Day 95 PM 1 (2.00 pm)2 3 MR JAY: Professor Barnett, may I raise two wider issues in 4 relation to plurality before I move on to media 5 relation? 6 A. Then, if I may, I'd like to add one comment to what 7 I said earlier. 8 Q. Yes, please do. 9 A. Do that now? 10 Q. Please. 11 A. It was just in relation to that final question which you 12 posed, which I thought was absolutely crucial in terms 13 of the linkage between ownership and culture, practices 14 and ethics, and I'd remembered that in my submission to 15 Module 3, I had a section, which I obviously won't read 16 now, on plurality and editorial influence, and I gave 17 a few examples of how it operates, from various 18 biographies, et cetera. Then I said at the end: 19 "The professional values which journalists claim to 20 embrace and to which the vast majority certainly aspire 21 will inevitably be influenced by and sometimes 22 subordinated to the corporate world vision and editorial 23 inclinations of the owner and editor." 24 And as I say, I've given examples in that submission 25 of how that works. I think there's a very clear Page 1 1 connection, linkage, between the orders coming down --2 or the imperatives coming down from the top and what 3 actually happens on the factory floor, so to speak. 4

- 1 notion of some kind of regulatory mechanism for 2 whistle-blowing. I think the whistle-blowing aspect for 3 those journalists -- and as a journalism educator, 4 I think this is terribly important -- who want to aspire 5 to the kinds of ethical and professional values they 6 might learn and suddenly find themselves in an 7 environment where they are asked either to ignore them 8 or to routinely transgress them -- there needs to be 9 some kind of mechanism to address that, but the cause of 10 that problem is, I think as you say, both that process 11 of osmosis and the sense of impunity. 12 Q. I was just putting those forward as ideas, not 13 necessarily as expressing any opinion. 14 A. I think they are ideas which are well argued and 15 accurate, in my view. 16 Q. Can I go back to plurality. Do you see there as being 17 a fundamental distinction in principle between newspaper 18 merger situations on the one hand, which are catered for 19 by the existing legislation, which are rather binary, 20 and, on the other hand, organic growth? Because organic 21 growth isn't, of course, catered for at present, and it 22 might be said to be the price of success, or rather you 23 wouldn't necessarily want to penalise success. That 24 slow organic growth then leads either to structural 25 remedies -- your being forced to divest -- or the softer
- LORD JUSTICE LEVESON: Yes, well, that reflects, doesn't it, 5 the evidence of a number of witnesses that a proprietor 6 doesn't need to tell his editor and the editor doesn't 7 need to tell his or her staff what the line is. 8 A. Yes, absolutely. 9 MR JAY: There may be two routes into this. The first is 10 the direct one, which is influence by osmosis, if you 11 like, from the proprietor down to the journalist. The 12 second, the more indirect one: too much power 13 concentrated in too few hands. That breeds a sense of 14 impunity within the organisation and therefore a degree 15 of failure to adhere, I suppose, to ethical standards, 16 and part and parcel of that phenomenon, reluctance by 17 politicians to address it. So you have the direct route 18 and the indirect route, arguably creating the problem. 19 A. I think that's absolutely right and I think that sense 20 of impunity, I think we've heard from -- well, 21 unfortunately not that many individual journalists, 22 because I think quite a few are concerned about raising

their heads above the parapet, but the obvious witness

is Richard Peppiatt, who talked about what he was

Page 2

actually told to do, and I think this comes back to the

behavioural remedies you suggest might be appropriate in

Page 3

- that latter instance.
 A. Yes, and that is entirely why I would prefer the
- behavioural remedy approach with the caveat that I made earlier, that at a certain level I think in a democracy it gets to the point where you have to say: there is
- 7 a price of success here and it's that we simply cannot
- 8 allow an individual or a corporation to have this much
- 9 share of voice, this much share of influence over 10 people's opinions.
- 11 Q. There's another issue as well -- it may be a sort of
- pragmatic one -- that we may be seeing furtherconcentration in the market. The market is dwindling.
- We may be increasingly looking at the possibilities for
- foreign investment because after all, you can't force
- people to invest in the newspaper market, but if people
- 15 people to invest in the repuper interior, out it people
- 17 are looking at a range of structural remedies and
- behaviour remedies which will penalise them if they are
- successful, what some may say you're creating is
- 20 a series of deterrents for anybody to enter this market.
- 21 So you might, by being too stringent, in fact be signing
- the death knell for the newspaper industry. I put it
- 23 quite high and tendentiously but only to illustrate the
- point. Do you think there's any merit underlying it?
- 25 A. I do. We do have to be aware of the whole Page 4

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24

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1 sustainability problem, and when you have an 1 you get one part of the spectrum of opinion 2 2 organisation that has been prepared to invest -- and overrepresented and another part severely 3 3 News Corporation is often given as the prime example -underrepresented. At that point, I think you would have 4 4 an organisation that has been prepared to invest in to start thinking about -- and perhaps we're not there 5 news-gathering, that has created a 24-hour news channel 5 yet, but we may not be far from it -- the Scandinavian 6 from scratch, running at a loss, and is clearly high 6 model of public subsidies. I can sort of hear the sound 7 7 quality, why should you want to penalise a company like of kind of running feet as I say that, certainly from 8 8 that when we're actually running out of people who are the press. The notion of any kind of public subsidiary 9 9 prepared to invest in news-gathering? in the press as we know it is clearly anathema, but it 10 10 So I think these are genuine issues, they're is not an alien concept in other European countries, in 11 11 important issues, but the crucial thing is to get the other mature democracies, for that very reason. 12 12 LORD JUSTICE LEVESON: Well, that's the point. I'm merely balance right and at the moment I think we've got the 13 13 balance wrong, and I think that goes back -- the roots talking about the true breadth of what plurality 14 of that go back both to political fear and to the 14 actually means. 15 inadequacy of the current statutory regs. 15 A. Yes. 16 LORD JUSTICE LEVESON: The problem is where there isn't 16 LORD JUSTICE LEVESON: That's all. 17 something that is inevitable about a situation. You 17 A. Yes, and I think -- and the other question is: who 18 have certain bodies who support newspapers for reasons 18 actually decides? Who makes the decision that there is 19 19 which nobody is, for a moment, challenging, but if a part of the spectrum that isn't being adequately 20 you're encouraging individuals to invest in a business 20 covered? 21 21 that is unlikely to be profitable, then there has to be LORD JUSTICE LEVESON: Yes. 22 a reason why they're prepared to do it. 22 MR JAY: Professor Barnett, the public interest now, which 23 A. Mm. 23 is the first section of your statement. There are 24 24 LORD JUSTICE LEVESON: And it's quite difficult to see what a number of different ideas you advance for our 25 that reason is, if it is not an ability to promote views 25 consideration, but the first is the possible weaknesses Page 5 Page 7 1 or support particular opinions. 1 in the current code, by which of course I'm referring to 2 2 A. I hope I'm not -- maybe I haven't been expressing myself the Editors' Code of Practice, and the self-serving 3 3 definition of public interest in freedom of expression very clearly. I hope I'm not being interpreted as 4 saying that newspapers should not be allowed to express 4 itself. Are there some points there you'd like to 5 partisan opinion or frame a news agenda in the way they 5 expand on for us? 6 want. That's not my -- I mean, I do think there is an 6 A. To be fair, I had a fairly good go when I gave evidence 7 issue about the separation of news and comment, but 7 last time on the public interest. The only thing 8 that's a separate issue. 8 I would add is I don't think it is helpful to have 9 9 I'm not suggesting that. I think the behavioural a number of different definitions or interpretations of 10 10 what the public interest means. I think it is -- it is remedies can be a range of remedies, including things 11 11 a term which is often abused rather than used sensibly. like guaranteeing further investigation in news 12 12 gathering, investment in training. I don't think we LORD JUSTICE LEVESON: You have to be very careful about 13 13 that for this reason: that, as I've said before, it need to go as far as to say that newspapers would need 14 14 to withdraw from being partisan at all. The key actually means different things depending upon the 15 15 question is ensuring that there are sufficient numbers context. We've talked about several during the course 16 to make sure that those partisan views do not all 16 of the last few days, and therefore, to attempt 17 17 represent one part of the spectrum of opinion or ideas. a definition that encompasses all is probably simply not 18 LORD JUSTICE LEVESON: But if they emanate from people with 18 possible. 19 sufficiently large sums of money that they can afford to 19 A. It depends what you mean. Which encompasses all what? 20 20 LORD JUSTICE LEVESON: The various circumstances in which run this sort of enterprise, how unlikely is that? 21 21 A. How unlikely ... the public interest might arise. There's the public 22 LORD JUSTICE LEVESON: Is it they are not likely to come, if 22 interest in the division between privacy and invasion 23 23 not with identical views, then with views that are not thereof. There's the public interest in when you 24 24 necessarily extremely at variance? prosecute people for crime and when you don't. There's 25 25 A. I think that raises a question about what happens when the public interest in plurality. The constituent Page 6 Page 8

1 features of each of these concepts are slightly 1 A. Yes. 2 2 O. You have a third of people in that group. That's at 3 3 A. They are. What I'm specifically talking about here is least enough to accommodate the readership of some of 4 4 a public interest in terms of legitimate journalistic the leading sections of the press who dabble in this 5 enquiry. So specifically not about ownership, where 5 sort of story, isn't it? 6 I think there's a very different set of meanings about 6 A. Not if you look at the figures for tabloid versus 7 7 the public interest, and not about the criteria on which broadsheet readers, because if you look at the way it 8 8 prosecution may or may not be brought. breaks down by newspaper readership, the proportion of 9 LORD JUSTICE LEVESON: I appreciate that, but what I'm 9 tabloid newspaper readership who gave that response --10 10 saying is that if you start to try to define "public that it's a private matter and should not be 11 interest", what you will find is that people will use 11 published -- did fall, but it only fell to 50 per cent, 12 12 the definition inappropriately. so half of all tabloid newspaper readers gave that 13 13 A. Absolutely, which is why I think it is important that it response. 14 14 is defined in terms of legitimate journalistic enquiry, Can I just say: very often when you do surveys like 15 and this is what I've proposed here. I genuinely don't 15 this, you have a sort of inkling of what's going to come 16 think it is that difficult and that is why I have prayed 16 out. I've given three or four presentations now of 17 17 in aid, so to speak, the piece of public attitude these data, this research, and the way I always do it is 18 research which we did for the British Journalism Review, 18 I put the question up and say, "Let's see how well 19 19 which I've submitted. plugged in you, the audience, are to the British psyche, 20 LORD JUSTICE LEVESON: Yes, I've read that. I'm somewhat 20 to British popular opinion. Have a guess at what these 21 21 concerned that you took as one of your examples a High results are going to be." 22 Court judge who had large investments in foreign 22 And the maximum I've had for that, the story is 23 23 companies linked to the illegal drugs trade. a private matter, is about 25 to 30 per cent, and I have 24 24 A. I can explain that. to say that was my guess, in advance of this research. 25 25 LORD JUSTICE LEVESON: No, it doesn't matter. I was really quite stunned -- and I deliberately Page 9 Page 11 1 A. Okay, okay. 1 framed -- this was my question, by the way. The judge 2 2 MR JAY: Can I ask you, please, about that research? one wasn't, but this was mine, and I deliberately framed 3 3 A. Yeah. this question to make it as similar as possible to the 4 Q. What was your sample of people you asked? 4 role model argument. So it's a well-known national 5 A. It was a YouGov survey. I'm pretty sure it was 2000. 5 footballer who is married and has young children having 6 It was their standard -- sample size 1,658. And that's 6 an affair. So there's plenty of potential public 7 a standard YouGov online sample. Their methods -- it's 7 interest role model justifications in there for it to be 8 a YouGov omnibus survey. Fairly standard technique for 8 published, and even if you don't take -- you don't think 9 9 there's enough of a public interest argument, there's gathering data. I don't have any problem with the 10 10 sample size or its representativeness. certainly enough there to say: okay, it's interesting. 11 11 Can I just say that that particular question was It may not be in the public interest, but it's 12 12 repeated from a survey done ten years earlier, so interesting, and yet even that only got 30 per cent of 13 13 I abdicate myself of all responsibility. people giving that response. 14 Q. It might be said -- and this isn't just a flippant 14 I just felt that third option -- it's a private 15 15 matter and should not be published -- and "not" was in point -- if you look at the example you've alighted on 16 16 in your report, which we can see is table 5 in the capital letters. This was an online survey, so you see 17 survey. It's on page 01569, the well-known England 17 the "not" in capital letters. I thought that was 18 footballer who's married with young children and is 18 actually quite draconian. I was really very surprised 19 having an affair. You've got only 6 per cent who say 19 when we came up with this result. 20 20 LORD JUSTICE LEVESON: What I'd be interested to know -it's definitely in the public interest and should be 21 published, but you have 30 per cent who say it's not 21 I mean, my comment about the High Court judge was 22 22 necessarily in the public interest but nevertheless it flippant. 23 should be published. So either they're not sure or they 23 A. Sure. 24 think on balance it should be published in the public 24 LORD JUSTICE LEVESON: If I don't do that sort of thing 25 25 interest. occasionally ... Page 10 Page 12

1 A. Okay.

- 2 LORD JUSTICE LEVESON: But I'm interested in your answer
- 3 that it comes from an earlier piece of research, because
- 4 what interests me is if this is a repeat piece of
- 5 research, I'd be fascinated to know what happened ten
- 6 years ago.
- 7 A. I do actually give a reference. It's David Morrison and
- 8 Michael Svennevig and it was done at the University of
- 9 Leeds, at the bottom of page --
- 10 LORD JUSTICE LEVESON: Oh.
- 11 MR JAY: With very similar results, wasn't it?
- 12 A. They were virtually identical.
- 13 LORD JUSTICE LEVESON: I'm sorry, I didn't pick up the
- 14 footnote.
- 15 A. The wording wasn't different. The answers -- the
- potential answers were slightly different, because we
- wanted to get in this idea of something that was
- interesting and therefore should be published, whereas
- 19 they just had "definitely should be published",
- 20 "probably should be published", et cetera. That's in
- 21 the piece.
- 22 LORD JUSTICE LEVESON: Okay.
- 23 A. Taking that into account, the results are very similar
- 24 and seem to me to suggest a really quite interesting
- 25 stability of public attitudes over time.

Page 13

- dominated by the three or four million who read the
- 2 broadsheet newspapers.
- 3 Q. I was languidly reading the Financial Times in that
- 4 particular paper --
- 5 A. I will give you the reference.
- 6 Q. No, I know the reference. I'm just referring to it
- 7 expressly. I didn't mind too much the reference to the
- 8 Financial Times. But sorry, you carry on.
- 9 A. And then you start thinking: okay, 14 million people
- 10 read -- clearly a lot of those nevertheless still think
- 11 there are limits to the way in which people's private
- lives should be invaded, what should be published, but
- even that 14 million represents less than a quarter of
- the total population. So there has to be some sense
- here of collective attitudes, not just those that are
- held by those who buy tabloid newspapers. For me, this
- neid by those who buy tabloid newspapers. For me, t
- is partly what this piece of research does.
- 18 I would love to have the resources to do something
- 19 rather more substantial and sophisticated, in particular
- 20 looking at what difference it makes if you tell people
- 21 about the methods -- journalistic methods that are used.
- 22 Some might be regarded as rather more appropriate than
- others for actually getting a story. Does it matter if
- 24 a story is obtained by virtue of an injured party simply
- 25 talking to a newspaper? Does that make a difference to

Page 15

1 If I maybe just make one more point about this --

- 2 LORD JUSTICE LEVESON: What's interesting, before you make
- 3 your point, is that you talk about June 2012. The
- 4 figures may not have changed much, notwithstanding the
- 5 last 12 months.
- 6 **A. Yes.**
- 7 LORD JUSTICE LEVESON: Mind you, 60 per cent or 58 per cent
- 8 saying the story is private and should not be published
- 9 is pretty substantial.
- 10 A. I think it's very substantial. And for me, it does
- 11 give -- it does make me question -- you know, I've heard
- 12 the role model argument and I've understood the
- 13 rationale for them and had there been an obvious public
- backing for them, then perhaps you could say, "Okay,
- 15 this does sort of speak to some sense of collective
- ethics." But it doesn't. I'm quite clear now that it
- 17 doesn't.
- 18 The other point I was going to make is that the 19 other argument that is made for some of these -- the 20 more kind of revelatory journalism is that that's what
- 21 people want. So you have -- why do people buy tabloid
- 22 newspapers? But in fact -- and there was an article
- just last Sunday by a broadsheet journalist in a liberal
- 24 newspaper suggesting that 14 million people read the
- 25 tabloids and yet the whole Leveson debate is being
 - Page 14

- 1 the sense of whether it's appropriate or not?
- 2 But as it stands here, I think we have, for me,
- a really clear line. Going back to your very first
- 4 question about different interpretations of the public
- 5 interest, I think the public understands the difference
- 6 between the public interest in exposing wrongdoing,
- 7 holding to account, speaking truth to power -- all those
- 8 phrases that we've heard over the last few months -- and
- 9 revealing the innermost secrets of celebrities or
- well known people or people who might have had
- 11 misfortunes or done something inappropriate that is not
- 12 the same as accountability journalism.
- 13 LORD JUSTICE LEVESON: This is very important, because of
- the constant criticism that the Inquiry has faced -- and
- 15 I don't complain about criticism -- that it's not
- involved the expertise of tabloid and mid-market
- journalists, that it's all been focused on liberal with
- small "L" political thinking, and that's simply
- 19 unbalanced and inappropriate, and merely to recognise it
- allows one to aim off, as it were, and to make sure one
- doesn't fall into a trap. But this research seems to suggest that the criticism may not be as valid as it
- suggest that the criticism may not be as valid as it is sometimes suggested.
- 24 A. Well, I've heard the criticism levelled and it's
- 25 levelled for two reasons. One I think is a perfectly

1 valid reason, which is good tabloid journalism is A. Who was that? 2 2 MR WHITE: Dr Moore. something different from broadsheet journalism or 3 broadcast journalism, and that expertise is missing. 3 A. I missed that bit. 4 That's a valid point to make, whether or not it makes 4 LORD JUSTICE LEVESON: Let's just consider it for one 5 any difference. 5 moment. I won't do it again, I can tell everybody whose 6 But the other is a much more self-serving point, 6 had to listen to it once. 7 7 There is a very important principle that journalists which is: "You can't possibly hope to understand what 8 8 do not reveal their sources. That's very important we, the tabloid press, how we the tabloid editors work 9 9 because the source has to feel protected, and if the or should be allowed to work because there is no 10 10 journalist is going to hold -- or to expose wrongdoing expertise and we are the ones who represent public 11 11 opinion." It's that suffix that is always put on the to the public, there has to be a mechanism to protect 12 12 end: "We're the ones who understand what really goes on people. However, that protection is a protection for 13 because we have the popular readers." We have --13 the source. It's not intended to be a protection for 14 14 LORD JUSTICE LEVESON: "And we make money." the journalist. So far I take your nod as agreement? 15 A. "And we make money." Well, yes. "We make money", 15 A. Yes, I'm with you. 16 absolutely. And I'm afraid, for me, that's what -- what 16 LORD JUSTICE LEVESON: Only because it doesn't come on the 17 17 this research does for me is to give the lie to that. transcript in that way. 18 And as I say, my background is in sociology, I've been 18 A. Sorry, yes, I agree. 19 19 LORD JUSTICE LEVESON: Now, let's move on. Let's take doing surveys for 30 years and more often than not, you 20 have a feel for what's going to come out when you ask 20 a story that a journalist wishes to publish. The 21 21 journalist may believe that your -- we won't say a question. This completely threw me. 22 MR JAY: Thank you. That's very clear. 22 footballer -- your politician is having an affair. He 23 23 Those are all the questions I had, may believe that he can expose that affair, which has no 24 24 Professor Barnett. other public interest, by hacking into his email 25 25 A. If I could just add one more thing -- and this is account. So what he says is: "I've got a source that Page 17 Page 19 1 essentially carrying on from the public interest. It's 1 says this politician is making or receiving corrupt 2 2 for that reason that I am still very much in favour of payments. It's absolutely in the public interest that 3 3 that be exposed." He has no such source. a statutory public interest defence, because I do think 4 that would enable both what I believe now to be the 4 5 popular will, and, I think, the greater sense of --5 LORD JUSTICE LEVESON: He uses it to get the information to 6 amongst those who care about journalism, who care about 6 reveal the story and he publishes the story. 7 journalistic ethics, believe needs to be protected, can 7 A. Mm-hm. 8 be protected in law through a very clear distinction 8 LORD JUSTICE LEVESON: It then transpires that he's hacked 9 9 between journalism that really matters, that a democracy into the email and committed a crime. 10 really needs, and journalism that is there simply to 10 A. Sorry, the story he's published is not one of corruption 11 but it's one of having an affair? 11 sell newspapers or make money. LORD JUSTICE LEVESON: There was never any corruption. 12 LORD JUSTICE LEVESON: You've just kept yourself there for 12 13 a couple more minutes, Professor Barnett. What do you 13 A. No corruption? Okay. 14 mean by "statutory public interest defence"? 14 LORD JUSTICE LEVESON: It's all to do with -- first of all, 15 15 A. I mean a defence that could be used against more or less the privacy of the politician has been invaded without 16 any -- I'd better be slightly careful what I say -- more 16 good reason. Secondly, a crime has been committed 17 17 or less any -- that could be introduced as a defence to without good reason. So now one gets to the police 18 crimes that are currently -- currently have no public 18 investigation, if there ever is one. 19 19 A. Yes. interest defence. So I'm thinking about the Bribery 20 20 LORD JUSTICE LEVESON: Because it may never be reported or Act. I'm thinking even about RIPA. 21 21 LORD JUSTICE LEVESON: Let me challenge you about that, whatever. There are all sorts of reasons that will 22 22 please. cause that leap not to be made, but let's assume there 23 23 A. Of course. is one. The journalist says, "Well, I had a source and 24 LORD JUSTICE LEVESON: I've done this before with another 24 the source told me that this politician was corrupt." 25 25 "Well," says the policeman, "you're going to have to witness, so you may have seen the challenge.

