution was concerned there would be little point in simply overloading an indictment with lots of individual charges. My experience of prosecutions in the past was that the levels of criminality and duration of that criminality needs to be reflected in any indictment. Through July 2006, a number of meetings and exchanges of documents took place between the investigation team and the CPS. It was also becoming clear that a number of previously unknown "victims" were being identified by the telephone companies. Additionally, the capability of the telephone companies to supply data was improving. They could now ascertain the length of a call into a voicemail from a rogue number. Analysis of the call data by the expert David Bristowe also established that if the call into a voicemail was less than 10 to 14 seconds in duration, then that person making the

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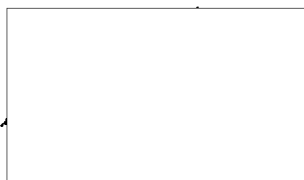
call was unlikely to have actually listened to a message due to the recorded introductions that always precede a call into a voicemail.

42. On 18th July 2006, the CPS provided further written advice following a case conference. The advice given was that there was now a cogent and presentable case, which could be successfully prosecuted, without the need to utilise the content of the voicemails. These offences related exclusively to the Royal Household as victims. It had been a concern all along that we wished to avoid the content of the messages left by the Royal Household being used as evidence. In this sense, the investigation was purposefully narrowed to ensure that the focus was on proving solely the very fact that the messages were intercepted. A further advice file was then forwarded to the CPS on 19th July 2006 setting out the range of the evidence.

43. On 26th July I was informed that Tessa Jowell's voicemail had been listened to by Glenn Mulcaire. This significantly changed the perception of the investigation and increased the need to execute the arrest phase with the involvement of Cabinet Ministers to ensure public security was not compromised any further.

44. On 2nd August Carmen Dowd provided her definitive legal advice concerning proposed charges. Leading Counsel had also been consulted about the legal issues by this stage. The conclusions reached by the CPS were that the Computer Misuse Act offences

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might detract from the main thrust of the case, being the S.1 RIPA offences. The advice given and implemented was that the Computer Misuse Act Offences should not be pursued any further and that the prosecution should be focussed purely on the s.1 RIPA offences. On the 4th August 2006 I sought advice from Carmen Dowd around my proposed search strategy that I was putting together for the arrest day on August 8th. Ms Dowd provided written advice concerning the specific challenge around the ability for police to enter and search the offices of News Corporation. I was concerned that legislation was hindering my ability to search the offices of NOTW and I sought her views on the specific limitations within the Police and Criminal Evidence Act 1984 (PACE) on journalistic material. Despite the advice from the CPS, I was determined that police should gain access to the offices of NOTW and as a result instructed my staff to apply to the court for a s.8 PACE warrant. Additionally I sought advice from MPS lawyers and prepared legal support from them should this decision be challenged. The MPS legal team ensured they had an available response in place for the arrest day of August 8th in the event that access to News Corporation was challenged.

45. The intention behind searching the offices of News Corporation was to seize all material relating to Clive Goodman and Glenn Mulcaire to establish the extent of their unlawful practises and also to establish the level of knowledge of NOTW concerning this illegal activity. At no point was a decision made by D/Supt Williams or I to not investigate the

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wider possible involvement of NOTW. Despite the legislative challenges to searching journalistic premises, the warrant would be executed as I was eager to gain entry to the offices of NOTW for two reasons: The first was to seek and recover any additional evidence relevant to Clive Goodman's activities and the second was to ascertain whether any other evidence existed implicating others within the NOTW in a wider conspiracy, hence my reference on application for the Section 8 PACE warrant to the financial office.

46. Following the arrest of Goodman at his home address on the morning of 8th August, he was escorted to the building of NOTW in Wapping by my officers who intended to execute the s.8 PACE warrant and s.18 PACE search power. The officers managed to get through the various security measures at the NOTW, but at the last check, Clive Goodman informed the security that he did not want police to accompany him. Officers continued through this last check point and to the location of Goodman's desk, where they seized a number of important pieces of evidence. I was then informed on the telephone by the lead officer at NOTW that an editor and security staff had approached them at Goodman's desk and stated that in their view the police were on the premises unlawfully. Detective Inspector Pearce went on to say that the editor was joined by other senior staff at NOTW demanding to see identification. They then instructed their photographers to take pictures of our staff and when my Forensic Management Team arrived at the

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building to assist in the search and recovery, they were refused entry and never got into the building.