Page 18

| 1 | provide me with some justification for that, because | 1 | A. Well, maybe there has to be provision. I think most |
|--|---|--|---|
| 2 | I think this is a clear breach of the law, designed to | 2 | journalists would be prepared to reveal their sources to |
| 3 | delve into the privacy of this politician." And the | 3 | their editor |
| 4 | journalist says, "I'm very sorry, I can't do that | 4 | LORD JUSTICE LEVESON: And is the editor going to check up? |
| 5 | because I'm not prepared to reveal my source." | 5 | A. That's entirely up to the editor. |
| 6 | A. But the it would have to be a clear one of the | 6 | LORD JUSTICE LEVESON: The point is that it's entirely |
| 7 | criteria of a public interest test would have to be that | 7 | self-serving. In other words, it's possible I'm not |
| 8 | the story published was manifestly in the public | 8 | necessarily saying anybody's ever done it, but the |
| 9 | interest, and I don't think it's difficult to | 9 | criminal law has to cope with this possibility. |
| 10 | LORD JUSTICE LEVESON: But, you see, you can't necessarily | 10 | A. Yes, it can be abused. |
| 11 | link it because you can't necessarily link that's why | 11 | LORD JUSTICE LEVESON: That it will be open to the most |
| 12 | I said it would never get to the police. You can't | 12 | horrific abuse, that a journalist will say, "I've got |
| 13 | necessarily link the story that's eventually published | 13 | a source, he's a wonderful source, I've used him |
| 14 | with the hacking into the email. He won't say, "I got | 14 | a gazillion times. Every single time he's come up |
| 15 | it by hacking into an email." | 15 | trumps and this is what I want to use him for now, and |
| 16 | A. I may have misunderstood, but if | 16 | this is what I think: that there's corruption." |
| 17 | LORD JUSTICE LEVESON: In any event, with great respect, I'm | 17 | With the best will the in the world, the editor may |
| 18 | not sure you're right, because if there's a public | 18 | say, "Oh yes, you've named that source, and I know he's |
| 19 | interest defence, that can only bite at the moment the | 19 | been used on these other stories", but there's no way of |
| 20 | offence is committed. It can't be self-justified or | 20 | going behind to see whether this particular story is |
| 21 | self-refused later, because let's assume there wasn't | 21 | being pursued in good faith or is merely the cover for |
| 22 | any story about a private affair. Let's assume that the | 22 | some entirely inappropriate privacy invasion. |
| 23 | journalist merely believed that the politician was | 23 | A. I understand that, but if this criminal act is then |
| 24 | having an affair but justified hacking into the email by | 24 | committed and is clearly committed in the knowledge that |
| 25 | reference to some story about corruption. | 25 | it is criminal and permission is given to carry out this |
| | Page 21 | | Page 23 |
| | | | |
| 1 | A. Right. | 1 | criminal act, then clearly it is a risk that is being |
| 1 2 | A. Right. LORD JUSTICE LEVESON: Now, he has committed the offence | 1 2 | criminal act, then clearly it is a risk that is being borne by the journalist, by the editor, by the media |
| | LORD JUSTICE LEVESON: Now, he has committed the offence | | borne by the journalist, by the editor, by the media |
| 2 | _ | 2 | borne by the journalist, by the editor, by the media owner. All I'm saying is that there are circumstances |
| 2 3 | LORD JUSTICE LEVESON: Now, he has committed the offence when he hacks into the email. What comes thereafter is neither here nor there. | 2 3 | borne by the journalist, by the editor, by the media owner. All I'm saying is that there are circumstances in which there should be a defence provided. If they |
| 2 3 4 | LORD JUSTICE LEVESON: Now, he has committed the offence when he hacks into the email. What comes thereafter is | 2 3 4 | borne by the journalist, by the editor, by the media owner. All I'm saying is that there are circumstances in which there should be a defence provided. If they want that's not to say there shouldn't be |
| 2 3 4 5 | LORD JUSTICE LEVESON: Now, he has committed the offence when he hacks into the email. What comes thereafter is neither here nor there. A. Right. But LORD JUSTICE LEVESON: The moment he commits the crime is | 2 3 4 5 | borne by the journalist, by the editor, by the media owner. All I'm saying is that there are circumstances in which there should be a defence provided. If they |
| 2 3 4 5 6 | LORD JUSTICE LEVESON: Now, he has committed the offence when he hacks into the email. What comes thereafter is neither here nor there. A. Right. But | 2 3 4 5 6 | borne by the journalist, by the editor, by the media owner. All I'm saying is that there are circumstances in which there should be a defence provided. If they want that's not to say there shouldn't be a prosecution. |
| 2 3 4 5 6 7 | LORD JUSTICE LEVESON: Now, he has committed the offence when he hacks into the email. What comes thereafter is neither here nor there. A. Right. But LORD JUSTICE LEVESON: The moment he commits the crime is when he hacks into the email. | 2 3 4 5 6 7 | borne by the journalist, by the editor, by the media owner. All I'm saying is that there are circumstances in which there should be a defence provided. If they want that's not to say there shouldn't be a prosecution. LORD JUSTICE LEVESON: But you wouldn't have a prosecution, |
| 2 3 4 5 6 7 8 | LORD JUSTICE LEVESON: Now, he has committed the offence when he hacks into the email. What comes thereafter is neither here nor there. A. Right. But LORD JUSTICE LEVESON: The moment he commits the crime is when he hacks into the email. A. But if he hacks into the email with the honest and | 2 3 4 5 6 7 8 | borne by the journalist, by the editor, by the media owner. All I'm saying is that there are circumstances in which there should be a defence provided. If they want that's not to say there shouldn't be a prosecution. LORD JUSTICE LEVESON: But you wouldn't have a prosecution, Professor, because before the CPS would prosecute, they |
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| 1 | you're going to be prosecuted or not. | 1 | lest few months a let of self serving evidence about |
|--|--|--|--|
| 1 2 | LORD JUSTICE LEVESON: But maybe you do have to take that | $\begin{vmatrix} 1 \\ 2 \end{vmatrix}$ | last few months a lot of self-serving evidence about |
| 3 | chance on the basis that if you are doing this entirely | 3 | the chilling effect of regulation, et cetera, and |
| 4 | square and you've covered yourself with your editor and | 4 | I suppose my concern is while I find most of those |
| | all the rest of it, then that will all emerge, and if | 5 | arguments and most of that evidence wholly unconvincing |
| 5 | you're investigated by the police, you'll be able to lay | | and self-serving, I do think there is an issue around |
| 6 | | 6 7 | the kinds of journalism that we're all agreed we want to |
| 7 8 | it all out. But if you provide a public interest defence | 8 | try and promote and sustain and safeguard and that there is a risk that that's the kind of journalism that |
| 9 | A. In law. | 9 | might that could be better promoted if there was |
| 10 | LORD JUSTICE LEVESON: along the lines you suggest, it is | 10 | a better sense of what was legitimate in the public |
| 11 | open to terrible abuse. I'm not going to say that it | 11 | interest. |
| 12 | will be abused, but I'm absolutely not going to say it | 12 | LORD JUSTICE LEVESON: That's what I hoped the director |
| 13 | wouldn't be abused. | 13 | would do when he promulgated guidelines. I entirely |
| 14 | A. And you don't think that there are ways of writing | 14 | agree that I would like to do that all that possibly can |
| 15 | safeguards into a law like that to ensure that | 15 | be done to promote good journalism. How many times do I |
| 16 | I mean, it seems to me that it's not that different from | 16 | have to say this? An enormous amount of the day-to-day |
| 17 | the guidelines | 17 | work of journalists is not merely engaging, informative, |
| 18 | LORD JUSTICE LEVESON: It's enormously different. It's not | 18 | valuable in our democratic society, but essential to our |
| 19 | only in degree; it's different in kind. | 19 | democratic society. |
| 20 | A. Well, it's certainly different in kind. | 20 | However, it may be thought after this Inquiry and |
| 21 | LORD JUSTICE LEVESON: Because ultimately it doesn't | 21 | I will reach my own views that there is a not |
| 22 | constitute a defence. There are a number of mechanisms | 22 | insignificant culture within certain sections of the |
| 23 | of protection. The first is the CPS, who, one would | 23 | press that is the very reverse of all that I have just |
| 24 | hope, undertake and I have confidence their | 24 | said, and whereas one has to do everything one can to |
| 25 | responsibilities in this area with integrity and | 25 | promote the first, one ought to do equally everything |
| | Page 25 | | Page 27 |
| | | | |
| | | ١. | |
| 1 | propriety. I don't just hope it; I know it. | 1 | one can to suppress the second. |
| 2 | A. Mm-hm. | 2 | A. I completely agree. |
| 2 3 | A. Mm-hm. LORD JUSTICE LEVESON: Secondly, there is the prospect of | 2 3 | A. I completely agree. LORD JUSTICE LEVESON: And the risk is that if you are going |
| 2 3 4 | A. Mm-hm. LORD JUSTICE LEVESON: Secondly, there is the prospect of the journalist being able to say to the judge: "This is | 2 3 4 | A. I completely agree. LORD JUSTICE LEVESON: And the risk is that if you are going to be unethical in how you go about your work whether |
| 2 3 4 5 | A. Mm-hm. LORD JUSTICE LEVESON: Secondly, there is the prospect of the journalist being able to say to the judge: "This is an abuse of the criminal justice system." | 2 3 4 5 | A. I completely agree. LORD JUSTICE LEVESON: And the risk is that if you are going to be unethical in how you go about your work whether it's a trade, a profession or business, it doesn't |
| 2 3 4 5 6 | A. Mm-hm. LORD JUSTICE LEVESON: Secondly, there is the prospect of the journalist being able to say to the judge: "This is an abuse of the criminal justice system." Thirdly, there is the prospect of that the jury say, | 2 3 4 5 6 | A. I completely agree. LORD JUSTICE LEVESON: And the risk is that if you are going to be unethical in how you go about your work whether it's a trade, a profession or business, it doesn't matter. If you're prepared to be unethical and you |
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- 1 by getting it, which may or may not be recoverable, but
- what data protection is also concerned with is the
- 3 publication of that information, and the publication of
- 4 the information would require the exercise to be
- 5 conducted at a slightly different moment in time. You
- 6 remember I spoke to you -- when you are talking about
- 7 hacking into phones or bribery, it's the moment the
- 8 offence is committed.
- 9 A. Mm-hm.
- 10 LORD JUSTICE LEVESON: If you change the moment to the
- moment that you're publishing, then you don't have
- a public interest defence to the breach of the data
- protection, because you might have had a public interest
- defence to get the information to find it out -- you've
- blagged the information -- but if it actually gets
- nowhere, if it's inappropriate, then you still have to
- prove that you satisfied the statutory defence at the
- time that you're publishing it, I think.
- 19 A. So why can't that then be translated back into those
 - statutes where currently there is no public interest
- 21 defence at all?

- 22 LORD JUSTICE LEVESON: Because you're talking about
- a different moment in time. You're talking about the
- 24 commission of that crime as you commit it, not as you
- seek to obtain the fruits of it.

Page 29

- 1 version I have, hasn't been signed by you, nor is it
- dated. Can you confirm, please, when you provided it?
- 3 A. It was provided on 12 July.
- 4 Q. Is that statement true to the best of your knowledge and
- 5 belief?
- 6 A. Yes, it is.
- 7 Q. Can you tell us about yourself, please? You are
- 8 a professionally qualified photographer. You obtained
- 9 a Btech national diploma in that discipline in 1989 and
- have been a published photographer since 1984. You
- 11 worked in the Metropolitan Police as a photographer for
- 12 ten years; is that right?
- 13 A. Yes.
- 14 Q. Between 1990 and 2000. Then you moved to another
- business and then set up your own business in the year
- 16 2003?
- 17 A. Yes. The business was set up as a fully operational
- business in 2003. It was formed in 2001, when the
- company that I worked for straight after the police went
- 20 out of business and I worked for them as
- a subcontractor. So the company was legally formed in
- 22 2001 but fully operational in 2003.
- 23 Q. Main areas of business, please, that Newspics Limited is
- involved in?
- 25 A. It's PR photographer, news and features photography and

Page 31

- 1 A. Then maybe, if there is going to be a public interest
- 2 test in statute, it could be framed in such a way that
- 3 it does the job that you're asking it to do. If it's
- 4 a question of which moment in time we're looking at --
- 5 I mean, I entirely accept that it needs to be proofed
- 6 against abuse and that there is clear evidence that
- 7 there might be those who would seek to abuse it.
- 8 LORD JUSTICE LEVESON: Yes, Professor, people can criticise
- 9 me for not being an expert in lots of things. 40 years
- 10 $\,$ in the criminal law actually must allow me to say I know
- 11 something about that.
- 12 A. This is where I do not feel on safe ground, I have to
- 13 confess.
- 14 LORD JUSTICE LEVESON: Thank you very much indeed.
- 15 A. It's a pleasure, thank you.
- 16 MR JAY: Our final witness today is Mr Sprake.
- 17 MR MATTHEW GORDON FRANCIS SPRAKE (sworn)
- 18 Questions by MR JAY
- 19 MR JAY: Your full name, please, Mr Sprake?
- 20 A. It's Matthew Gordon Francis Sprake.
- 21 Q. And you're the director of a company called Newspics
- 22 Limited; is that right?
- 23 A. I am, yes.
- 24 Q. You've kindly provided us with a witness statement
- 25 pursuant to a statutory notice. The statement, from the

Page 30

- 1 studio photography.
- 2 Q. Apart from yourself -- you're the managing director --
- 3 how many persons does it employ?
- 4 A. It employs two other full-time members of staff and we
- 5 have a team of freelance photographers who work for us
- 6 on a shift basis as and when required.
- 7 Q. Approximately how many freelance photographers?
- 8 A. All over the country? In the region of 35.
- 9 Q. How do you check their credentials?
- 10 A. Most of them come from a background of local newspaper
- 11 work. I don't employ many photographers that work for
- 12 other national newspapers because some of the
- 13 sensitivity of the work that we do needs to be kept
- 14 within a small team of people that won't disseminate
- 15 that information to other papers for obvious reasons.
- 16 I like photographers to be professionally qualified.
- 17 Unfortunately, some of the best photographers out there
- 18 don't have professional qualifications -- they just
- 19 happen to be very good photographers -- but their work
- is very much checked before they're taken on by us.

 O. Do you and your photographers abide by a code of
- Q. Do you and your photographers abide by a code of practice?
- 23 A. We do, yes, the PCC Editors' Code of Practice.
- 24 Q. We may come back to that issue. The first
- 25 substantive question were you asked -- this is our

- page 02065, under question 3, Mr Sprake -- relates to
- the surveillance services which Newspics offers. Can
- 3 you explain, please, the type of surveillance work you
- 4 carry out for media organisations, in particular the
- 5 printed press?
- 6 A. Sure. Most of the time a story will come into
- 7 a newspaper and they will contact us to verify the
- 8 truthfulness of that story. We're sent out with some
- 9 basic information about what the story might be. It
- 10 could be any number of reasons, and we're sent to prove
- or disprove that story, basically.
- 12 Q. Are there any other circumstances in which you carry out
- 13 surveillance work?
- 14 A. If a story has been written about somebody, we could be
- sent out to create what is called a snatch photograph
- which is a photograph taken of somebody in a public
- place without them knowing. We could be sent out to see
- if somebody is doing somebody interesting. If a story
- is planned to be written about somebody, we could be
- 20 sent to see if somebody is doing something interesting
- 21 around that story, and like I said before, just to show
- what people are doing, really.
- 23 Q. All your photographs are taken, I take it, without the
- 24 knowledge of the subject of the photograph?
- 25 A. Most of the time, yes.

- A. We use -- primarily I normally use a 70 to 200, which
- 3 isn't a particularly long lens. The longest lens I have
- 4 is a 300 ml lens, which again, isn't a particularly long
- 5 lens.

1

6 Q. What's the range of a 300 ml lens?

Q. What sort of lens do you use?

- 7 A. A full length picture you can get nice and clear about
- 8 **500 yards.**
- 9 Q. So although not a long lens, by most people's
- 10 terminology it is capturing a photograph from
- 11 a distance, isn't it?
- 12 A. Yes.
- 13 Q. You say you take photographs of people on public
- 14 property.
- 15 A. Mm-hm.
- 16 Q. Do you take photographs of people when they might have
- 17 a reasonable expectation of privacy?
- 18 A. Several sets of pictures that we've taken have not been
- 19 used because they've been taken on private property. So
- 20 I would say no. We know that we have to let somebody
- 21 come out of their driveway, for example, onto
- a pavement, before we can publish a picture of them. So
- 23 **no, I wouldn't say that.**
- 24 LORD JUSTICE LEVESON: You mentioned the length of your
- lens, but do you have any control over the length of the

Page 34

- lenses used by the 30, 35-odd photographers who you
- 2 employ?
- 3 A. No. No, I don't. I know that most of the photographers
- 4 that I have would have a maximum of 400 ml lens on the
- 5 work that we do, no larger than that. If you're getting
- 6 into lenses longer length than that, it's quite
- 7 specialist equipment and I don't know of any of our
- 8 photographers who have more than a 400 ml lens.
- 9 MR JAY: What's the range of a 400 ml lens?
- 10 A. Slightly longer than a 300. That sounds a flippant
- answer, but it's not that much longer. It would be
- 12 a sports photographer's lens. You could fill, from one
- end of a football ground, the goal, full frame, at the
- other end of a football pitch.
- 15 Q. You mention that sometimes photographs have been
- rejected because they were taken on private property.
- 17 Presumably rejected by the ultimate client; is that
- 18 right?
- 19 A. By the newspaper, yes.
- 20 Q. That presupposes that the photograph will have been
- 21 taken of someone who was on private property at the
- 22 material time. Is that not the case?
- 23 A. Possibly could be.
- 24 Q. Possibly or certainly?
- 25 A. We have had a set of pictures of people taken on private

Page 35

- 1 property which have been turned down by the paper. So
- 2 yes, some pictures have been taken on -- it's
- a difficult answer to say somebody on private property.
- 4 If -- we would be on a public area, but somebody might
- 5 be walking down their drive, and if they walk down their
- 6 drive and walked behind a hedge, those pictures would be
- 7 deemed to be on private property so wouldn't be
- 8 published.
- 9 Q. Are you dependent on the discretion of the client or do
- 10 you form your own discretion in these matters?
- 11 A. No, I think we form our own discretion.
- 12 Q. Do you take photographs of people in restaurants or
- 13 other public places where they might have a reasonable
- 14 expectation of privacy?
- 15 A. Through the window?
- 16 Q. Yes.
- 17 A. I'm trying to think back over the years. I don't think
- 18 **so, no.**
- 19 Q. Do you take photographs of people when they're in their
- 20 private motor vehicles?
- 21 A. Yes
- 22 Q. You've provided us with details of all surveillance work
 - undertaken for media organisations over a two-year
- period, July 2010 to June 2012. Can we just have a look
- at this.