47. A tense standoff was taking place with the NOTW lawyers informing the police officers that their presence was unlawful and so their seizure of items from Goodman's desk was also unlawful and so they intended to seek a Court Order. D.I. Pearce was concerned at the time that NOTW staff may offer some form of violence against the small police team in the building. I instructed him to complete the search of the desk only and to leave the premises with whatever evidence they had recovered. In the event of any indication of violence I instructed him to leave the evidence and make a tactical withdrawal. The search was never fully completed. The officers then left the building with the evidence they had seized and were not subject to any violence.

48. On 9th August 2006 Mulcaire and Goodman were charged with various counts of unlawful interception of communications contrary to s.1(1) RIPA 2000 and conspiracy to intercept communications. The charges were drawn up by Carmen Dowd of the CPS and forwarded to us.

49. Following the charges a press statement was agreed and released by the MPS. At this stage I arranged to meet with Jack Wraith who was the chair of the Mobile industry Crime Action Forum (MICAF). I briefed him fully on the investigation and the charges. The purpose was to

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allow one message to be given to all the phone companies and to deal with any concerns of customers following the media release. We had worked with Vodafone and O2 but to a lesser extent with the others so it was important to ensure clarity across the whole industry. My concern was that customers who may think they had been victim to similar activity could contact their companies who would comply with the MOU in existence on phone crime. The companies would then have a central point of contact, with the aim being to avoid any confusion should they wish to contact the police.

50. A vast amount of documentation was seized from Mulcaire's home address which was brought back to Frank O' Neill house. This consisted of audio cassettes, CD roms, white boards containing the pin numbers / security codes / bank details of potential victims together with a huge amount of documentation. Consideration was given to using the HOLMES system to record all the documents, but we were unable to, as it was already at operational capacity.

51. The day after the arrest of Mulcaire and Goodman, another SO13 Operation "Overt" had arrested 25 people for a conspiracy to blow up 9 transatlantic airliners which was at the time the largest CT investigation undertaken. It was against this backdrop that I organised for the material seized from Mulcaire's home address to be examined. There were no available officers within the S013 Counter terrorism command to carry out this exercise. Following briefings with DCS Tim

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White it was established that 8-10 security cleared officers from SO12 were to systematically examine all the documents and create a spreadsheet of the names and numbers of all people mentioned. The audio recording was also outsourced to SO12 to create a further spreadsheet. The SO12 team worked through the evidence over the course of next few days beginning on the 9th August and worked over the course of that weekend. The electronic media recovered from the searches was later outsourced to the MPS Professional Standards Unit as there was no capacity within the SO13 command due to the Operation Overt.

52. By the time the staff from SO12 had completed the review of the seized documentation it was apparent that there was material that indicated potential wide scale criminality involving a significant number of persons in the public eye. The spreadsheet that had been created entitled "list of potential victims" indicated that Mulcaire was operating an extremely wide, illegal operation with the intention of unlawfully intercepting a vast number of voicemail accounts. It was also clear that on some of the sheets of paper generated by Mulcaire that he had written names on the top corner, which may have been the intended recipients of the information from within NOTW. Whilst the most probable explanation for the corner names was that journalists at NOTW were in receipt of this information and that they could be aware of the illegal practises, the difficulty was proving this. This would have meant potentially arresting those journalists listed on Mulcaire's

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documents. To affect this there would need to be a full scale criminal investigation sanctioned by senior officers of SO13.

53. I was also aware of a number of other articles of interest recovered from both Goodman and Mulcaire. These also warranted further investigation as to their provenance and whether those who had supplied them to Goodman and Mulcaire could be identified.

54. Additionally the spreadsheet that was compiled by the SO12 officers through the weekend of the 11th August 2006 identified a substantial number of subjects that had been potentially targeted by both Goodman and Mulcaire as well as identifying potentially those that had received the product of the work of Mulcaire. This spreadsheet also detailed the contents of some of the recorded media devices found such as cassette tapes. This document, later known as the "blue book", was circulated to DAC Clarke, Commander McDowell and DCS White. Additionally it was also supplied to the CPS through Carmen Dowd, who retained the document for approximately one week before returning it to us.

55. On the 21st August 2006 a case conference between police CPS and prosecuting counsel took place where the potential size of the victim pool was discussed and it was revealed that there were possibly as many as 180 victims, also the details of the evidence recovered from the searches was also discussed in detail. It was decided at this

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conference to identify an additional four to six victims to add to the indictment this would in counsel's view adequately reflect the extent of the criminality that the defendants were involved in.

56. As a result of the additional names to be added to the indictment following advice from the CPS and Leading Counsel, a process was undertaken to widen the list of possible charges that could be added to the indictment. Consequently, D/Supt Williams, DS Maberly, DC Green and I set about contacting a list of victims supplied to us by the telephone companies. The primary purpose of the calls was to ascertain whether the victims were willing to assist police with a criminal prosecution and supply written statements to support a prosecution. I contacted several potential victims to inform them that their phones had been illegally intercepted and to request that they provide statements and assist any future trial. One of these victims was Tessa Jowell. All of the potential victims declined to assist us with the prosecution.

57. At the same time D/Supt Williams and DS Maberly continued to contact other victims, until it was agreed by the CPS that we had sufficient victims who were willing to support a criminal prosecution and attend court if required. Once the charge list was agreed, which would adequately reflected the extent and duration of the criminality of the targets, there was no further contact with any potential victims.

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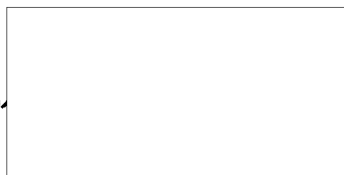
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58. Following the arrest of Goodman and Mulcaire and in response to material recovered from the searches, D/Supt Williams documented a victim strategy. This required that the police on the grounds of national security contact all subjects who were suspected to have been targeted by the Mulcaire and Goodman who were identified as either Royal Household, MPs, military officials, or police officers.
59. D/Supt Williams' victim strategy dated 24th August 2006 set out the extent and size of the possible victim list. These policy options were communicated to DAC Clarke, Commander McDowell and DCS White. D/Supt Williams also stated that all other victims should be informed where it was clear that an actual intercept had occurred, but only once a definitive list had been completed by all four of the main airtime providers. I ensured that my staff undertook the initial process of informing the Military, MPs, police and Royal Household but needed further support and strategy discussions around the more ambitious task of all other victims. This task was complicated, not least by what definition of victim would be used when identifying who to call.
60. On 29th August 2006 Lyndsey Hudson of Vodafone supplied an email document that listed dozens of possible victims of two rogue numbers one belonging to Mulcaire and the other belonging to Goodman. This spreadsheet also highlighted the instance of illegal access to particular victim's telephones.

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61. DAC Clarke and Tim White were fully briefed about this position by D/Supt Williams and myself and were shown the extent of the documentation including the list of the potentially compromised victims known as the "blue book". I recorded my view of this material on the 10th August 2006; *"It is clear from the documents recovered from the searches conducted, that Mulcaire has been engaged in a sustained (years) period of research on behalf of News International. This assumption is based on the fact that News International have for a number of years paid substantial cash payments to his bank accounts. The documents are a collection of handwritten sheets that show "research" work in various levels of completion. In many there is simply a name of a celebrity or well known public figure these develop into sheets detailing home address, business address, telephone numbers, DDN's account numbers, passwords, pin numbers and scribbles of private information. Clearly from these documents I take the view that this research work is and has been undertaken over a sustained period and is with the intention of eventually obtaining access to voicemail messages. I do not take the view therefore that this is journalistic material."* On the issue of a definition of victim I recorded this view at the same time: *"Where we have a telephone number and a DDN I have asked for the telephone data to be cross referenced to ascertain whether possible interceptions have taken place. This will produce a possible victim list. It should be noted that the advice from the CPS at present is that we will require not only evidence that 1st) A message existed, 2nd) That message was*

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intercepted prior to being listened to by a victim, and only when both parts are complete would an offence be committed".

62. It was set against this context that following the arrest and charge of Mulcaire and Goodman, two distinct issues required resolution. The first was the unresolved and un-pursued evidential leads from the recovered documents belonging to Mulcaire, possibly linking others to a wider conspiracy; and, in addition, the other financial and editorial evidential leads relating to published articles and payments for them.

63. The second issue was that of victim notification whichever definition was adopted. Post arrest and charge both D/Supt Williams and myself, raised these concerns with DAC Clarke, Commander McDowell and DCS White. More specifically, the extent of the outstanding work was discussed and in my view required substantial long term effort beyond the scant resources of the original investigation team. This investment of staff was simply not possible from existing Counter Terrorism Staff without making some impossible and in my view dangerous decisions. These could possibly lead to a reduction in investigative response to existing threat to life operations and other high profile investigations.

64. I have mentioned Operation Overt, which came to a head at the same time as Goodman and Mulcaire were arrested, but other high profile investigations that required significant resources were the bombings of 7/7 and 21/7 less than thirteen months before. In total at this time, the

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command had around 70 priority investigations ongoing and it would have been absolute folly to prioritise the outstanding parts of this investigation to the detriment of the life threatening investigations.