Page 36

23

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9

11

- LORD JUSTICE LEVESON: Could we take this off, please.
- 2 MR JAY: We have prepared a redacted version which didn't
- 3 have the names of the subjects. I don't know what's
- 4 happened to that.
- 5 LORD JUSTICE LEVESON: Do we have a version that's been
- 6 redacted?
- 7 THE TECHNICIAN: No, sir.
- 8 LORD JUSTICE LEVESON: Right, we'll do without it.
- 9 MR JAY: We're just not going to look at it then.
- 10 The clients -- primarily the People newspaper; is
- 11 that right? But of course, before it disappeared, the
- 12 News of the World?
- 13 A. Yes.
- 14 Q. Do you tend to deal with one person at the People or is
- 15 it a range of people on the picture desk?
- 16 A. It would always be the picture desk, a variety of
- 17
- 18 Q. You've also worked, on a couple of occasions, for the
- 19 Mail on Sunday and the Daily Mail. Can you remember who
- 20 you worked for on those occasions?
- 21 A. I don't know accurately who it would have been that
- 22 booked us for the actual job, but I do know people that
- 23 work on the Mail on Sunday.
- 24 Q. Now, the range of topics, ignoring the identity of the
- 25 subject, you can see on the right-hand column under the
 - Page 37
 - rubric "Objective". Do you see that? therefore, as "city bankers". So it could be any range 1
- 2

1

- 3 Q. These are all matters which really bear on the
- 4 individual's private life, it might be argued. Would
- 5 you agree with that?
- 6 A. Yes.
- 7 Q. Do you believe there are any ethical issues which arise
- 8 in connection with that?
- 9 A. Whether the story is true or false would be an ethical
- 10 issue I would raise, in that somebody has phoned the
- 11 paper with information which, most of the time, it has
- 12 to be said, ends up being not accurate at all, and we
- 13 prove beyond doubt that that information is not accurate
- 14 a lot of the time, and a lot of effort is put into
- 15 making sure whether a story is true or false.
- 16 Q. Establishing truth and falsity I understand to be
- 17 ethical issues, but there might be a wider ethical issue
- 18 as to whether the subject matter of the story and/or the
- 19 methods you deploy amount to intrusions into individual
- 20 privacy. Do you take those issues into account?
- 21 A. I do take those issues into account. If the story's not
- 22 true, then nobody would ever know that we were there
- 23 working on a story anyway, and if the story is proved to
- 24 be true, then that's a matter for the newspaper to
- 25 decide whether to publish it or not.

Page 38

- 1 Q. If a story is false, we don't, as it were, move to the
- 2 next issue. But a story can be true, yet there is an
 - unwarranted intrusion of privacy in obtaining it in the
- 4 first place. Do you analyse that issue in any way?
- 5 A. Well, again, most of the photographs that we would take
 - would be in a public area. If, for example, two
- 7 people -- if there was a suggestion that two people were
- 8 having an affair, the photographs that we would obtain
 - would be of them out on the street in a completely
- 10 public environment. So it wouldn't be intruding into
 - their privacy because they're there in a public arena.
- 12 Q. So you confine yourself then to photographs of people in
- 13 streets, do you?
- 14 A. Yes. Yes, I would say so. I mean, if two people were
- 15 in -- having an affair and went into a hotel, I can't
- 16 think of a time when I've followed them into a hotel and
- 17 followed them to their room, for example, if that's the
- 18 sort of angle that you were looking at. I can't recall
- 19 a time when we've done that.
- 20 Q. One example we have, 13 January 2011 -- the method used
- 21 is "body-worn camera" and the objective is "spending
- 22 their bonuses on a big booze up".
- 23 A. Yeah.
- 24 Q. You don't actually name the subject in terms of
- 25 personalising it. It's just described, I can reveal it
 - Page 39
- 2 of people falling into that category, but if you're
- 3 using a body-worn camera, you're likely to be in some
- 4 sort of bar watching people drinking champagne. Isn't
- 5 that the --
- 6 A. It would be in a bar with some sort of covert camera,
- 7
- 8 Q. Do you think that's ethical?
- 9 A. I think it's an answer for the newspaper, really, rather
- 10 than us. We're tasked to provide the evidence.
- 11 Somebody has obviously phoned the paper and said, "These
- 12 bankers are coming here tonight to spend heavily." We
- 13 prove or disprove it. And on that particular job --
- 14 I remember that job -- it was completely false. It
- 15 didn't happen.
- 16 Q. I dare say very often these leads end nowhere and the
- 17 story is false, but it sounds from your evidence,
- 18 Mr Sprake, that really you don't take the ethical
- 19 judgment so much as you delegate it to the ultimate
- 20 client to decide what to do with your pictures. Is that
- 21 a fair characterisation of your thought process?
- 22 A. No, there are occasions when I would decide that it
- 23 wouldn't be appropriate to take a picture.
- 24 Q. In very clear cases?
- 25 A. It's a moral situation for a human being at the end of Page 40

10 (Pages 37 to 40)

6

- 1 the day. It's whether you decide morally whether that
- 2 picture should be taken or not. At the end of the day,
- 3 if you have a client who has been given a story and you
- 4 are asked to provide the evidence as to whether that
- 5 story's true or false, you need to do what you can to
- 6 prove the innocence or guiltiness of whatever that story
- 7 is, and most of the time the effort is put in to prove
- 8 that the story is completely false.
- 9 Q. Your intention is not to prove truth or demonstrate 10 falsity; it's just to see where the evidence leads you?
- 11 A. Gather evidence basically, yes.
- 12 Q. It sounds as if the main moral standard which is guiding
- 13 you is that which is whether the story is true or false,
- 14 rather than whether there's any earlier question of the
- 15 means used to obtain the photograph in the first place.
- 16 Is that fair?
- 17 A. That would be the ultimate outcome, yes, to prove truth 18 or -- whether it's true or false, yes.
- 19 Q. There's another case where you used a body-worn camera.
- 20 This time we do have an individual. It's 23 September
- 21 2010. We're not, of course, going to name the
- 22 individual, but the objective was: "She's a drug taking
- 23 prostitute."
- 24 A. Mm-hm. Yes.
- 25 Q. I'm going to ask you to be careful not to intrude into
 - Page 41
- 1 the privacy of the individual --
- 2 A. Yes.
- 3 Q. -- but can you remember anything about how you took
- 4 those pictures?
- 5 A. It was a meeting with an individual in a hotel room.
- 6 A story had already been written about this individual
- 7 and video footage had been obtained of her in the
- 8 circumstances which I've outlined -- not by us, but
- 9 another newspaper -- and we had attempted to interview
- 10 this person and to gather evidence about what she said
- 11 or did at an interview, there was a video cameras placed
- 12 in the hotel room. As it transpired, that individual
- 13 decided to do a full sitdown interview and was paid for
- 14 her story and that equipment wasn't needed. It was
- 15 a full proper features job it turned into in the end,
- 16 where that person admitted to her mistakes, admitted to
- 17 her remorsefulness about what she had done and the story
- 18 went in that direction rather than what it could have
- 19 gone into.
- 20 Q. Yes, so where it could have gone is you using a covert
- 21 video camera in a hotel room; that is right, isn't it?
- 22 A. Yes.
- 23 Q. That clearly would be unethical under the code, wouldn't
- 24
- 25 A. Again, it would be gathering evidence. It's video

Page 42

- 1 evidence as opposed to using a dictaphone. Video
- 2 pictures work better, obviously, in a newspaper than an
 - audio file, so it would be pictures to go with the
- 4 audio.
- 5 Q. Of course it's gathering evidence because this is all
 - photographic evidence of one shape or form, but it's
- 7 gathering evidence by a method which is unethical and to
- 8 an objective -- to answer a question whether someone is
- 9 a drug-taking prostitute -- which has little or no
- 10 public interest in it. Would you agree with that?
- 11 A. Yes, I probably would.
- 12 Q. Okay. The vehicle surveillance examples, of which there
- 13 are a lot. That means you're in a car, someone's along
- 14 the street and you're trying to take your snatch
- 15 photograph; that's what it boils down to?
- 16 A. Yes.
- 17 Q. How much do you tend to get paid for these photographs?
- 18 A. We get paid a standard shift fee, which is a daily wage,
- 19 basically.
- 20 Q. You don't get paid by the result; you get paid by the
- 21 time spent?

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- 22 A. It doesn't matter what the result is for us. We get
- 23 paid for our time. So it's no bonus to us whether the
- 24 story is true or false or whether we get a set of
- 25
 - pictures or we don't. We're paid to work on a story.

Page 43

- Q. Do you sometimes take pictures on spec, in this sense:
- 2 that The People send you out to watch a particular
- 3 person and see what you can get, but you happen to go
- 4 out, obtain a photograph of a celebrity maybe from
- 5 a distance and then try and sell the photograph around
 - various news outlets?
- 7 A. Very rarely. We're quite unique in the way that we
- 8 work. We don't do a great deal of that. If we do that
- 9 sort of work, it's normally with the consent of the
- 10 celebrity that we're working with, and then we take
- 11 those pictures around ourselves. But most of our work
- 12 is commissioned by a newspaper.
- Q. There are occasions, you explain, that celebrities come 13
- 14 to you with photographs and want to sell them, in the
- 15 sense that they want you to help place them; is that
- 16
- 17 A. They ask us to take photographs of them, basically, to 18 sell for them to raise their profile.
- 19 Q. How often does that happen?
- 20 A. Again, not very often. It's not an area of work which
- 21 we're hugely into. There are other agencies who do that
- 22 far better than we do. They tend to be friends of mine
 - that work with us in that way. We don't set the agency
- 24 up to be like that at all.
- 25 Q. Do you have any sense, Mr Sprake, about how widespread Page 44

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- 1 is the practice of celebrities selling information to
- 2 photographers about themselves, or rather, allowing
- 3 themselves to be taken by photographers with a view to
- 4 commercial exploitation?
- 5 A. Yes, massive.
- 6 Q. Massive?
- 7 A. Most of the pictures that are taken of celebrities are
- 8 done that way. I mean, set up shoots -- they're
- 9 commonplace within the industry. They happen daily.
- 10 Q. Can you give us a sense of the sums of money involved 11 for the photographs?
- 12 A. Depends on the celebrity. The largest one I've had is 13
- 14 Q. As your statement explains.
- 15 A. Mm.
- 16 O. One core participant has asked me to ask you which
- 17 celebrities have come to you, but I'm not sure that's
- 18 a question which is entirely appropriate since, rightly
- 19 or wrongly, that might be said to intrude into their
- 20 privacy. Can I ask you, please, about what appeared on
- 21 your website at a particular time?
- 22 LORD JUSTICE LEVESON: Before you turn to the website,
- 23 I think it's right to say that had this document been
- 24 available in its redacted form, the overwhelming number
- 25 of these entries are for The People. There are about Page 45
- 1 half a dozen for the Mail or Mail on Sunday. In each
- 2 case, they are snatch photographs; in other words, to go
- 3 back to your definition, obtaining a picture of
- 4 a subject to whom the story relates without them
- 5 knowing, to support a story that's been written.
- 6 A. Yes.
- 7 LORD JUSTICE LEVESON: The second question I wanted to ask
- 8 was to direct your attention to the entries on -- one
- 9 moment. (Pause)
- 10 26 and 27 July 2010. You've said you don't use long
- 11 lenses. What's the method that's put on your document
- 12 as describing what you were doing on those days?
- 13 A. Is this the methods that's titled "Long lens
- 14 surveillance"?
- 15 LORD JUSTICE LEVESON: Yes.
- 16 A. Do you want me to give you the actual what we were doing
- 17 and how and why we did it?
- LORD JUSTICE LEVESON: I'm interested, given your evidence 18
- 19 that you didn't use long lenses.
- 20 A. Yeah, this wasn't -- I can actually -- I can't tell you
- 21 now at this instant, but we have software in the office
- 22 which will tell me how long the actual lens was to do
- 23 that job and it wasn't a particularly long lens. It
- 24 would have been no longer than a 400 ml. The story
- 25 was -- I think if I'm right in saying that that was the
 - Page 46

- 1 last sitting at the House of Commons and the suggestion
- 2 was that the MPs were sitting out on the Thames drinking
- 3 heavily and it was photographs of them out on the bank,
- 4 taken from Westminster Bridge, drinking on the terrace.
- 5 LORD JUSTICE LEVESON: Yes, well, I only draw it to your
- 6 attention because you gave evidence that you didn't use
- 7 long lenses and yet you've chosen those words to
- 8 describe the method you were there using.
- A. Yes. It wouldn't have been longer than a 400 ml.
- 10 MR JAY: I think we've already established 400 ml would
- 11 probably enable you to take someone from 600, 700 yards
- 12 away, because 300 ml gives you 500 Yard, doesn't it?
- A. Yes. 13
- 14 LORD JUSTICE LEVESON: All right.
- 15 MR JAY: So a really long lens might be over a kilometre,
- 16
- 17 A. They make lenses, Mr Jay, that can shoot people from
- 18 a mile away. They're not commercially available, but
- 19 you can get a telescope lens that you can put on a block
- 20 of flats. It's not something that -- I don't think
- 21 anyone in the industry would use it, but technically you
- 22 could -- a lens that's unlimited length.
- 23 Q. On your website there was an advertisement, I think
- 24 would be a fair way of describing it --
- 25 LORD JUSTICE LEVESON: Mr Jay, just for those who have been Page 47
- 1 interested, the redacted document is now actually
- 2 available and visible to those who are watching and
- 3 doubtless can then be available in the normal course.
- 4 MR JAY: Thank you, yes.
- 5 LORD JUSTICE LEVESON: Right, thank you.
- 6 MR JAY: On your website, it said:
 - "Do you know of a story, a scandal, something that
- 8 made you interested? Chances are that a newspaper will
- 9 pay for that information. Do you know where a prominent
- 10 person is living or what they get up to? Is a celebrity
- 11 having an affair that you know of? Do you know of
- 12 anyone who is on reality TV? You can earn yourself good
- 13 cash now by calling."
- 14 And also this:

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- "All sorts of people have made thousands of pounds
- 16 by us for giving information that leads to a picture
- 17 being sold or a story being written. Are you a doorman,
- 18 police worker, civil servant, probation officer, prison
- 19 officer or nurse? Make some extra money without anyone
- 20
 - ever knowing."
- 21
- 22 Q. Can we be clear, please, when were those advertisements
- 23 on your website?
- 24 A. That was placed on the website when it was first built 25
 - in 2000, 2001. I can't be sure of the exact date when

6

- 1 that website went up. The website was redesigned in
- 2 2008 and the wording was left on there. It was
- 3 something that was tucked away on the site. We're not a
- 4 "sell your story" website. The website is a marketing
- $5 \qquad \hbox{tool, primarily aimed at PR companies and publications} \\$
- 6 that book us for work, but companies look to sell
- 7 stories. People can come to an agency and we would sell
- 8 a story.
- 9 We haven't sold a story to any of those people.
- 10 People wouldn't be able to search that and find a "sell
- 11 your story" website through our site. They'd go to
- other people before they came to us.
- 13 Q. If someone within one of these categories -- doorman,
- police worker, civil servant, et cetera -- or perhaps
- someone else altogether happened to look at your
- website, they could see, could they not, that that would
- be a nice way of earning money on the side, I suppose it
- might be described as?
- 19 A. Yeah, they could do. They could ring us up and tell us
- $20\,$ $\,$ what the story is. That's needless to say that it
- wouldn't get published and it wouldn't go any further.
- 22 The way the system would work is I would take that call
- 23 myself. If somebody in the office answered the call, it
- would be passed on to me. I would listen to what was
- said, decide then how that information was obtained. If
 - Page 49
 - 1 480 17
- 1 it was obtained properly, then that information would
- 2 then be passed on to a reporter, who would look at that
- 3 set of -- a reporter at a newspaper, not a reporter with
- 4 their own company; we don't employ any reporters within
- 5 our company -- passed on to a reporter in a newspaper
- 6 who would look at the story again, decide himself the
- 7 validity of the story and the legality of it, pass it on
- 8 to his legal team before it went anywhere near
- 9 a newspaper -- so there would be lots of checks done
- 10 **before anything like that happened but it's**
- 11 a hypothetical situation.
- 12 Q. You say it's never happened?
- 13 A. No.
- 14 Q. You said if someone phoned in with such a story --
- 15 A. If they would, yes.
- 16 Q. -- it would be passed on to you, so there must be a
- 17 system in place.
- 18 A. There is a system in place. Anything like that that's
- 19 phoned in -- if somebody phones in with a set of
- 20 pictures, it would always be passed on to me. We get
- 21 phone calls all the time -- people ringing up and asking
- 22 for footballers' addresses, for people's addresses that
- we've been looking at, and it's not something that the
- office deal with; it's something that's dealt with by me
- 25 because of the serious nature of some of the things that
 - Page 50

- 1 are asked for.
- 2 Q. It sounds as if you do get loads of enquiries from
 - people seeking to make money on the side, which you
- 4 would then field?
- 5 A. No, it's photographers mainly that try to sell us their
 - pictures. We get photographers who phone up with ideas
- 7 for stories. They come straight to me. But as far as
- 8 members of the public are concerned, no, we don't get
- 9 anything like that.
- 10 Q. You get a member of the public with a camera who phones
- 11 you, saying, "I can do this and that. I can take
- a photograph of X without their knowing. Can you help
- me with this? Can we sell it together?" I suppose
- that's what it boils down to?
- 15 A. But they don't come to us for that, because there are
- other companies which are far better set up for doing
- 17 that than we are.
- 18 Q. Are you saying that that sort of phone call has never
- 19 taken place?
- 20 A. Somebody ringing us up and offering us a set of
- 21 pictures? Yeah, we've been offered sets of pictures.
- 22 I was offered once a set of pictures from an A list
- 23 celebrity's camera that was stolen and I passed it
- 24 straight on to the police. It was obvious that the
- 25 pictures that they were offering us were taken from
 - Page 51
 - a stolen camera. And that was an American A list
- 2 celebrity.

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- 3 LORD JUSTICE LEVESON: I'm sure you can understand why this
- 4 particular offer which Mr Jay has just read out to you
- 5 excited the attention of the Inquiry.
- 6 A. (Nods head)
- 7 LORD JUSTICE LEVESON: But I would be interested to know why
- 8 you ever thought it was appropriate to put on your
- 9 website that you were inviting nurses and prison
- officers and civil servants to provide you with stories,
- doubtless in breach of their duty, and make money out of
- 12 it.
- 13 A. Again it's a hypothetical situation, but if a nurse, for
- 14 example, was to phone up, would it not -- explaining
- 15 that her -- patients in her care were being treated
- 16 badly and that they were left in horrible conditions at
- 17 her hospital, would that not be a story that would be in
- 18 the public interest and be interesting? It wouldn't be
- 19 my decision whether that story went forward to be
- 20 published or whether that nurse got paid. It would be
- 21 a decision for a paper and a legal team at a newspaper
- 22 to decide.
- 23 LORD JUSTICE LEVESON: But Mr Sprake, you chose to put this
- offer on your website.
- 25 A. Mm.

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- 1 LORD JUSTICE LEVESON: Are you saying that you were only
- 2 interested in public interest stories? And if so, why
- 3 didn't you put that?
- 4 A. It was a mistake.
- 5 LORD JUSTICE LEVESON: Or is this just total aberration?
- 6 A. It was a mistake to put the wording on there.
- 7 MR JAY: Well, the wording we see -- and I've read it out
- 8 once already -- is:
- 9 "Do you know of a story, a scandal ..."
- 10 I suppose a "scandal" could just about cover
- 11 a public interest situation:
- "... something that made you interested?"
- 13 That wouldn't necessarily:
- 14 "Chances are that a newspaper will pay. Do you know
- 15 where a prominent person is living or what they get up
- to? Is a celebrity having an affair?"
 - So most of this is nothing to do with the public
- 18 interest.

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- 19 A. It's 12 years ago. It was a very different environment
- than it is now, and when that website was first created,
- 21 probably it would be acceptable to have spoken in those
- 22 terms. Now obviously it's totally inappropriate.
- 23 LORD JUSTICE LEVESON: Well, probably if the code was there,
- 24 it wasn't acceptable then, whether or not it was got
- away with.

Page 53

- on the website and how out of date that website was.
- 2 The website was -- "broken" is the kind of easy term to
- 3 use, in 2010, because the company who made it were
- 4 unable any longer to operate the database editor for the
- 5 website. So from that date onwards, we were not able to
 - edit anything on that website. The website -- we were
- 7 trying to get it fixed, but we've had to get it
- 8 recommissioned and it's almost finished being
- 9 redesigned. The work's been going on for the last 14
- 10 months on that website, to get it redesigned and put
- 11 back up.
- 12 The reason we didn't take it off is because
- 13 primarily that website is advertising PR photographer
- services, which it is a major part of our business.
- 15 Since taking the website off, we've obviously lost all
- of the work we've put into the Google ad campaigns on
 - that site. So it was a commercially suicidal decision
- 18 to take it off.
- 19 Q. Were you sent by a newspaper -- I can name it, the
- 20 People -- to track the McCanns when they were on holiday
- in Canada in 2008?
- 22 A. I was sent to try to find the McCanns on holiday in
 - Canada, yes.
- 24 Q. And obviously with one of your -- we can call them long
- 25 lens cameras --

Page 55

- 1 A. Mm.
- 2 LORD JUSTICE LEVESON: Yes.
- 3 MR JAY: The categories we see: a doorman, a police worker,
- 4 a civil servant, a probation officer. These are all
- 5 people who have access to individuals. It might be
- 6 a doorman of a hotel.
- 7 A. Yeah. Doormen do tip photographers off. They don't tip
- 8 us off because we're not that sort of company --
- 9 Q. You are, aren't you, because you've got this on your
- 10 website?
- 11 **A. But --**
- 12 Q. Police workers -- there are all sorts of possibilities
- there but it might be a celebrity under suspicion by the
- police, it might be a celebrity who's just suffered
- a burglary and a victim of crime. Civil servants --
- 16 well --

23

- 17 A. That would be totally inappropriate to take any action
- against that, because that person would only know that
- 19 because of the job that he did.
- 20 Q. Is it a coincidence that the website was removed on
- 4 July of this year, which was very shortly after an
- 22 article appeared in somewhere called ExaroNews relating
 - to your business?
- 24 A. No, I removed the website on purpose when that story
- 25 came out because of the inappropriateness of the wording
 - Page 54

- 1 LORD JUSTICE LEVESON: Medium-length lens.
- 2 MR JAY: Medium length with quite a long range. Is that --
- 3 A. I wouldn't have taken a long lens on a foreign job, no.
- 4 Q. One of your 300 millimetre lenses?
- 5 A. No it would have been a 70 to 200, which it is
 - a standard lens in anyone's Kit.
- 7 Q. Who did you go with? Did you go with a journalist from
- 8 the People?
- 9 A. Yes, I did.
- 10 Q. This was Mr Jones, was it?
- 11 A. Yes, it was, ves.
- 12 Q. What was your brief?
- 13 A. The McCanns were going on holiday for the first time
- without Madeleine and to find them.
- 15 Q. And then do what?
- 16 A. Photograph them.
- 17 Q. Did that cause you any concern whatsoever?
- 18 A. I have to be careful what I say because of where we are,
- 19 but I recall a conversation as to where the information
- 20 came from, that they were in Canada, and it came from
- 21 a source close to the family. So at the time I felt it
- 22 was appropriate, bearing in mind, with the McCanns,
- 23 there was a feeling that publicity -- keeping Madeleine
- in the news was helpful to the cause of finding
- 25 Madeleine.

1 Q. But if they wanted to be photographed with that 1 Is that right? 2 objective, they simply had to pose for a photograph. 2 A. Well, that's a very tough definition because it would 3 Could you not agree? 3 have to be a public area for us to be able to get into. 4 A. No, because it doesn't work that way. We get tips from 4 We wouldn't be going anywhere that was private, no, so 5 celebrities who tell us that they want to be 5 it's not really a private environment. It's an open 6 photographed, but they want to make it look like it's 6 area. At Sandhurst, for example, the idea was was that 7 7 not been set up for the newspaper. That is also there was a speech podium which a member of the Royal 8 8 something that happens regularly, so it doesn't look Family would go and stand at to make a speech, and you 9 like they're colluding with a newspaper. In fact, I got 9 could openly go up to the podium and the supposition was 10 10 criticised by somebody on a website after the pictures that you could put something behind the podium. 11 11 were published of the McCanns saying that I'd worked Q. So to give colour to this pointless story, you take 12 12 with the McCanns to set that set of pictures up, because a photograph of the podium; is that what you're saying? 13 it looked so set up that I was accused of setting it up 13 A. Yes. 14 with the McCanns. 14 Q. What about surveillance that you undertook in 2007 of 15 Q. The photographs you refer to were taken at Vancouver 15 the then head of the anti-terrorist squad? Can you help 16 airport, weren't they? 16 us with that? That was of an alleged affair he was 17 17 A. Yes. having, wasn't it? 18 Q. Were they set up pictures or not? 18 A. Yes. Yeah, that was -- I can name him, can I? 19 A. No, they certainly weren't set up by me. There were 19 Q. It's in the public domain, so -- well, let's see if we 20 things about those pictures that did look set up. The 20 can handle this evidence without naming him, but I think 21 way Gerry McCann was carrying his daughter, for example, 21 everybody knows who he is. It was alleged that he was 22 was a very striking image. I wouldn't know whether 22 having an affair with a married women; is that it? 23 something had be set up with the newspaper or with an 23 A. Yes. There was a story that came into the paper that 24 24 agent or how it had been done, but the set of pictures this prominent police person in charge of special 25 that we got at the airport weren't set up by me, no. 25 operations at the time at New Scotland Yard was having Page 57 Page 59 1 Q. I think you were also involved, with the same journalist 1 an affair with somebody who worked at the Independent 2 working at the People, with a number of stories which 2 Police Complaints Commission. At that time, that police 3 I think we can call fake bomb stories. So someone goes 3 officer's department was being investigated by the IPCC 4 into Sandhurst, for example, where a prince may or may 4 for a very serious incident which took place in London, 5 not be at the material time. They have a fake bomb on 5 and that, as far as I understood it, was the public 6 them -- of course, it's not real Semtex, it's marzipan 6 interest angle on the story. 7 or something, which arguably looks like Semtex -- and 7 So I was sent to photograph the lady involved in the 8 then a whole story is created around this on the basis 8 story to ascertain whether she was still married to her 9 that security is lax because look how easy it is to get 9 husband, who was a serving police officer himself. So 10 into Sandhurst or whatever. 10 I went to the home address and took a photograph of them 11 A. Yes. 11 leaving their home address together. 12 12 Q. Have you been involved in a number of those stories? We then -- I was then told to go and follow her from 13 13 A. I have, yes. work that evening, which I did. I followed her to a pub 14 Q. What is the public interest in those stories? 14 in Liverpool Street called The Griffin -- I understand 15 15 A. Well, you could argue, like you say, that it's it's called The Griffin -- where she did indeed meet 16 highlighting security breaches. I would have personal 16 with Andy Hayman. They had drinks. 17 17 opinions on that. Q. This is the police officer we were going to keep 18 Q. What are they? 18 anonymous, doing the best we can. 19 A. That marzipan would get through a bomb detector; Semtex 19 A. I'm sorry. 20 20 would not. Q. It doesn't matter, because we've worked out who he was. 21 Q. So it's a pointless and stupid story, isn't it? 21 So did you take photographs in the pub, then? 22 22 A. Yes. A. No. We watched them discretely in the pub. Q. Do you take photographs as part and parcel of the story? 23 23 A journalist joined me in the pub to watch them to see 24 A. Yes. 24 what they got up to, basically. They had drinks. There 25 25 Q. On, I suppose, private or semi-private premises, then? was no real intimacy, nothing that could prove an

Page 58

affair. They could well have been meeting for work
 purposes. It was one of those meetings.

So they left separately. That was the end of that day.

The next day, same thing again. Didn't do the home address this time. Went to her work, followed this lady to another pub near Liverpool Street station, where, again, Andy Hayman turned up 15 minutes after her, they went in the pub and had drinks together. The pub at that point was slowly filled with reporters from the paper to watch what was going on in the pub.

12 O. Right.

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A. The couple left. I took photographs of them as they
 left the pub and off they went on their separate ways.

That was the end of the job. There was nothing there that really proved that they were having an intimate affair. I think it was months later a TV programme revealed the affair, named the lady, named him. That made the pictures then relevant again. We asked the paper, you know: "We've got it these pictures. Are you going to run them?" I was told: "No, not interested, so you can sell them", which would be common practice. After the paper's finished with them, we can sell the photographs.

I started to ring papers. I phoned the first paper, Page 61 1 of staff, and there was one photographer who I did

employ that I used to work with, who doesn't work with
 me any longer.

4 Q. The job you were telling us about, the surveillance of the senior police officer, who tipped you off?

6 A. It was a story that came to us from the newspaper.

7 Q. From the newspaper?

8 A. Yes.

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Q. Finally, Mr Sprake, have there ever been circumstancesin which you've had to sack any of your contractors?

A. Absolutely, yeah. I've sacked two good photographers because they've not kept to my standards, which I strongly believe in. The two situations were -- I had a guy one night was out working -- this is years ago -- and he photographed a girl that was in "Big Brother", followed her down the road, backed her into a doorway and carried on photographing her, even though she was showing obvious distress. I got the pictures in the morning and it wasn't something that I like to see. This girl was crying, obviously upset, very distressed,

This girl was crying, obviously upset, very distressed, and I sacked him. It's not the sort of pictures I want

to see coming into our agency.The other situation was the

The other situation was the photographer that I used to work with who was one of the best photographers I've ever had working for me. He's a very skilled worker,

Page 63

which was the Mail on Sunday, just because it would be a story that they would be interested in, and I was made

3 an offer and it was a good offer.

4 Q. How much did the Mail on Sunday offer you for these5 photographs?

6 A. £10,000, straight away.

7 Q. I see.

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A. So I phoned the paper back and I said, "Are you really sure that you want these to go? I've just been made a really good offer. Do you not want to reconsider?" Which they did, and they did a share with the Mail on Sunday. The People published the pictures and so did the Mail on Sunday, and they ran on that Sunday.

I found out afterwards that other people had been working on the story as well. There was another team of photographers that had been working on that story too, so it wasn't an exclusive. I think -- MailOnline tend to gather up everything that's out there and later on in the day more pictures of them appeared of them together, which was a surprise to me.

21 Q. Of the people you employ, are any of them former or serving police officers?

A. Former or serving police officers? No. No. I've
 got -- I used to have one former police photographer - I wasn't ever a police officer; I was a civilian member

Page 62

1 I respected him a lot, he was a good friend of mine and 2 we were asked to do a job by a celebrity. It was going

to be a meeting between the celebrity, his celebrity

girlfriend and the parents, the first time they'd met.
 It would have been an interesting story at the time for

It would have been an interesting story at the time for a tabloid newspaper.

I was asked -- it was all set up to do. We'd told our paper that we were going to do that. It was going to be a great set of pictures. It was going to be an exclusive. It basically proved that the relationship was real. I was told in the afternoon by one of the celebrities involved in it: "Please don't do it. My parents don't want to be in the paper. It's a private matter. It's going to be a private meeting. Don't do it." I called the photographer off. He decided that he was not going to be called off, he wanted to do it himself.

On the Monday, pictures appeared in the Daily Mirror and it could have only come from one person. So I phoned him up and sacked him. I can't have people doing that. That was a blatant breach of privacy. I got asked not to do it and we carried on and did it, and I got rid of a good guy because of that.

But a lot of effort is put into the work that we do, you know, to prove whether stories are true or false.

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- Newspapers get phoned all the time. People ring up and they say, "This is happening, that's happening and the other thing's happening". 80 per cent of the time it's
- If I can just bring -- there's one example that I'd really like to share with you.
- 7 Q. Yes, please do.

absolute rubbish.

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and spend all this time."

8 A. One afternoon, Manchester United played Sunderland.
9 Alex Ferguson made a comment at the end of the game in
10 his post-match interview and said, "Alan Wiley is not
11 fit to referee this game. He's tired, he's unfit. It's
12 almost like he's been out to a party."

A set of pictures gets sent into the People newspaper of Adam Wiley dressed as Buzz Lightyear. Great set of pictures. I think they phoned his wife and his wife almost verified it was true. At least she admitted that he'd been to a fancy dress party.

Those pictures were laid out on the front and back pages of the paper because it was a fantastic story.

Somebody at the paper said, "I don't like this.

Something's not right with these pictures. Something doesn't add up here." So I was sent to Adam Wiley's home town and a colleague of mine was sent up there, and we spent five days proving whether these pictures were actually taken the night before, speaking to fancy dress

 $1 \qquad \hbox{ they're in the favour of the people who supposedly --} \\$

2 their friends or people they know are ringing up to dob

them in about a story.

Q. Sometimes things have to be done to gather evidence.Could you help us, please, with what those things are?

- 6 A. You have to go beyond the call of duty and be very
- 7 professional with what you're doing and you have to
- 8 absolutely accurate. Like I said before, there's no
- gain to me whether a story doesn't work or does work.
- 10 I'm doing my job to prove --
- 11 Q. The touchstone is truth or falsity. I understand where
 - you're coming from. But if sometimes things have to be
- done, what you're telling us is sometimes the rules have
- to be bent or ignored, don't they, in order to get to
- 15 your higher goal of establishing truth or falsity?
- 16 A. No, it's not. If it means using a body-worn camera --
- 17 there are laws regarding surveillance. RIPA, for
- 18 example, which is the Regulation of Investigative Powers
- 19 Act, okay.
- 20 Q. We've heard of that one.
- $21\,$ $\,$ A. Right. Well, there's nothing that we would do that
- would break the law under RIPA.
- 23 Q. Of course.

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- 24 A. If I went to interview you and I sat and I had a camera
- 25 in my tie and I video'd everything that we said, the

Page 67

costume hire stops, speaking to parties venues. We found the party venue where the party was, and the guy told me: "Yeah, there was a party the night before the game, but if somebody had turned up as Buzz Lightyear, I'd have remembered it because it was a normal party."

Page 65

So I rang the guy, who was trying to sell these pictures for a lot of money to the paper, and said to him: "Look, we're up here. Give us a hand here. We're trying to make this work for you. What is the story with this?" And he said to me: "Do you know what? I thought papers published stuff. They just published it. I didn't think it had to be true. I thought papers just made it up. I had no idea that you would come here

He knew that we were there for five days, working on this story. He had no idea that we would work at proving that that story was absolute rubbish and I got him admitting on tape that those pictures were taken in the summer football break. There was no games on either side of that party, and that was nearly an innocent man going on the front page of one of Britain's biggest-selling Sunday newspapers.

So that's the effort that we go into to prove whether a story is true or false, and sometimes things have to be done to gather evidence, but most of the time

Page 66

only thing that's different between that and
 a dictaphone is that I have pictures of you. A reporter
 in the normal course of his duties would be expected to

record an audio of the conversation, so all I'm adding is video footage to that.

If I leave a camera in that room after we've
finished our chat and that video camera is transmitting
images to my van, to me, to wherever -- I haven't even
got that kit, but if that happens, that is blatantly
breaking the law under RIPA. Well, we don't to that.

We're only gathering the evidence.

If somebody is selling which is illegal -- say,
 somebody is selling identity cards and that's happening

in a house. Audio footage is not going to pick that up.

A video bag will. It proves that that is happening.

A video bag will. It proves that that is happening.

16 You can't run a story without that -- all he's going to

say is: "Show me the evidence. Show me the evidence

that I actually sold you that passport. Show me the

19 evidence I've actually sold you that gun." Because

we've worked on stories like that, where hitmen have

21 been offering to kill people for £5,000 and we've given

our evidence, evidence of a gun being shown to

23 a reporter inside a house. That man has been arrested

at 6 in the morning by SO19 firearms officers and he

went to prison.

| 1 | We've followed police officers who have been | 1 | A. No, but I presume I mean, I belong to what I believe |
|----|--|----|---|
| 2 | grooming children on the Internet. We've met them. | 2 | is the most professional journalistic institute that's |
| 3 | We've followed them back to their police stations. | 3 | available. |
| 4 | I followed a guy one night and he got off at | 4 | LORD JUSTICE LEVESON: All right. |
| 5 | Seven Sisters tube station and flashed a warrant card to | 5 | A. The first if you refer to the PCC code of apparatus, |
| 6 | the guy on the underground system. I had no idea that | 6 | the first point that they make in the PCC code of |
| 7 | he was a police officer, but he flashed a warrant card | 7 | practice is: the press must take dare not to publish |
| 8 | and then walked back to his police station. | 8 | inaccurate, misleading or distorted information. That's |
| 9 | These are the people that we're dealing with and | 9 | number one on the PCC code of practice. |
| 10 | that is surely public interest. | 10 | LORD JUSTICE LEVESON: Yes, okay. Thank you very much |
| 11 | Q. You don't see any of those people on the list we were | 11 | indeed, Mr Sprake. |
| 12 | looking at earlier. Those were all celebrities, weren't | 12 | A. Thank you. |
| 13 | they? | 13 | MR JAY: 10 o'clock Monday. |
| 14 | A. They're earlier jobs. I mean, I can give you all those | 14 | LORD JUSTICE LEVESON: Right. Thank you very much. |
| 15 | examples. I mean, the guy that looks after the | 15 | (3.43 pm) |
| 16 | scrapyard that holds the Lockerbie aircraft, he was | 16 | (The hearing adjourned until 10 o'clock |
| 17 | selling bits of the aircraft off to souvenir hunters. | 17 | on Monday, 23 July 2012) |
| 18 | If I get a camera out and photograph him, he's not going | 18 | |
| 19 | to sell me that aeroplane part. But we bought parts of | 19 | |
| 20 | the Lockerbie plane and he wouldn't have done that if | 20 | |
| 21 | I'd have held a camera in his face. | 21 | |
| 22 | I've been beaten up in the street by having a camera | 22 | |
| 23 | out because members of the public think that we are some | 23 | |
| 24 | sort of criminal because we're photographers. It is | 24 | |
| 25 | that bad. Security men think they can throw us in | 25 | |
| | Page 69 | | Page 71 |
| 1 | bushes and up against walls and beat us up just for | | |
| 2 | having a camera out. I feel far safer in the back of my | | |
| 3 | van with a hidden camera. I really, really do. And at | | |
| 4 | the end of the day, all we're trying to do is prove the | | |
| 5 | truth, because somebody is phoning in a false story. | | |
| 6 | MR JAY: Yes. | | |
| 7 | LORD JUSTICE LEVESON: Could I ask a slightly different | | |
| 8 | question? You've said that you subscribe to the | | |
| 9 | principles set out in the Editors' Code. | | |
| 10 | A. Absolutely. | | |
| 11 | LORD JUSTICE LEVESON: But to whom are you accountable for | | |
| 12 | the exercise of that judgment? You're not in the PCC. | | |
| 13 | A. No. I belong to the Chartered Institute of Journalists, | | |
| 14 | and as a member of the Chartered Institute of | | |
| 15 | Journalists, I have to abide by the PCC Editors' Code of | | |
| 16 | Practice. I believe also that we should abide by it. | | |
| 17 | LORD JUSTICE LEVESON: Is there a regulatory mechanism | | |
| 18 | within that institute? | | |
| 19 | A. The Institute of Journalists? Yeah, their code of | | |
| 20 | practice. If somebody feels that I'm not working in an | | |
| 21 | ethical manner, they can report me to the institute. | | |
| 22 | LORD JUSTICE LEVESON: And what happens then? | | |
| 23 | A. I've never been reported so I don't know. Presumably | | |
| 24 | they | | |
| 25 | LORD JUSTICE LEVESON: Do you know what the system is? | | |
| | Page 70 | | |
| | 1 age 70 | | |