65. Consequently it was made very clear that, given the unprecedented amount of operations currently live within S013 and the huge demand this was having on the CT command, this matter was not to be investigated beyond the original parameters. Moreover, all efforts were put into preparing the prosecution case to ensure the conviction of Mulcaire and Goodman.

66. Responding to this very clear direction and the knowledge that the limited resources available to me at this time were urgently required elsewhere, I concentrated efforts on my legal obligations under the CPIA act and the preparation for the impending trial.

67. In fulfilling the obligation to the CPIA, the CPS were shown all of the documentation that was recovered from the searches including the pieces of paper that made up the "blue book" detailing the possible victims and the recorded media. Prior to the trial, Junior Counsel, Louis Mably, attended the police building at Frank O'Neill House and conducted a full review of all the unused material.

68. To complete the investigation and ensure we were fully prepared for the trial of our defendants, I tasked DS Maberly with writing to NOTW,

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BCL Burton Copeland. The purpose was to attempt to gather evidence against Mulcaire and Goodman, but also to gather firm evidence against other journalists and editorial staff who may have been involved in a conspiracy along with our defendants. In consultation with the CPS we entered into correspondence with Burton Copeland Solicitors regarding the additional documentation. Their lawyers initially advised us that they would assist us, but it became very apparent they were unwilling to do so and very little evidence was forwarded to us to assist us in gaining a fuller picture from the perspective of original NOTW documentation as to what their involvement was.

69. In order to carry out the task of informing all identified victims beyond those categorised as military, police MPs and Royal Household, as per the options documented by D/Supt Williams would have involved a huge and labour intensive commitment from S013. Following a number of conversations and for the reasons detailed herein this support was not provided. Consideration was given to outsourcing the outstanding aspects of the investigation to another MPS specialist department. I was informed that this was not possible, as there was simply not the resources MPS wide to carry this out.

70. The Mobile phone companies had continued from the outset of the investigation to provide us with details of other customers who had had their voicemails intercepted. At no time did I or indeed anybody

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else from the police team ask for this to stop, even post arrest and charge. The issue of the obligation to inform customers/victims to my knowledge was never explicitly documented anywhere either by the police or indeed the telephone companies. O2 were adamant that they would only inform us of possible victims after they had informed their customers and sought consent. My view was that the telephone companies were responsible for their customers, as is the case in other areas of business such as in the banking industry.

71. Whilst I was not explicit as to what these companies should do around informing and keeping their customers up to date, I held the belief that this was, in fact, being done. To further reinforce this I ensured that the phone companies, especially those not as close to the investigation as the two mentioned herein, were briefed, and, through Jack Wraith, that any victims were directed back to this investigation. Like with O2, the emphasis was still very much on the phone companies to deal with their customers in a professional manner. The telephone companies knew which of their customers were subject to illegal access because it was they who told us in the first place. At no time were they ever restricted from informing those customers, although the extent of the information passed would be limited. Further, it was not for the police to dictate to private companies how to execute their internal procedures and how to deal with their own customers .

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72. At the same time, I undertook a series of briefings to the British Security Service, MI5, internally to the MPS Ops Security team and latterly to Serious Organised Crime Agency to deal with operational security issues in relation to the investigation. During the brief with the Security Service, I made enquires around access to and briefing of other government bodies, namely the Cabinet Office and the MOD. I was informed that the Security Service would as a matter of urgency fully brief the Cabinet Office and MOD.
73. On 29th November 2006 Mulcaire and Goodman pleaded guilty to offences contrary to S.1 RIPA 2000 - Interception of Telecommunications system and were sentenced to 6 and 4 months respectively at the Central Criminal Court on 26th January 2007.
74. The investigation fulfilled its original objective with the prosecution and conviction of Mulcaire and Goodman. Whilst it was known that there was a huge amount of data mentioning names, telephone numbers, dates of birth and pin data, these lines of enquiry and further evidence were not followed up due to the a lack of investigative resource, due to operational requirements elsewhere. Once this was made clear to me I relayed this to the other officers within the team.
75. In terms of further investigation required into the activities of our two suspects it was felt very strongly by those advising us (CPS and Counsel) that the charges on the indictment were adequate and any

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more would have made little difference. A widening of the investigation to pursue the evidential leads could have taken place, but would have required significant investigative resources that simply were not available to us.



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