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| 9.24 (16.1.3.5.5 d) 40.23.5.25.5.5 for 3.2.6 d) 6.1.4.5 d) 6.1.2.2.1 d) 6.1.2.5.5 d) 6.1.2.2.2.4 d) 6.1.2.2.2.4 for 3.2.7.1.4 d) 6.1.2.2.1 d) 6.1.2.2.2.1 d) 6.1.2.2.2.2 d) 6.1.2.2.2.2.2 d) 6.1.2.2.2.2.2.2 d) 6.1.2.2.2.2.2.2 d) 6.1.2.2.2.2.2.2 d) 6.1.2.2.2.2.2.2 d) 6.1.2.2.2.2.2.2 d) 6.1.2.2.2.2.2.2 d) 6.1.2.2.2.2.2.2.2 d) 6.1.2.2.2.2.2.2.2.2.2.2.2.2.2.2.2.2.2.2. | | 39:22,23 40:3 | 67:3,6,9,16,16 | | | an 3:6 4:8 5:1,4 | 37:19 38:12,14 |
| 0.7.81214 413.31.17 681.62.2.3.23 682.2.6.14.15 241.28.19.31 368.2.2.3.24 413.32.11.2 694.5.7.7.14 315.20.011 211.52.0.01 311.47.7.12 422.2.5.5.6.11 694.5.7.7.14 315.23.2.4 422.5.5.5.6.11 694.5.7.7.14 315.23.2.4 422.5.5.5.6.1 671.82.1.2.2 461.6.2 | | 40:6,6,9,21,22 | 67:21,24,24 | act 18:20 23:23 | 49:7 63:22 | 5:25 6:6 7:10 | 38:16,23 39:15 |
| 107.81,12,146,10,155 4119,222,246 415,31,11,17 6816,22,23,33 6719 112,126,10,15 4119,222,24 415,32,11,17 6918,21,22 412,03,25,5,6,11 6918,21,22 412,03,25,13,14 42,13,7,12 42,13,7,12 42,13,7,12 42,13,16,18 43,18,18,22,24 43,27,8,9,11 70,27,11,15 51,13,14,13,14,14 42,13,15,21 43,13,13,16,18 43,18,18,22,24 43,27,8,12,17 44,20,45,35,7 46,63,21,24,25 44,57,8,12,17 46,63,21,24,25 44,57,8,12,17 46,63,21,24,25 44,57,8,12,17 46,63,21,24,25 44,57,8,12,17 46,63,21,24,25 44,57,8,12,17 46,63,21,24,25 44,57,8,12,17 46,63,21,24,25 44,57,8,13,15 46,63,21,24,25 44,57,8,13,15 46,63,21,24,25 44,57,8,13,15 46,63,21,24,25 44,57,8,13,15 46,63,21,24,25 44,57,8,13,15 46,63,21,24,25 46,58,11,13,15,21 46,63,21,24,25 44,57,8,13,15 46,63,21,24,25 44,57,8,13,15 46,63,21,24,25 44,57,8,13,15 46,63,21,24,25 44,57,8,13,15 46,63,21,24,25 44,57,8,13,15 46,63,21,24,22,24 48,14,15,12,17 48,14,15,12,17 48,14,15,12,17 48,14,15,12,17 48,14,15,12,17 48,14,15,12,17 48,14,15,12,17 48,14,15,12,17 48,14,15,12,17 48,14,15,12,17 48,14,15,12,14 48,14,15,12,14 48,14,15,12,14 48,14,15,12,15 48,14,15,13,15,24 48,14,15,13,14,24 48,14,15,14,14 48,14,15,14,14 48,14,15,14,14 48,14,15,14,14 48,14,15,14,14 48,14,14,14,14 48,14,14,14,14 48,14,14,14,14 48,14,14,14,14 48,14,14,14,14 48,14,14,14,14 48,14,14,14,14 48,14,14,14,14,14,14,14,14,14,14,14,14,14, | | 40:23,25,25,25 | 68:2,2,6,14,15 | 24:1 28:19,23 | agenda 6:5 | 10:19 12:6,16 | 39:16,21 40:11 |
| 11:12,03,10,15 | | 41:3,3,11,17 | 68:16,22,23,23 | 67:19 | agent 57:24 | 13:3 14:13,22 | 40:13,16 41:3 |
| 19.91.423 422.55.5.6.11 69.18.2.1.22 actual 37.22 65.14 20.11.21.15.24 23.13.14.7.1.12 42.22.55.4.3.1 42.23.5.5.7.10 70.13.14.17.19 43.13.13.16.18 44.13.15.12 44.13.15.12 44.13.15.13 44.20.45.3.5.7 44.20.45.3.5 44.20.45.3.1 44.20.45.3.1 44.20.45.3.1 44.20.45.3.1 44.20.45.3.1 44.20.45.3.1 44.20.45.3.1 44.20.45.3.1 44.20.45.3.1 44.20.45.3.1 44.20.45.3.1 44.20.45.3.1 44.20.45.3.1 44.20.45.3.1 44.20.45.3.1 44.20.45.3.1 44.20.45.3.1 44.20.45.3.1 4 | | | 69:4,5,7,7,14 | action 54:17 | ago 13:6 53:19 | 15:24 19:22 | 41:7 42:7,9,10 |
| 129,14,23 42:13,15,20,21 70:23,55,71,0 46:16,22 agree 19:18 22:10.26:5 445,143,13,16,18 70:23.71:15 58.71:41,18 38:5,43:10 39:3,83.93:2 39:8,15,23 45:10,13,15,16 45:20,145,15,23 44:20,45,3.5,7 70:15,16 45:20,145,15,23 45:21,15,17,33 46:5,61,3,16 46:3, | | 42:2,5,5,5,6,11 | 69:18,21,22 | actual 37:22 | 63:14 | 20:11 21:15,24 | 42:13,14,17 |
| 33:14,77,12 | | 42:13,15,20,21 | 70:2,3,5,7,10 | 46:16,22 | agree 19:18 | 24:10 26:5 | 43:7,14 44:3,5 |
| 343-17-32-34 46-10,17,17-23 46-10,17-23 46-10,17-23 46-10,17-23 46-10,17-23 4 | | 42:22,25 43:1 | 70:13,14,17,19 | actually 2:3,25 | 27:14 28:2 | 27:5,16 28:25 | 44:5,10,14 |
| 43:13,13,16,12,13 43:13,13,16,16,13 71:12 8:14 12:18 57:3 agreed 27:6 41:20 42:5,11 447,13,7 48:2,2 47:13,7 | | | 70:23 71:1,5 | 5:8 7:14,18 | 38:5 43:10 | 30:9 38:9 39:2 | 46:10,17,17,23 |
| adding 684 | | | | | | | |
| 32.34.25.25 | | | | | | | |
| 16.3.21.24.25 | | , , , | | | | | |
| 3-17-4,615,20 | | | | | | | |
| 17:2125 18:3 45:10,12,15,18 45:10,12,15,18 45:10,12,15,18 45:10,12,15,18 45:10,12,15,18 45:10,12,15,18 45:10,12,15,18 45:10,12,15,18 45:10,12,15,18 45:10,12,15,18 45:10,12,13,11,12 45:10,13,11,11,12 45:10,13,11,11,12 45:10,13,11,11,12 45:10,13,11,11,12 45:10,13,11,11,12 45:10,11,13,11,11,13 45:10,11,13,14,14 45:25,25,13,13,14,12 45:10,11,13,14,14 45:25,25,13,13,14,23 45:10,12,13,13,14,23 45:10,11,13,14,14 45:25,25,27,25,22,22,22 47:10,13,11,13,14,23 47:10,12,13,24,21 47:10,13,14,14,21 47:10,13,14,14,21 47:10,13,14,14,21 47:10,13,14,14,21 47:10,13,14,14,21 47:10,13,14,14,21 47:10,13,14,14,21 47:10,13,14,14,21 47:10,13,14,14,21 47:10,14,15,15,15 47:10,14,15,15,15 47:10,14,15,15,16,16,18 47:10,14,14,15,15,16,16,18 47:10,14,14,15,15,16,16,18 47:10,14,14,14,15,15,16,16,14 47:10,14,14, | | | | | | | |
| 38.89.13.15 88.15.17.23 45.21 46.13.15 28.88 49.10 28.89 49.10 29.20.25 20.44 47.99.13.15 46.20.23.24 47.99.13.15 47.15.17.18.19 47.15.17.18.19 47.15.17.18.19 47.15.17.18.19 47.15.17.18.19 47.15.17.18.19 47.15.17.18.19 47.15.17.18.19 47.15.17.18.19 48.16.17.17.21 41.23.15.12.21 42.25.89.10.12 22.25.89.10.12 22.25.89.10.12 22.25.89.10.12 22.25.89.10.12 22.25.89.10.12 22.25.89.10.12 22.25.89.10.12 22.25.25.99.10.17.19 47.15.15.16.18.18 48.16.79.17.21 41.23.15.21 42.22.25.25.13 42.22.25.25.20 42.22.22.22 42.22.22.22 42.22.22.22 42.22.23.34.25 50.23.33.5.5 18.19.20.21 22.23.24.27 22.24.22.23.24.22 32.23.24.25 51.10.12.15.20 51.10.12.15.20 51.10.12.15.20 51.10.12.15.20 52.21.16.13.13 42.23.61.01.7 42.23.61.01.7 42.23.61.01.7 42.23.61.01.7 42.23.61.01.7 42.23.61.01.7 42.23.61.01.7 42.23.61.01.7 42.23.61.01.7 42.23.61.01.7 42.23.61.01.7 42.23.61.01.7 42.23.61.01.7 42.23.61.01.7 42.23.61.01.7 42.23.61.01.7 42.23.61.11.20 53.10.11.14.15 53.16.16.19 53.16.19.19 53.16.19.19 53.16.19.19 53.16.19.19 53.22.12.15 53.22.23.24.25 53.17.19.22 42.23.25.55.81.3 42.24.25.55.81.3 42.24.25.55.81.3 42.24.25.55.81.3 42.24.25.55.13 42.24.25.55.81.3 42.24.25.55.81.3 42.24.25.55.81.3 42.24.25.55.81.3 42.24.25.55.81.3 42.24.25.55.81.3 42.24.25.25.33.35.5 42.24.25.2 | | | | | | | |
| A6:5,6,13,16 28:8 49:10 36:15:16 Adam 65:14,22 add 1:6 8.8 Adam 65:14,22 add 1:6 8.8 Adam 65:10 Adam 65: | | | | | | | |
| 19:13,71.11,12 | | | | | | | |
| 39:13,15,18,20 19:20,25 20:4 47:15,17,18,19 51:17 67;25 7:4 17:25 65:22 adding 68:4 alien 7:10 alighted 10:15 | | | | | | | |
| 19:20,25 20:04 207.9,10,13 47:15,17,18,19 5:17 67,25 7:4 207.9,10,13 47:19,22,24 47:19,22,24 47:19,22,24 48:16,17,17,21 48:16,17,17,21 48:16,17,17,21 49:9,10,17,19 49:9,10,17,19 49:9,10,17,19 41:13,15;21 50:23,33,3,5,5 50:33,33,5,5 50:33,33,5,5 50:33,33,5,5 50:33,33,5,5 50:33,33,5,5 50:33,33,5,5 50:33,33,5,5 50:33,33,5,5 50:33,33,5,5 50:33,33,5,5 50:33,33,5,14 40:33,34,23 40:34,67,19 40:34,67,19 40:34,27,27,22 40:34,13,16,19,22 40:34,13,16,19,22 40:34,13,16,19,22 40:34,13,14,23 40:34,13,14,23 40:34,67,19 40:34,12,15,15 40:34,12,12,12 40:34,12,15,15 40:34,12,12,12 40:34,12,15,15 40:34,12,12,13,15,19 40:34,12,12,13,15,19 40:34,12,12,13,15,19 40:34,12,12,13,15,19 40:34,12,12,13,15,19 40:34,12,12,13,15,19 40:34,12,12,13,15,19 40:34,12,12,12,12,12,12,12,12,12,12,12,12,12, | | | | | | | |
| Adding 68-4 Ass. | | | | | | | |
| 20:16,9.23 48:7,8.9,10 93.5.6.7 10:2 11:23 12:21 60:10.11 61:6 aldresses 2:17 3:9 12:25.8.9,10.12 22:58.9,10.12 23:54,10.12.13 50:9.11.13.14 21:22.25 27:1 23:13,14.23 50:9.11.13.14 21:22.25 27:1 24:13,16.19.22 24:14.6,7.12 50:19 51:5,10 29:23 30:11 24:13,16.19.22 25:22 26:2.8 52:13,17.21.21 42:25 45:2.20 52:24.25 25:7.9 52:24.12.12.1 52:24.13.15.20 52:14.16.13.13 42:36,10.17 42:16 65:17 25:24.12.12.25 27:1 44:25 45:2.20 44:25 45:2.20 44:25 45:2.20 44:25 45:2.20 44:25 45:2.20 45:25 58:10 53:14.15.20 | | , , , | | | | | |
| 21:2,6,6,7,16 21:18,22 22:1 22:5,8,9,10,12 32:5,10,12,13 23:5,10,12,13 24:1,4,6,7,12 24:14,6,7,12 25:14,15,10,22 25:2,2,0,2 25:2,2,0,2 25:2,2,0,2 25:2,2,0,2 25:2,2,0,2 25:2,2,0,2 25:2,2,0,2 25:1,1,6,13,13 26:1,1,1,1,1,1 26:2,2,3,3,5,5 26:1,1,1,1,1,1,1 26:2,3,3,1,1,1,1,1,1,1,1,1,1,1,1,1,1,1,1,1, | | | | | | | |
| 21:18,22 22:1 22:58,9,10,12 22:52,8,9,10,12 23:51,01,2,13 23:13,14,23 23:13,14,23 23:13,14,23 23:13,14,23 23:13,14,23 23:13,14,23 23:13,14,23 23:13,14,23 23:13,14,23 23:13,14,23 23:13,14,23 23:13,14,23 23:13,14,23 23:13,14,23 23:13,14,23 23:13,14,23 23:13,14,23 23:13,14,23 24:13,6,7,12 24:13,16,19,22 24:12,25 25:7,9 24:12,25 25:7,9 24:12,25 25:7,9 24:12,25 25:7,9 25:12,26,2,8 25:12,16,13,13 25:13,17,21,21 25:22,24,25 25:22,26,2,8 25:13,17,21,21 26:13,18,0,21 25:22,26,2,8 25:13,17,21,21 26:23,24,25 27:1,8,10,21 28:4,5,6,10 28:2,5,5,8,13 28:16,16,29:5 29:9,12,13,19 28:2,5,5,8,13 28:16,16,29:5 29:9,12,13,19 29:23 30:1,1,2 30:4,12,5,15 30:20,21,23,24 30:4,12,15,15 30:20,21,23,24 30:4,12,15,15 30:20,21,23,24 30:4,12,15,15 30:20,21,23,24 30:4,12,15,15 30:20,21,23,24 30:4,12,15,15 30:20,21,23,24 30:4,12,15,15 30:20,21,23,24 30:4,12,15,15 30:20,21,23,24 30:4,12,15,15 30:20,21,23,24 30:4,12,15,15 30:20,21,23,24 30:4,12,15,15 30:20,21,23,24 30:4,12,15,15 30:20,21,23,24 30:4,12,15,15 30:20,21,23,24 30:4,12,15,15 30:20,21,23,24 30:4,12,15,15 30:20,21,23,24 30:4,12,15,15 30:20,21,23,24 30:4,12,15,15 30:20,21,23,24 30:4,12,15,15 30:20,21,23,24 31:14,24 31:17,17,21,25 30:4,12,15,15 30:20,21,23,24 30:4,12,15,15 30:20,21,23,24 30:4,12,15,15 30:20,21,23,24 30:4,12,15,15 30:20,21,23,24 30:4,12,15,15 30:4,12,10,14,12 30:4,12,13,18 31:17,17,12,25 31:16,16,18 31:17,19,21 32:10,14,21,23 33:16,14,14 33:12,14,14 31:17,12,12 32:14,14,14 31:17,12,12 32:14,14,14 31:17,12,12 32:14,14,14 31:17,12,12 32:14,14,14 32:14,14,15,15,17 32:14,14,14 32:14,14,15,15,17 32:14,14,14 32:14,14,15,15,17 32:14,14,14 33:14,14,14 31:17,12,12 32:14,14,14 32:14,14,15,15,15 32:14,14,14 32:14,14,15,15,15 32:14,14,14,14 32:14,14,14 32:14,14,14,14 | | | | | | | |
| 22:3,8,9,10,12 22:14,21 23:1 23:41,4,23 23:1 23:13,14,23 24:14,6,7,12 24:12,5 25:7,9 24:12,5 25:7,9 25:14,15,20,22 25:14,15,20,22 25:13,17,21,21 28:25,5,8,13 28:16,16,29:5 26:10,13,17,19 28:25,5,8,13 28:16,16,29:5 29:23 30:1,1,2 28:16,16,29:5 29:1,1,13 28:16,16,29:5 29:1,1,13 29:23 30:1,1,2 29:23 30:1,2 20:1,24:25:2,24:29:2 20:1,24:25:2,24:22 20:1,24:25:2,24:29:2 20:1,24:25:2,24:29:2 20:1,24:25:2,24:29:2 20:1,24:25:2,24:29:2 20:1,24:25:2,24:29:2 20:1,24:25:2,24:29:2 20:1,24:25:2,24:29:2 20:1,24:25:2,24:29:2 20:1,24:25:2,24:29:2 | | , , , | | | | | |
| 22:14,21 23:1 23:5,10,12,13 23:5,10,12,13 23:5,10,12,13 25:10,12,13 25:10,12,13 26:11,14,23 26:11,15,10 26:11,15,10 26:11,15,27:0 26:12,13,16,19,22 26:12,16,13,13 26:11,15,20,22 26:22,26,28 26:10,13,17,19,21 26:23,24,25 27:11,8,10,21 28:25,5,8,13 28:16,16,29:5 27:11,8,10,21 28:25,5,8,13 28:16,16,29:5 27:11,8,10,21 28:25,5,8,13 28:16,16,29:5 27:11,8,10,21 28:25,5,8,13 28:16,16,29:5 27:11,20,20 28:25,5,8,13 28:16,16,29:5 27:11,20,15 28:25,5,8,13 28:16,16,29:5 27:11,20,15 28:25,5,8,13 28:16,16,29:5 27:11,20,15 28:25,5,8,13 28:16,16,29:5 28:25,5,8,13 28:16,16,29:5 28:25,5,8,13 28:16,16,29:5 28:25,5,8,13 28:16,16,10,19 28:25,5,8,13 28:16,16,10,19 28:25,5,8,13 28:16,16,10,19 28:25,5,8,13 28:16,16,10,19 28:25,5,8,13 28:16,16,10,19 28:25,5,8,13 28:16,16,10,19 28:23,23,24 28:25,28,19 28:25,5,8,13 28:16,16,10,19 28:23,23,24 28:22,22 28:22 26:28 28:22 26:28 28:22 26:28 28:22 26:28 28:22 26:28 28:22 26:28 28:22 26:28 28:22 26:28 28:22 26:28 28:22 26:28 28:22 26:28 28:22 26:28 28:23 28:31:2 28:11,14,20 28:11,14,20 28:11,15,20 29:23 30:11 29:22 23 20:11 29:22 28:21 20:11,15,27:0 20:11,15,27:0 20:11,15,27:0 20:11,15,27:0 20:11,15,27:0 20:11,15,27:0 20:11,15,27:0 20:11,15,27:0 20:11,15,27:0 20:11,15,27:0 20:11,15,27:0 20:12,14,24,27:7 20:12,14,24,67 20:12,14,24,67 20:12,14,24,67 20:12,14,24,67 20:12,14,24,67 20:12,14,24,67 20:12,14,24,67 20:12,14,14 20:12,23 29:21 20:12,14,24,67 20:12,14,14 20:12,23 29:21 20:12,14,24,67 20:12,14,14 20:12,23 29:21 20:12,14,24,67 20:12,14,24,67 20:12,14,24,67 20:12,14,24,67 20:12,14,24,67 20:12,14,24,67 20:12,14,24,67 20:12,14,24,67 20:12,14,24,67 20:12,14,14 | | | | | | | |
| 23:5,10,12,13 | | | | | | | |
| 23:13,14,23 24:14,6,7,12 24:13,16,19,22 24:15,20,22 25:7,9 25:14,15,20,22 25:22,13,17,21,21 25:22,12,15 25:21,12,12 25:22,26;2,8 26:10,13,17,19 26:23,24,25 25:10,11,14,15 26:23,24,25 25:10,11,14,15 26:23,34,25 25:10,11,14,15 26:12,3,19 26:23,34,25 25:12,15,11,13 28:16,16 29:5 25:12,15,11 29:23 30:1,12 30:4,12,15,15,17 20:22,13,19 20:23 30:1,12 30:4,12,15,15,17 20:22,13,19,11,13 20:23 30:25 31:3,6,8 31:9,10,11,13 30:20,21,23,24 56:23,33,3,5,5 56:23,33,3,5,5 56:23,33,3,5,5 56:23,33,3,5,5 25:12 26:16,17 32:10,14,21,23 32:4,5,6,8,10 32:10,14,21,23 32:4,5,6,8,10 32:10,14,21,23 32:4,5,6,8,10 32:10,14,21,23 32:4,5,6,8,10 32:10,14,21,23 32:4,5,6,8,10 32:10,14,21,23 33:25,34:2,2,3 33:15,16,16,18 58:12,13,15,19 33:25,34:2,2,3 33:10,12,24 33:25,34:2,2,3 33:10,12,24 33:10,14,21,23 33:10,14,21,23 33:10,14,21,23 33:10,14,21,23 33:10,14,21,23 33:10,14,21,23 33:10,14,21,23 33:10,14,21,23 33:10,14,21,23 33:10,14,21,23 33:10,14,21,23 33:10,14,24 33:10,14,21,23 33:10,14,24 33: | · · · · · · · · · · · · · · · · · · · | | | | | | |
| 24:13,16,19,22 24:25 25:7,9 25:24,26 26:2,8 26:10,13,17,19 26:23,24,25 27:18,10,21 28:25,5,8,13 28:25,5,8,13 29:23 30:11,12 29:23 30:14,15,20,22 29:33 0:1,1,2 29:23 30:14 29:23 30:14 20:16 65:18 29:23 30:14 20:16 65:17 20:18,10,21 20:23 30:14 20:24:16 65:17 20:24:16 65:17 20:24:16 65:17 20:24:16 65:17 20:24:16 65:18 20:21,12,12:1 20:22,12,12:15 20:22,12,12:15 20:22,12,12:15 20:22,12,12:15 20:22,12,12:15 20:22,12,12:15 20:22,12,12:15 20:22,12,12:15 20:22,12,12:15 20:22,12,12:15 20:22,12,12:15 20:22,12,12:15 20:22,12,12:15 20:22,12,12:15 20:22,13:19 20:23 30:14,12 20:23 30:14,12 20:23 30:14,12 20:23 30:14,12 20:23 30:14,12 20:23 30:14,12 20:23 30:14,12 20:23 30:14,12 20:24 30:25 31:3,6,8 30:20,21,23,24 30:20,21,23,24 3 | | | | | | | |
| 24:13,16,19,22 24:25 25:7.9 51:20,22,22 52:14,16,20,22 25:21,16,13,13 42:3,6,10,17 25:21,1,21,21 25:22,6:2,8 26:10,13,17,19 26:23,24,25 53:10,11,14,15 53:10,11,14,15 28:25,5,8,13 28:16,16 29:5 54:4,3,4,4,6 29:9,12,13,19 29:23 30:1,1,2 30:4,12,15,15 30:20,21,23,24 55:17,19,22 17:16 20:2 217:16 20:2 17:17,17,21,25 56:23,33,5,5 56:6,7,9,11,13 31:17,17,21,25 56:23,33,5,5 56:23,33,5,5 31:9,10,11,13 31:17,17,21,25 56:23,33,5,5 56:47 abmitting 66:18 advertisement 47:14 48:15 58:16,22,24 9:15,16 10:6 66:17, 06:17,18,20 66:17 adwertisement 47:14 48:15 8:16,22,24 9:15,16 10:6 68:13,21,24 67:67,24,24 47:14 48:15 8:16,22,24 9:15,16 10:6 68:13,21,24 7:14,110,17,18,22 65:16,6:17 above 1:22 65:16,6:14 11:10,17,18,22 7:18,10,11 11:0,17,18,22 11:10,17,18,22 11:10,17,18,22 11:10,17,18,22 11:10,17,18,22 11:10,17,18,22 11:10,17,18,22 11:10,17,18,22 11:10,17,18,22 11:10,17,18,22 11:10 | | | | • | | | |
| 24:25 25:7.9 25:14,15,20,22 25:24,25 25:24,26 25:23,17,21,21 26:23,24,25 27:18,10,21 28:25,5,8,13 28:16,16 29:5 29:9,12,13,19 29:23 30:1,1,2 30:20,21,23,24 25:20,24 55:14 30:20,21,23,24 25:11,17,17,21,25 30:20,21,23,24 30:25 31:3,6,8 30:31,1,17,17,21,25 30:20,21,23,24 30:25 31:3,6,8 30:9 34:4,24 30:25 31:3,6,8 30:9 34:4,24 30:25 31:3,6,8 30:9 34:4,25 30:1,1,17,17,21,25 30:20,11,23 30:1,1,17,17,21,25 30:20,12,3,19 30:1,1,14,15 30:20,21,23,24 30:25 31:3,6,8 30:9 31:9 34:7 30:1,17,17,21,25 30:20,11,23 31:17,17,21,25 31:17,17,21,25 32:4,5,6,8,10 32:4,5,6,8,10 32:8 33:23 33:23 33:3,12 4:23 5:1,2,6,12 66:17,0,14 66:17,0,24 47:14 48:15 8:16,22,24 9:7 67:25 68:1,7 67:14,42 67:24,44 43:5 44:24 47:14 48:15 8:16,22,24 9:7 67:25 68:1,1 66:11 11:10,17,18,22 11:24 11:24 11:24 48:15 11:10,17,18,22 11:10,11,18,20 11:10,17,18,22 11:10,11,18,20 11:10,17,18,22 11:10,11,18,20 11:10,11,18,20 11:10 | | | | | | | |
| 25:14,15,20,22 25:22,26:2,8 26:10,13,17,19 26:23,24,25 27:1,8,10,21 28:2,5,5,8,13 28:16,16 29:5 29:9,12,13,19 29:23 30:1,1,2 30:4,12,15,15 30:20,21,23,24 30:20,21,23,24 30:20,21,23,24 30:20,21,23,24 30:20,21,23,24 30:20,21,23,24 30:20,21,23,24 30:20,21,23,24 30:20,21,23,24 30:20,21,23,24 30:20,21,23,24 30:20,21,23,24 30:20,21,23,24 30:20,21,23,24 30:20,21,23,24 30:20,21,23,24 30:20,21,23,24 30:20,21,23,24 30:20,21,23,24 30:20,21,33,5,5 56:16,18,19,21 31:17,17,21,25 32:10,14,21,23 33:25,34:2,6,8,10 32:10,14,21,23 33:25,34:2,2,3 33:4,6,6,7,14,14 58:12,13,15,19 32:10,14,21,23 33:25,34:2,2,3 33:4,4,6,7,79 34:10,11,12,15 33:15,16,16,18 33:25,34:2,2,3 34:4,4,6,7,79 34:10,11,12,15 33:15,16,16,18 33:25,34:2,2,3 34:4,4,6,7,79 34:10,11,12,15 35:10,10,12,13 60:19,22,23 35:3,4,8,9,10 35:10,10,12,13 60:19,22,23 35:3,4,8,9,10 35:10,10,12,13 60:19,22,23 35:3,4,8,9,10 35:10,10,12,13 60:19,22,23 60:19,22,23 60:16,18 30:10 42:3,6,10,17 44:25,45;2,20 47:23 47:23 47:23 47:24 47:23 47:23 47:24 47:24 47:24 47:24 47:24 47:24 47:24 47:24 47:24 47:24 47:24 47:24 47:24 47:24 47:24 47:23 66:17 66:17 66:17 66:17 66:17 66:17 66:17 66:17 66:17 66:17 66:17 66:17 66:17 66:17 66:17 66:17 66:17 66:17 66:19 66:17 66:17 66:17 66:17 66:19 66:19 66:19 66:19 66:19 66:19 66:19 66:19 66:19 66:19 66:19 67:25,8,1,15 60:16,18 60:16,18 60:19,19,20,24 60:16,11,17 60:19,19,20,24 60:16,11,17 60:19,19,20,24 60:16,11,17 60:19,19,20,24 60:16,11,17 60:19,19,20,24 60:16,11,17 60:19,19,20,24 60:16,11,17 61:18 61:18 61:18 61:19 61:19 61:19,19,20,24 61:19,19,20,24 61:19,19,20,24 61:19,19,20,24 61:19,19,20,24 61:19,19,20,24 61:19,19,20,24 61:19,19,20,24 61:19,19,20,24 61:10,11,11,15 61:18 61:18 61:18 61:18 61:18 61:18 61:19 6 | | | | | | | |
| 25:22 26:2,8 26:10,13,17,19 52:22,12,125 52:12,17,25 52:12,17,25 52:12,17,25 52:12,17,25 52:12,17,25 52:13,17,21,21 52:22,24,25 52:13,17,21,21 52:22,24,25 52:13,17,21,21 52:23,24 52:24,25,26,8,10 52:13,17,21,21 52:24,24,25 52:13,17,21,22 52:13,18,10,21 52:10,11,14,15 54:20,24 55:14 52:23 absolute 65:4 66:17 absolutely 1:12 22:8,19 9:13 11:17,17,21,25 52:10,14,21 23:10,14,21,23 32:10,14,21,23 32:10,14,21,23 33:25,34,2,2,3 33:25,34,2,2,3 34:4,4,6,7,7,9 52:22,32,32 34:4,4,6,7,7,9 52:22,32,32 33:10,11,2,15 59:8,12,13,18 33:25,34;2,2,2 33:34,4,9,10 35:10,10,12,13 60:19,22,23 accept 30:5 31:00,10,12,13 | | | | | | | |
| 26:10,13,17,19 26:23,24,25 27:18,10,21 28:25,5,8,13 28:25,5,8,13 29:9,12,13,19 29:23 30:1,1,2 30:4,12,15,15 30:20,21,23,24 30:25 31:3,6,8 31:9,10,11,13 30:4,12,15,15 31:17,17,21,25 32:4,5,6,8,10 32:10,14,21,23 33:6,6,7,14,14 33:15,16,16,18 33:25 34:2,2,3 34:4,4,6,7,79 34:10,11,12,15 33:25 34:2,2,3 34:4,4,6,7,79 34:10,11,12,15 33:25 34:2,2,3 34:4,4,6,7,79 34:10,11,12,15 33:25 34:2,2,3 34:4,4,6,7,79 34:10,11,12,15 35:10,10,12,13 25:21,21,25 55:310 57:20 59:14 47:23 57:20 59:14 47:23 55:21 54:4,12 55:15 64:7 55:15 66:14 55:16 66:14 11:10,17,18,22 69:20,70:1,1,3 69:20,70:1,1,3 69:20,70:1,1,3 69:20,70:1,1,3 69:20,70:1,1,3 69:14,70:4 48:22 48:22 48:22 48:22 48:21 48:21 47:24 3evertisement 47:14 48:15 50:21 54:4,12 55:16 66:14 11:10,17,18,22 69:20,70:1,1,3 70:14,22 Andy 60:16 61:8 allow 4:8 30:10 14:10,12,13,22 allow 4:8 30:10 14:10,12,13,22 16:16,18 13:17,17,21,25 16:16,18 13:17,17,21,25 16:16,18 13:15,16,16,18 13:25 34:2,2,3 34:4,4,6,7,79 34:10,11,12,15 34:17,18,22,22 35:3,4,8,9,10 35:10,10,12,13 65:20,2,2,3,2,3 60:49,10,13 60:19,22,23 67:25 68:1,7 66:15,16,18 47:23 50:21 54:4,12 9:15,16 10:6 68:13,2,12,4 66:16,614 11:10,17,18,22 69:20,70:1,1,3 70:14,22 Andy 60:16 61:8 allow 4:8 30:10 14:10,12,13,22 Andy 60:16 61:8 allow 4:8 30:10 14:10,12,13,22 16:16,18 13:16,16,18 13:17,17,21,25 16:16,18 13:17,17,21,25 16:16,18 13:17,17,21,25 16:16,18 13:17,18,22,22 13:10,14,12,15 13:16,16,18 13:17,16,10,12,13 13:17,17,18,22 14:10,11,12,15 14:10,17,18,22 15:10,14,18,20 69:4,5,8,9,18 69:4,5,8,9,18 69:4,5,8,9,18 69:14,52,4 66:17 11:10,17,18,22 11:23,25 12:2 11:24,48 11:10,17,18,22 11:10,14,15 11:10,17,18,22 11:10,14,15 11:10,17,18,22 11:10,14,15 11:10,17,18,22 11:12,22,24 39:8 110,14,14 | | | | | | | |
| 26:23,24,25 53:4,4,66,9,9 57:20 59:14 47:23 50:21 54:4,12 9:15,16 10:6 68:13,21,24 27:1,8,10,21 28:2,5,5,8,13 53:10,11,14,15 53:16,19,19 3above 2:23 48:22 65:1 66:14 11:10,17,18,22 69:20 70:1,1,3 29:9,12,13,19 54:1,3,3,4,4,6 66:17 54:6,7,11,13 66:17 55:13 69:14 70:4 11:23,25 12:2 Andy 60:16 61:8 30:4,12,15,15 54:20,24 55:17 55:17,19,22 17:16 20:2 19:22,23 20:11 18leged 59:16,21 13:18,24 14:8 andleged 59:16,21 andlow 4:8 30:10 41:0,12,13,22 Andy 60:16 61:8 anonymous 31:9,10,11,13 56:67,9,11,13 56:16,18,19,21 70:10 53:16 59:16,22 allows 16:20 16:8,14,16,18 anonymous 60:18 anonymous 60:18 anonymous 60:18 19:22,23 20:1 18:24 31:1 41:19 42:9 41:19 42:9 60:18 19:22,23 20:1 19:22,23 20:1 19:22,23 20:1 19:22,23 20:1 10:18,14 10:18,18 10:18,18 10:18,18 10:18,18 10:18,18 10:18,18 10:18,18 10:18,18 | | | | | | | |
| 27:1,8,10,21 28:2,5,5,8,13 28:16,16 29:5 29:9,12,13,19 29:23 30:1,1,2 30:4,12,15,15 30:20,21,23,24 30:25 31:3,6,8 31:9,10,11,13 31:17,17,21,25 32:4,5,6,8,10 32:10,14,21,23 33:6,6,7,14,14 33:15,16,16,18 33:25 34:2,2,3 33:6,6,7,14,14 33:15,16,16,18 33:25 34:2,2,3 33:25 34:2,2,3 33:25 34:2,2,3 33:25 34:2,2,3 33:4,4,6,7,7,9 34:10,11,12,15 34:17,18,22,22 35:3,4,8,9,10 35:10,10,12,13 53:10,11,1,14,15 63:4 67:3 above 2:23 advertisements 48:22 65:15 64:7 65:1 66:14 11:10,17,18,22 69:20,70:1,1,3 70:14,22 advertising 68:4,16 69:12 69:4,7,8,9,18 69:20,70:1,1,3 70:14,22 69:4,7,8,9,18 69:20,70:1,1,3 70:14,22 Andy 60:16 61:8 69:4,7,9,18 69:4,7,8,9,18 69:20,70:1,1,3 70:14,22 Andy 60:16 61:8 69:14,70:4 11:10,17,18,22 11:23,25 12:2 Andy 60:16 61:8 69:14,70:4 11:10,17,18,22 11:23,51 12:25,8,12,15 13:18,24 14:8 angle 39:18 60:6 anonymous 60:18 another 4:11 7:2 24:14 17:3,10,14,15 18:24 31:14 41:19 42:9 69:20,70:1,1,3 70:14,22 Andy 60:16 61:8 andlor 38:18 andlor 38:18 angle 39:18 60:6 60:16 18:1,17 24:11 25:11 26:5 61:18 after 4:15 27:20 43:13 43:13 21:9 22:8,10 36:3 49:3:8 aso 28:23 29:2 38:25,45,8,11 37:18 48:14 24:22,25 25:4 38:48:22 69:4,7,8,9,18 69:4,7,8,9,18 69:4,7,8,9,18 69:4,7,8,9,18 69:4,7,8,9,18 69:4,7,8,9,18 69:4,7,8,9,18 69:4,7,8,9,18 69:4,7,8,9,18 69:4,7,8,9,18 69:4,76,9 11:10,17,18,22 11:23,25 12:2 Andvertising 68:4,16 69:12 11:23,25 12:2 Andvertising 69:4,76,9,18 69:4,76,9,18 69:4,76,9,18 69:4,76,9 11:10,17,18,22 11:23,25 11:23,25 12:2 22 23 20:11 13:18,24 14:8 14:10,12,13,20 14:10,12, | | | | | | | · · |
| 28:2,5,5,8,13 28:16,16 29:5 29:9,12,13,19 29:23 30:1,1,2 30:4,12,15,15 30:20,21,23,24 30:25 31:3,6,8 31:9,10,11,13 31:17,17,21,25 32:4,5,6,8,10 32:10,14,21,23 33:6,6,7,14,14 33:15,16,16,18 33:25 34:2,2,3 33:6,6,7,14,14 33:15,16,16,18 33:25 34:2,2,3 33:4,4,6,6,7,7,9 34:10,11,12,15 34:17,18,22,22 35:3,4,8,9,10 35:10,10,12,13 4bove 2:23 absolute 65:4 66:17 absolutely 1:12 2 advertising 55:13 aeroplane 69:19 affair 10:19 12:6 19:22,23 20:11 21:10,17,18,22 68:4,16 69:12 68:4,16 69:12 69:14 70:4 12:5,8,12,15 13:18,24 14:8 and/or 38:18 and/or 38:18 and/or 38:18 allows 16:20 al | | | | | , | , | |
| 28:16,16 29:5 29:9,12,13,19 29:23 30:1,1,2 30:4,12,15,15 30:20,21,23,24 30:20,21,23,24 30:25 31:3,6,8 31:9,10,11,13 31:17,17,21,25 32:4,5,6,8,10 32:10,14,21,23 33:6,6,7,14,14 33:15,16,16,18 33:15,16,16,18 33:15,16,16,18 33:15,16,16,18 33:25 34:2,23 34:4,4,6,7,7,9 34:10,11,12,15 34:17,18,22,22 35:3,4,8,9,10 35:10,10,12,13 28abolute 65:4 66:17 66:17 absolutely 1:12 28abolutely 1:12 21:22,24 39:8 36:4,16 69:12 69:14 70:4 11:23,25 12:2 11:23,25 12:2 12:5,8,12,15 12:15 13:7,8 13:18,24 14:8 13 | 27:1,8,10,21 | , , , | | | | , , | |
| 29:9,12,13,19 29:23 30:1,1,2 30:4,12,15,15 30:20,21,23,24 30:25 31:3,6,8 31:9,10,11,13 56:66,7,9,11,13 56:66,7,9,11,13 56:66,7,9,11,13 56:66,7,9,11,13 56:66,7,9,11,13 56:66,7,9,11,13 56:66,7,9,11,13 56:66,7,9,11,13 56:66,7,9,11,13 56:66,7,9,11,13 56:66,7,9,11,13 56:66,7,9,11,13 56:16,18,19,21 56:23 57:24,9 32:4,5,6,8,10 32:10,14,21,23 33:66,7,14,14 33:15,16,16,18 33:25 34:2,2,3 33:4,4,6,7,7,9 34:10,11,12,15 34:17,18,22,22 35:3,4,8,9,10 35:10,10,12,13 55:13 66:17 absolutely 1:12 2:8,19 9:13 17:16 20:2 2:8,19 9:13 17:16 20:2 19:22,23 20:11 21:22,24 39:8 39:15 48:11 21:22,24 39:8 39:15 48:11 31:0xin 4:8 30:10 19:22,23 20:11 21:22,24 39:8 39:15 48:11 31:0xin 4:8 30:10 19:22,23 20:11 21:22,24 39:8 39:15 48:11 31:0xin 4:8 30:10 19:22,23 20:11 21:22,24 39:8 39:15 48:11 21:15 13:7,8 and/or 38:18 angle 39:18 60:6 19:12,22,24 39:8 allow 4:8 30:10 14:10,12,13,22 25:11 26:5 61:18 another 4:11 7:2 18:24 31:14 41:19 42:9 61:7 65:12,16 18:5,10 19:9 18:24 31:14 41:19 42:9 61:7 65:12,16 18:5,10 19:9 18:24 31:14 41:19 42:9 61:7 65:12,16 18:5,10 19:9 18:24 31:14 41:19 42:9 61:7 65:12,16 65:12,16 18:24 31:14 41:19 42:9 61:7 65:12,16 18:24 31:14 41:19 42:9 61:7 65:12,16 18:24 31:14 41:19 42:9 61:7 65:12,16 18:24 31:14 41:19 42:9 61:7 65:12,16 18:24 31:14 41:19 42:9 61:7 65:12,16 65:12,16 18:8 18:24 31:14 41:19 42:9 61:7 65:12,16 65:12,16 65: | 28:2,5,5,8,13 | | | | | | |
| 29:9,12,13,19 29:23 30:1,1,2 30:4,12,15,15 30:20,21,23,24 30:25 31:3,6,8 31:9,10,11,13 31:17,17,21,25 32:4,5,6,8,10 32:10,14,21,23 33:6,6,7,14,14 33:15,16,16,18 33:25 34:2,2,3 34:4,4,6,7,7,9 34:10,11,12,15 34:17,18,22,22 35:3,4,8,9,10 35:10,10,12,13 25:14,15,15,17 54:20,24 55:14 2:8,19 9:13 17:16 20:2 25:12 26:16,17 25:22,24 99:8 39:15 48:11 21:25 13:7,8 alleged 59:16,21 allow 4:8 30:10 11:10 12:6 19:22,23 20:11 21:22,24 39:8 31:9,10,11,13 39:15 48:11 39:15 48:11 39:15 48:11 21:15 13:7,8 and/or 38:18 angle 39:18 60:6 anonymous 60:18 another 4:11 7:2 28:11 26:5 60:16 16:1,17 61:18 afford 6:19 afraid 17:16 allow 55:12,16 allows 16:20 24:14 17:3,10,14,15 65:12,16 18:5,10 19:9 answer 13:2 26:24 35:11 36:3 40:9 43:8 answer 13:2 26:24 35:11 36:3 40:9 43:8 answered 49:23 answered 49:23 31:19,10,11,2,15 36:3 40:9 43:8 answered 49:23 31:19,10,11,2,15 36:17,18,22,22 35:3,4,8,9,10 35:10,10,12,13 | 28:16,16 29:5 | | | | , | | |
| 30:4,12,15,15 54:20,24 55:14 2:8,19 9:13 affair 10:19 12:6 alleged 59:16,21 13:18,24 14:8 angle 39:18 60:6 30:20,21,23,24 55:17,19,22 56:2,3,3,3,5,5 25:12 26:16,17 21:22,24 39:8 allow 4:8 30:10 14:10,12,13,22 anonymous 31:9,10,11,13 56:67,9,11,13 56:16,18,19,21 70:10 53:16 59:16,22 allowed 6:4 17:9 16:8,14,16,18 another 4:11 7:2 32:4,5,6,8,10 57:10,17,19,22 57:10,17,19,22 57:10,17,19,22 25:11 26:5 60:16 8:1,17 24:14 17:3,10,14,15 18:24 31:14 41:19 42:9 33:15,16,16,18 58:2,4,5,8,11 30:6,7 afford 6:19 afford 6:19 65:12,16 18:5,10 19:9 61:7 62:15 answer 13:2 34:10,11,12,15 59:2,2,3,5,7,7 59:2,2,3,5,7,7 34:10,11,12,15 35:24 36:6 69:15 31:19 54:21 31:19 54:21 31:19 54:21 36:3 40:9 43:8 34:17,18,22,22 35:3,4,8,9,10 60:19,22,23 60:4,9,10,13 60:4,9,10,13 60:19,22,23 60:4,9,10,13 60:19,22,23 60:4,9,10,13 60:19,22,23 40:19,10,13 37:18 4 | 29:9,12,13,19 | | | | | | |
| 30:4,12,13,13 50:20,21,23,24 55:17,19,22 17:16 20:2 19:22,23 20:11 allow 4:8 30:10 14:10,12,13,22 anonymous 30:20,21,23,24 56:2,3,3,3,5,5 56:23,3,3,5,5 25:12 26:16,17 21:22,24 39:8 allow 4:8 30:10 14:10,12,13,22 anonymous 31:9,10,11,13 56:66,7,9,11,13 56:16,18,19,21 56:16,18,19,21 70:10 53:16 59:16,22 allows 16:20 16:8,14,16,18 another 4:11 7:2 32:10,14,21,23 56:10,17,19,22 57:10,17,19,22 55:11 26:5 61:18 almost 55:8 17:16,18,19,25 61:7 62:15 33:15,16,16,18 58:12,13,15,19 58:12,13,15,19 58:19,21,22,24 58:19,21,22,24 59:22,35,7,7 59:8,12,13,18 36:30:25:10 43:13 21:9 22:8,10 20:6,9,23 21:3 26:24 35:11 34:17,18,22,22 59:22,23,23 59:22,23,23 53:24 68:6 69:15 already 42:6 22:19,21 23:4 answered 49:23 35:10,10,12,13 60:19,22,23 60:4,9,10,13 60:19,22,23 65:8 57:7 58:1 25:4,5,14,24 59:15 | | | - | | | | |
| 30:20,21,23,24 30:25 31:3,6,8 31:9,10,11,13 31:17,17,21,25 32:4,5,6,8,10 32:10,14,21,23 33:6,6,7,14,14 33:15,16,16,18 33:15,16,16,18 33:25 34:2,2,3 34:4,4,6,7,7,9 34:10,11,12,15 34:17,18,22,22 35:3,4,8,9,10 30:26,23,3,3,5,5 56:23,3,3,3,5,5 56:6,7,9,11,13 63:11 67:8 70:10 53:16 59:16,22 60:1 61:1,17 61:18 4ford 6:19 4showed 6:4 17:9 4llowed 6:4 17:9 4llows 16:20 56:12,16 4llows 16:20 24:14 4l:19 42:9 61:7 62:15 4lmost 55:8 65:12,16 4lmost 55:8 65:12,16 4lmost 55:8 17:16,18,19,25 61:7 62:15 4lmost 55:8 65:12,16 4long 25:10 43:13 41:10,11,12,15 34:17,18,22,22 35:3,4,8,9,10 35:10,10,12,13 40:18 40:19 42:9 61:7 62:15 43:10 25:12,13 43:13 41:19 42:9 61:7 62:15 43:13 41:19 42:9 61:7 62:15 43:13 41:10,11,12,15 59:8,12,13,18 59:22,23,23 60:4,9,10,13 60:19,22,23 40:4,4,6,7,7,9 34:10,11,2,15 35:34 40:4,4,6,7,7,9 34:10,11,2,15 36:3 40:9 43:8 47:10 53:8 47:10 53 | | , | * | | | | |
| 30:23 31:3,0,3 31:9,10,11,13 56:6,7,9,11,13 63:11 67:8 39:15 48:11 allowing 45:2 16:8,14,16,18 another 4:11 7:2 31:9,10,11,13 56:6,7,9,11,13 56:6,7,9,11,13 56:6,7,9,11,13 56:6,7,9,11,13 63:11 67:8 39:15 48:11 39:15 48:11 16:8,14,16,18 another 4:11 7:2 32:10,14,21,23 56:23 57:2,4,9 57:10,17,19,22 25:11 26:5 61:18 allows 55:8 17:16,18,19,25 61:7 62:15 33:15,16,16,18 58:12,13,15,19 30:6,7 apseed 8:11 afraid 17:16 along 25:10 20:6,9,23 21:3 26:24 35:11 34:4,4,6,7,7,9 59:2,2,3,5,7,7 59:8,12,13,18 59:2,2,3,5,7,7 30:59 31:19 54:21 31:19 54:21 31:19 54:21 31:19 54:21 31:19 54:21 31:19 54:21 31:19 54:21 31:19 53:8 23:15,15,18,24 31:16 31:16 37:18 48:14 24:22,25 25:4 31:16 31:16 37:18 48:14 24:22,25 25:4 31:16 31:16 37:18 48:14 24:22,25 25:4 31:16 31:16 37:18 48:14 25:4,5,14,24 37:18 37:18 37:18 37:18 37:18 37:18 37:18 37:18 37:18 37:18 | 30:20,21,23,24 | , , | | | | | |
| 31:7,17,17,12,25 56:16,18,19,21 70:10 53:16 59:16,22 allows 16:20 16:19,19,20,24 18:24 31:14 32:4,5,6,8,10 32:10,14,21,23 57:10,17,19,22 25:11 26:5 60:1 61:1,17 61:18 almost 55:8 17:16,18,19,25 61:7 62:15 33:6,6,7,14,14 58:12,13,15,19 58:12,13,15,19 abused 8:11 23:10 25:12,13 afford 6:19 65:12,16 18:5,10 19:9 answer 13:2 33:25 34:2,2,3 58:19,21,22,24 59:2,2,3,5,7,7 accept 30:5 31:19 54:21 47:10 53:8 22:19,21 23:4 answered 49:23 34:10,11,12,15 59:22,23,23 59:22,23,23 60:4,9,10,13 60:4,9,10,13 60:4,9,10,13 60:4,9,10,13 60:19,22,23 60:4,9,10,13 60:19,22,23 60:19,22,23 25:24 58:1 57:7 58:1 25:4,5,14,24 59:15 | 30:25 31:3,6,8 | | | | | | |
| 31:17,17,21,25 56:16,18,19,21 70:10 53:16 59:16,22 allows 16:20 16:19,19,20,24 18:24 31:14 32:4,5,6,8,10 32:10,14,21,23 57:10,17,19,22 57:10,17,19,22 25:11 26:5 30:6,7 41:19 42:9 61:7 62:15 33:6,6,7,14,14 58:12,13,15,19 58:12,13,15,19 58:12,13,15,19 58:19,21,22,24 58:19,21,22,24 58:19,21,22,24 23:10 25:12,13 after 4:15 27:20 43:13 21:9 22:8,10 26:24 35:11 34:10,11,12,15 59:8,12,13,18 59:22,23,23 59:22,23,23 59:22,23,23 68:6 69:15 47:10 53:8 23:15,15,18,24 answered 49:23 35:3,4,8,9,10 59:22,23,23 60:4,9,10,13 60:19,22,23 65:8 37:18 48:14 24:22,25 25:4 59:15 35:10,10,12,13 59:22,23 50:19,22,23 50:19,22,23 23:10 25:12,13 | 31:9,10,11,13 | | | | | , , , | |
| 32:4,5,6,8,10 32:10,14,21,23 33:6,6,7,14,14 33:15,16,16,18 33:25 34:2,2,3 34:4,4,6,7,7,9 34:10,11,12,15 34:17,18,22,22 35:3,4,8,9,10 35:10,10,12,13 32:4,5,6,8,10 56:23 57:2,4,9 57:10,17,19,22 57:10,17,19,22 58:2,4,5,8,11 58:12,13,15,19 58:12,13,15,19 58:12,13,15,19 59:2,2,3,5,7,7 59:8,12,13,18 59:2,2,3,23 60:19,22,23 60:4,9,10,13 60:19,22,23 56:23 57:2,4,9 61:18 afford 6:19 afraid 17:16 after 4:15 27:20 31:19 54:21 57:10 61:8,23 68:6 69:15 afternoon 64:11 65:8 60:1 61:1,17 61:18 almost 55:8 65:12,16 almos | 31:17,17,21,25 | , , , | | | | | |
| 32:10,14,21,23 57:10,17,19,22 58:2,4,5,8,11 58:2,4,5,8,11 61:18 afford 6:19 65:12,16 18:5,10 19:9 answer 13:2 33:15,16,16,18 58:12,13,15,19 58:19,21,22,24 23:10 25:12,13 after 4:15 27:20 43:13 21:9 22:8,10 26:24 35:11 34:4,4,6,7,7,9 59:8,12,13,18 59:22,23,57,7 59:8,12,13,18 59:22,23,23 57:10 61:8,23 47:10 53:8 23:15,15,18,24 answered 49:23 35:3,4,8,9,10 59:22,23 60:4,9,10,13 60:19,22,23 60:4,9,10,13 60:19,22,23 65:12 57:10 61:8,23 47:10 53:8 23:15,15,18,24 23:15,15,18,24 23:15 15 13:16 35:10,10,12,13 60:19,22,23 60:19,22,23 65:8 57:7 58:1 25:4,5,14,24 59:15 | | | | | | , , , | |
| 33:6,6,7,14,14 33:15,16,16,18 33:25 34:2,2,3 34:4,4,6,7,7,9 34:10,11,12,15 34:17,18,22,22 35:3,4,8,9,10 35:10,10,12,13 30:6,7 abused 8:11 23:16,5,16,16,18 alford 6:19 afraid 17:16 along 25:10 43:13 21:9 22:8,10 22:19,21 23:4 47:10 53:8 already 42:6 47:10 53:8 also 28:23 29:2 35:3,4,8,9,10 35:10,10,12,13 30:6,7 abused 8:11 23:10 25:12,13 accept 30:5 acceptable 53:21 57:10 61:8,23 68:6 69:15 afternoon 64:11 65:8 30:6,7 afford 6:19 afraid 17:16 along 25:10 43:13 21:9 22:8,10 22:19,21 23:4 47:10 53:8 also 28:23 29:2 37:18 48:14 24:22,25 25:4 37:18 48:14 57:7 58:1 36:3 40:9 43:8 answered 49:23 answers 13:15 13:16 anti-terrorist 59:15 | | , , , | | | | | |
| 33:15,16,16,18 33:25 34:2,2,3 34:4,4,6,7,9 34:10,11,12,15 34:17,18,22,22 35:3,4,8,9,10 35:10,10,12,13 38:12,13,15,19 58:12,13,15,19 58:19,21,22,24 59:2,2,3,5,7,7 59:8,12,13,18 59:2,2,3,23 60:4,9,10,13 60:19,22,23 58:12,13,15,19 23:10 25:12,13 accept 30:5 accept 30:5 acceptable 53:21 57:10 61:8,23 68:6 69:15 afternoon 64:11 65:8 afraid 17:16 afraid 17: | | | , | | , | | |
| 33:25 34:2,2,3 34:4,4,6,7,9 59:2,2,3,5,7,7 59:8,12,13,18 34:17,18,22,22 35:3,4,8,9,10 35:10,10,12,13 58:19,21,2,23 58:19,21,2,24 59:2,2,3,5,7,7 59:8,12,13,18 59:22,23,23 60:4,9,10,13 60:19,22,23 60: | | | | | | , , | |
| 34:4,4,6,7,7,9 34:10,11,12,15 59:2,2,3,5,7,7 59:8,12,13,18 31:19 54:21 57:10 61:8,23 47:10 53:8 23:15,15,18,24 23:15,15,18,24 23:15,15,18,24 23:25 24:11,21 23:25 24:11,21 31:16 31:16 31:19 54:21 31 | | , , , | | | | | |
| 34:10,11,12,15 34:17,18,22,22 35:3,4,8,9,10 35:10,10,12,13 | | | - | | • | , | |
| 34:17,18,22,22 35:3,4,8,9,10 35:10,10,12,13 | | | | | | | |
| 35:3,4,8,9,10 35:10,10,12,13 60:4,9,10,13 60:19,22,23 access 54:5 accommodate afternoon 64:11 65:8 37:18 48:14 57:7 58:1 24:22,25 25:4 anti-terrorist 59:15 | | | | | | | |
| 35:10,10,12,13 60:19,22,23 accommodate 65:8 57:7 58:1 25:4,5,14,24 59:15 | | | | | | | |
| | | 60:19,22,23 | accommodate | 65:8 | 57:7 58:1 | 25:4,5,14,24 | 59:15 |
| | | <u> </u> | <u> </u> | <u>l </u> | <u> </u> | <u> </u> | <u> </u> |
| | | | | | | | |

| | | | | | | rage 73 |
|-------------------|--------------------------|------------------------|------------------------|------------------------|--------------------------|--------------------------|
| 2 12 4 24 7 9 | (0.22.70.11 | 15 20 21 10 | 1.1212020 | 20 11 42 5 | 10.16.27.0 | |
| any 3:13 4:24 7:8 | 69:23 70:11 | 15:20 21:19 | be 1:21 2:9 3:8 | 39:11 43:5 | better 18:16 27:9 | burglary 54:15 |
| 10:9 17:5 | area 25:25 36:4 | 29:5,17,21 | 3:22,22 4:1,11 | 47:6,12 50:25 | 27:10 43:2 | bushes 70:1 |
| 18:16,17 20:12 | 39:6 44:20 | 30:4 35:13,21 | 4:12,14,21,25 | 51:15 54:8,9 | 44:22 51:16 | business 5:20 |
| 21:17,22 33:10 | 59:3,6 | 36:25 37:9,14 | 5:21,21 6:4,10 | 54:18,19,25 | between 1:13 2:1 | 28:5 31:15,15 |
| 33:12 34:25 | areas 31:23 | 38:12 39:18 | 7:5 8:6,12 9:8 | 55:3,12 56:18 | 3:17 8:22 16:6 | 31:17,18,20,23 |
| 35:7 38:7 39:4 | arena 39:11 | 40:25 41:2 | 10:14,20,23,24 | 57:4,12 58:9 | 18:9 31:14 | 54:23 55:14 |
| 40:1 41:14 | aren't 54:9 | 42:11 44:24 | 11:10,21 12:7 | 59:2 60:20 | 64:3 68:1 | but 2:23 3:9 4:16 |
| 44:25 49:9,21 | arguably 2:18 | 45:21 46:21 | 12:11,15,20 | 62:1 63:12 | beyond 38:13 | 4:23 5:11,19 |
| 50:4 54:17 | 58:7 | 47:1 49:5,15 | 13:5,18,19,20 | 64:23 65:19 | 67:6 | 6:7,18 7:5,9,25 |
| 55:4 56:17 | argue 58:15 | 50:2,3,6,23 | 14:8 15:12,12 | 66:5 68:19 | big 39:22 63:15 | 9:9 10:21,22 |
| 62:21 63:3,10 | argued 3:14 38:4 | 52:16,21 56:21 | 15:14,22 16:22 | 69:23,24 70:5 | biggest-selling | 11:11 12:2,11 |
| 69:11 | argument 12:4,9 | 57:15,25 58:2 | 17:9 18:4,7,8 | becomes 24:15 | 66:22 | 13:2 14:16,22 |
| anybody 4:20 | 14:12,19 | 58:5 59:6,8,25 | 18:15,16,17 | been 5:2,4 6:2 | binary 3:19 | 15:8,12 16:2 |
| 26:10 | arguments 27:4 | 59:25 60:1,2 | 19:11,13 20:3 | 14:13 16:17 | biographies 1:18 | 16:21 17:6 |
| anybody's 23:8 | arise 8:21 38:7 | 61:9 64:5 65:9 | 20:20,22 21:6 | 17:18 20:15,16 | bit 19:3 | 20:11,22 21:6 |
| anyone 47:21 | around 27:5 | 65:16,20 66:16 | 21:7,20 22:9 | 22:22 23:19 | bite 21:19 | 21:10,16,24 |
| 48:12,19 | 33:21 44:5,11 | 68:24 69:4,12 | 23:1,2,10,11 | 31:1,10 33:14 | bits 69:17 | 22:5,8,24 23:8 |
| anyone's 56:6 | 58:8 | 70:3 | 24:4,5 25:1,6 | 34:18,19 35:15 | blagged 29:15 | 23:19,23 24:7 |
| anything 42:3 | arrested 68:23 | attempt 8:16 | 25:12,13 27:9 | 35:20 36:1,2 | blatant 64:21 | 25:2,7,12 |
| 50:10,18 51:9 | article 14:22 | attempted 42:9 | 27:15,20 28:4 | 37:5,21 41:3 | blatantly 68:9 | 26:13,19 27:18 |
| 55:6 | 54:22 | attention 46:8 | 28:6,8,13,14 | 42:6,7 45:23 | block 47:19 | 28:14,22 29:1 |
| anyway 38:23 | as 1:24 3:3,10,12 | 47:6 52:5 | 28:15,17,20,21 | 46:5,24 47:9 | bodies 5:18 | 29:15 31:22 |
| anywhere 50:8 | 3:13,16 4:11 | attitude 9:17 | 28:24 29:1,4 | 47:25 50:23 | body-worn | 32:19 34:25 |
| 59:4 | 5:3 6:3,13,13 | attitudes 13:25 | 29:19 30:1,2,5 | 51:21 55:9 | 39:21 40:3 | 35:11 36:4 |
| Apart 32:2 | 7:7,9 8:13 9:21 | 15:15 | 30:7 32:13,16 | 56:5 57:7,24 | 41:19 67:16 | 37:11,22 38:17 |
| apparatus 71:5 | 12:3,3 15:22 | audience 11:19 | 32:19 33:9,10 | 58:12 61:1 | boils 43:15 51:14 | 39:2 40:2,17 |
| appeared 45:20 | 16:2,12,20,22 | audio 43:3,4 | 33:14,17,19,19 | 62:9,14,16 | bomb 58:3,5,19 | 41:22 42:3,8 |
| 54:22 62:19 | 16:22 17:18 | 68:4,14 | 35:11,23 36:4 | 63:9 64:5 | bonus 43:23 | 43:6 44:3,11 |
| 64:18 | 18:17 19:14 | audited 22:21 | 36:5,6,7,7 | 65:12,17 68:21 | bonuses 39:22 | 45:17 46:21 |
| appreciate 9:9 | 22:22 24:21,25 | available 45:24 | 37:16 38:4,9 | 68:23 69:1,22 | book 49:6 | 47:18,21 49:6 |
| 26:22 | 28:9,10,14 | 47:18 48:2,3 | 38:12,16,17,24 | 70:23 | booked 37:22 | 50:10 51:7,15 |
| approach 4:4 | 29:24,24 31:11 | 71:3 | 39:2,6,9,10 | before 1:4 8:13 | booze 39:22 | 52:7,13,23 |
| 24:19 | 31:17,20 32:6 | aware 4:25 | 40:1,3,6,23 | 14:2 18:24 | borne 24:2 | 54:11,13 55:7 |
| appropriate 4:1 | 38:18 39:1 | away 47:12,18 | 41:2,17,25 | 24:8 26:20 | both 3:10 5:14 | 56:19 57:1,6 |
| 15:22 16:1 | 40:1,19 41:4 | 49:3 53:25 | 42:23,25 43:3 | 32:20 33:21 | 18:4 | 57:24 59:20 |
| 40:23 45:18 | 41:12 42:12 | 62:6 | 44:22,24 45:3 | 34:22 37:11 | bottom 13:9 | 64:24 66:4,25 |
| 52:8 56:22 | 43:1 45:14 | | 45:19 47:15,24 | 45:22 49:12 | bought 69:19 | 67:12 68:9 |
| appropriately | 46:12 49:18 | B | 48:3,22,25 | 50:8,10 65:25 | breach 21:2 | 69:7,19 70:11 |
| 24:10 | 51:2,7,7 56:19 | back 2:25 3:16 | 49:10,17,18,24 | 66:3 67:8 | 29:12 52:11 | 71:1 |
| Approximately | 58:23 60:5,5 | 5:13,14 16:3 | 50:2,9,16,16 | behaviour 4:18 | 64:21 | buy 14:21 15:16 |
| 32:7 | 61:13 62:15 | 29:19 32:24 | 50:20 52:7,17 | behavioural 4:1 | breaches 58:16 | Buzz 65:14 66:4 |
| are 2:22 3:7,14 | 65:14 66:4 | 36:17 46:3 | 52:17,18,18,19 | 4:4 6:9 | breadth 7:13 | by 1:21 2:10,16 |
| 3:14,18,19 | 70:14 | 55:11 62:8 | 52:20 53:21 | behind 23:20 | break 26:21 | 3:19 4:21 8:1 |
| 4:17,18 5:8,10 | ascertain 60:8 | 65:18 69:3,8 | 54:5,13,14,17 | 26:10 36:6 | 66:19 67:22 | 11:8 12:1 |
| 6:15,22,23 | ask 10:2 17:20 | 70:2 | 56:18 57:1,5 | 59:10 | breaking 68:10 | 14:23 15:1,16 |
| 7:23 8:4 9:1,3 | 26:20 41:25 | backed 63:16 | 57:23 58:5 | being 3:16,25 | breaks 11:8 | 15:24 18:14 |
| 11:19,21 13:23 | 44:17 45:16,20 | background | 59:3,3,4 61:22 | 4:21 6:3,14 | breeds 2:13 | 19:24 21:15,24 |
| 15:11,15,21 | 46:7 70:7 | 17:18 32:10 | 62:1,2 64:3,9,9 | 7:19 14:25 | bribery 18:19 | 24:2,2,2,24 |
| 17:10,23 18:18 | asked 3:7 10:4 | backing 14:14 | 64:13,14,16 | 23:21 24:1 | 29:7 | 25:6 29:1 |
| 20:21 24:3 | 32:25 41:4 | bad 69:25 | 66:12,25 67:4 | 26:4 30:9 | Bridge 47:4 | 30:18 31:1 |
| 25:3,14,22 | 45:16 51:1 | badly 52:16 | 67:6,12,14 | 38:12 40:25 | brief 56:12 | 32:20,21 34:9 |
| 26:23 28:3 | 61:20 64:2,7 | bag 68:15 | 68:3 | 48:17,17 52:15 | bring 65:5 | 35:1,17,19 |
| 29:6 31:7 | 64:22 | balance 5:12,13 | bear 38:3 | 55:8 60:3 | Britain's 66:21 | 36:1 42:8 43:7 |
| 33:12,22,23 | asking 30:3 | 10:24 | bearing 56:22 | 68:22 | British 9:18 | 43:20,20 44:12 |
| 36:9 38:3,7 | 50:21 | bank 47:3 | beat 70:1 | belief 31:5 | 11:19,20 | 45:3 48:13,16 |
| 40:12,22 41:4 | aspect 3:2 | bankers 40:1,12 | beaten 69:22 | believe 18:4,7 | broadcast 17:3 | 50:24 54:13 |
| 43:13 44:13,21 | aspire 1:20 3:4 | bar 40:4,6 | because 2:22 | 19:21,23 22:16 | broadcasters | 55:19 57:10,19 |
| 45:7,7,25,25 | assertion 24:12 | Barnett 1:3 7:22 | 3:20 4:15 11:7 | 38:7 63:13 | 22:14 | 57:25 60:3 |
| 46:2 48:2,8,17 | assume 20:22 | 17:24 18:13 | 13:3,16 16:13 | 70:16 71:1 | broadsheet 11:7 | 64:2,11 68:24 |
| 51:1,8,15,16 | 21:21,22 | basic 33:9 | 17:9,13 18:3 | believed 21:23 | 14:23 15:2 | 69:22 70:15,16 |
| 51:17,18 53:1 | assuming 26:11 | basically 33:11 | 19:9,16 20:20 | belong 70:13 | 17:2 | |
| 53:14 54:4,9 | at 1:18 3:21 4:5 | 41:11 43:19 | 21:1,5,11,18 | 71:1 | broken 55:2 | C |
| 54:12 56:18 | 4:14,17 5:6,12 | 44:17 60:24 | 21:21 24:8 | bent 67:14 | Brother 63:15 | call 49:22,23 |
| 58:18 61:21 | 6:14,24 7:3 | 64:10 | 25:21 28:10,23 | best 23:17 31:4 | brought 9:8 | 51:18 55:24 |
| 62:8,21 64:25 | 10:15 11:2,6,7 | basis 25:3 32:6 | 29:13,22 32:12 | 32:17 60:18 | Btech 31:9 | 58:3 67:6 |
| 67:2,5,17 69:9 | 11:20 13:8,9 | 58:8 | 34:19 35:16 | 63:24 | built 48:24 | called 30:21 |
| | | | l | l | l | I |
| | | | | | | |

| | | | | | | Page 74 |
|----------------------|-------------------|------------------------|------------------------|-------------------|---------------------|-------------------|
| | i | | Ī | i | Ī | |
| 33:15 54:22 | 57:21 | 52:10 54:4,15 | 55:3 | 57:3 58:15 | day 41:1,2 61:4,5 | 68:2 |
| 60:14,15 64:15 | case 35:22 41:19 | civilian 62:25 | complain 16:15 | 59:9,10 60:25 | 62:19 70:4 | did 9:18 11:11 |
| 64:16 | 46:2 | claim 1:19 | Complaints 60:2 | 61:1 64:19 | days 8:16 46:12 | 42:11 46:17 |
| calling 48:13 | cases 40:24 | clear 1:25 14:16 | completely 17:21 | 67:5 70:7 | 65:24 66:15 | 54:19 56:7,7,9 |
| calls 50:21 | cash 48:13 | 16:3 17:22 | 28:2 39:9 | countries 7:10 | day-to-day 27:16 | 56:17 57:20 |
| | | | | | | |
| came 12:19 | categorically | 18:8 21:2,6 | 40:14 41:8 | country 32:8 | deal 37:14 44:8 | 60:13,15,21 |
| 49:12 54:25 | 26:24 | 30:6 34:7 | concentrated | couple 18:13 | 50:24 | 62:4,11,11,12 |
| 56:20,20 59:23 | categories 49:13 | 40:24 48:22 | 2:13 | 37:18 61:13 | dealing 69:9 | 63:1 64:22 |
| 63:6 | 54:3 | clearly 5:6 6:3 | concentration | course 3:21 8:1 | dealt 50:24 | didn't 13:13 15:7 |
| camera 39:21 | category 40:2 | 7:9 15:10 | 4:13 | 8:15 18:23 | death 4:22 | 37:2 40:15 |
| 40:3,6 41:19 | catered 3:18,21 | 23:24 24:1 | concept 7:10 | 24:18,21 28:25 | debate 14:25 | 46:19 47:6 |
| 42:21 51:10,23 | cause 3:9 20:22 | 42:23 | concepts 9:1 | 37:11 41:21 | decide 38:25 | 53:3 55:12 |
| 52:1 67:16,24 | 28:22 56:17,24 | client 35:17 36:9 | concern 26:25 | 43:5 48:3 58:6 | 40:20,22 41:1 | 61:5 66:12 |
| 68:6,7 69:18 | caveat 4:4 | 40:20 41:3 | 27:3 56:17 | 67:23 68:3 | 49:25 50:6 | difference 15:20 |
| 69:21,22 70:2 | celebrities 16:9 | clients 37:10 | concerned 2:22 | Court 9:22 12:21 | 52:22 | 15:25 16:5 |
| 70:3 | 44:13 45:1,7 | Clive 26:7 | 9:21 29:2 51:8 | cover 23:21 | decided 42:13 | 17:5 |
| | | | | | | |
| cameras 42:11 | 45:17 57:5 | close 56:21 | conclusion 28:17 | 53:10 | 64:15 | different 7:24 |
| 55:25 | 64:12 69:12 | code 8:1,2 24:9 | conditions 52:16 | covered 7:20 | decides 7:18 | 8:9,14 9:2,6 |
| campaigns 55:16 | celebrity 44:4,10 | 32:21,23 42:23 | conducted 29:5 | 25:4 | decision 7:18 | 13:15,16 16:4 |
| can 3:16 6:10,19 | 45:12 48:10 | 53:23 70:9,15 | confess 30:13 | covers 28:23 | 52:19,21 55:17 | 17:2 25:16,18 |
| 7:6 9:24 10:2 | 52:2 53:16 | 70:19 71:5,6,9 | confidence 25:24 | covert 40:6 | deemed 36:7 | 25:19,20 29:5 |
| 10:11,16 11:14 | 54:13,14 64:2 | coincidence | confine 39:12 | 42:20 | defence 18:3,14 | 29:23 53:19 |
| 18:7 19:5,23 | 64:3,3 | 54:20 | confirm 31:2 | CPS 24:8 25:23 | 18:15,17,19 | 68:1 70:7 |
| 21:19 23:10 | celebrity's 51:23 | colleague 65:23 | connection 2:1 | create 33:15 | 21:19 24:4 | difficult 5:24 |
| 27:14,24 28:1 | cent 10:19,21 | collective 14:15 | 28:9 38:8 | created 5:5 | 25:8,22 26:7 | 9:16 21:9 36:3 |
| 28:14,16 30:8 | 11:11,23 12:12 | 15:15 | consent 44:9 | 53:20 58:8 | 26:13 29:12,14 | diploma 31:9 |
| 31:2,7 33:2 | 14:7,7 65:3 | colluding 57:9 | consider 19:4 | | 29:17,21 | direct 2:10,17 |
| | | | | creating 2:18 | | |
| 34:7,22 36:24 | certain 4:5 5:18 | colour 59:11 | 24:18 | 4:19 | defences 28:18 | 46:8 |
| 37:19,25 39:2 | 27:22 | column 37:25 | consideration | credentials 32:9 | define 9:10 | direction 42:18 |
| 39:25 41:5 | certainly 1:20 | come 6:22 11:15 | 7:25 | crime 8:24 20:9 | defined 9:14 | director 22:18 |
| 42:3 44:3 | 7:7 12:10 | 17:20 19:16 | constant 16:14 | 20:16 22:6 | definitely 10:20 | 24:17 27:12 |
| 45:10,20 46:20 | 25:20 35:24 | 23:14 32:10,24 | constituent 8:25 | 24:25 29:24 | 13:19 | 30:21 32:2 |
| 47:17,19,19 | 57:19 | 33:6 34:21 | constitute 25:22 | 54:15 | definition 8:3,17 | disappeared |
| 48:3,12,22 | cetera 1:18 13:20 | 44:13 45:17 | consultations | crimes 18:18 | 9:12 46:3 59:2 | 37:11 |
| 49:7 51:11,11 | 27:2 49:14 | 49:7 51:7,15 | 24:22 | criminal 23:9,23 | definitions 8:9 | discharge 26:16 |
| 51:12,13 52:3 | challenge 18:21 | 64:19 66:13 | contact 33:7 | 23:25 24:1 | degree 2:14 | discharged |
| 55:19,24 58:3 | 18:25 | comes 2:25 13:3 | context 8:15 | 26:5 30:10 | 25:19 | 26:18 |
| 59:15,18,18,20 | | 22:3 | 24:20 | 69:24 | | |
| | challenging 5:19 | | | | delegate 40:19 | discipline 31:9 |
| 60:18 61:22,23 | champagne 40:4 | coming 2:1,2 | contractors | criteria 9:7 21:7 | deliberately | disclose 28:10 |
| 65:5 69:14,25 | chance 24:11,25 | 40:12 63:22 | 63:10 | criticise 30:8 | 11:25 12:2 | discretely 60:22 |
| 70:21 | 25:3 | 67:12 | control 34:25 | criticised 57:10 | delve 21:3 | discretion 36:9 |
| Canada 55:21,23 | Chances 48:8 | comment 1:6 6:7 | conversation | criticism 16:14 | democracies | 36:10,11 |
| 56:20 | 53:14 | 12:21 65:9 | 56:19 68:4 | 16:15,22,24 | 7:11 | disprove 33:11 |
| cannot 4:7 | change 29:10 | commercial 45:4 | convicted 26:12 | crossing 26:23 | democracy 4:5 | 40:13 |
| can't 4:15 17:7 | changed 14:4 | commercially | conviction 24:11 | crucial 1:12 5:11 | 18:9 | disseminate |
| 21:4,10,11,12 | channel 5:5 | 47:18 55:17 | cope 23:9 | crying 63:20 | democratic | 32:14 |
| 21:20 24:11 | characterisation | commission | core 28:10,12 | culture 1:13 | 27:18,19 | distance 34:11 |
| 29:19 39:15,18 | 40:21 | 29:24 60:2 | 45:16 | 27:22 | demonstrate | 44:5 |
| 46:20 48:25 | charge 59:24 | commissioned | corporate 1:22 | current 5:15 8:1 | 41:9 | distinction 3:17 |
| 64:20 68:16 | Chartered 70:13 | 44:12 | corporation 4:8 | currently 18:18 | department 60:3 | 18:8 |
| | | · · | | | | |
| capital 12:16,17 | 70:14 | commit 29:24 | 5:3 | 18:18 28:18 | dependent 36:9 | distorted 71:8 |
| capturing 34:10 | chat 68:7 | commits 22:6 | correct 44:16 | 29:20 | depending 8:14 | distress 63:18 |
| car 43:13 | check 23:4 32:9 | committed 20:9 | corrupt 20:1,24 | | depends 8:19 | distressed 63:20 |
| card 69:5,7 | checked 32:20 | 20:16 21:20 | corruption 20:10 | D | 45:12 | divest 3:25 |
| cards 68:13 | checks 50:9 | 22:2 23:24,24 | 20:12,13 21:25 | dabble 11:4 | deploy 38:19 | division 8:22 |
| care 18:6,6 26:7 | children 10:18 | 24:24 28:25 | 23:16 | daily 37:19 43:18 | describe 47:8 | do 1:8,9 2:25 |
| 28:7 52:15 | 12:5 69:2 | 29:8 | costume 66:1 | 45:9 64:18 | described 39:25 | 3:16 4:24,25 |
| careful 8:12 | chilling 27:2 | common 61:22 | could 14:14 | dare 40:16 71:7 | 49:18 | 4:25 5:22 6:6 |
| 18:16 41:25 | chose 52:23 | commonplace | 17:25 18:15,17 | data 10:9 11:17 | describing 46:12 | 6:16 11:14,17 |
| 56:18 | chosen 47:7 | 45:9 | 27:9 28:21 | 28:19,23 29:2 | 47:24 | 12:24 13:7 |
| carefully 26:22 | circumstances | Commons 47:1 | 30:2 33:10,14 | 29:12 | designed 21:2 | 14:21 15:18 |
| carried 63:17 | 8:20 24:3 | companies 9:23 | 33:17,19 35:12 | | desk 37:15,16 | 18:3,13 19:5,8 |
| 64:22 | | - | 35:23 37:1 | database 55:4 | details 36:22 | |
| | 33:12 42:8 | 49:5,6 51:16 | | date 48:25 55:1,5 | | 20:14 21:4 |
| carry 15:8 23:25 | 63:9 | company 5:7 | 40:1 42:18,20 | dated 31:2 | detector 58:19 | 22:14,17,22 |
| 33:4,12 | city 40:1 | 30:21 31:19,21 | 47:22 49:16,16 | daughter 57:21 | deterrents 4:20 | 25:2 26:21 |
| carrying 18:1 | civil 48:18 49:14 | 50:4,5 54:8 | 49:19,19 53:10 | David 13:7 | dictaphone 43:1 | 27:5,13,14,15 |
| | I | | l | I | l | |
| | | | | | | |

Leveson Inquiry

| | | | | | | Page 75 |
|-------------------|--------------------------|-------------------------|------------------------------|---------------------|--------------------------|--------------------------------------|
| | I | Ī | Ī | İ | Ī | Ī |
| 27:24,25 30:3 | 64:12,13,14 | emerge 25:5 | 48:20 52:8 | faced 16:14 | 39:4 41:15 | 56:3 |
| 30:12 32:9,13 | 65:20 67:14 | employ 32:3,11 | 62:25 63:9,25 | facie 22:15 | 48:24 53:20 | forget 26:10 |
| 32:21,23 34:1 | 68:10 69:11 | 35:2 50:4 | Every 23:14 | fact 4:21 14:22 | 56:13 61:25 | form 36:10,11 |
| 34:16,25 35:5 | 70:23 | 62:21 63:2 | everybody 19:5 | 26:23 57:9 | 64:4 71:5,6 | 43:6 45:24 |
| 36:9,12,19 | doorman 48:17 | employs 32:4 | 59:21 | factory 2:3 | fit 65:11 | formed 31:18,21 |
| 37:5,8,14,22 | 49:13 54:3,6 | enable 18:4 | everything 27:24 | failure 2:15 | five 65:24 66:15 | former 62:21,23 |
| 38:1,7,20,21 | Doormen 54:7 | 47:11 | 27:25 62:18 | fair 8:6 40:21 | fixed 55:7 | 62:24 |
| 39:4,13 40:8 | doorway 63:16 | encompasses | 67:25 | 41:16 47:24 | flashed 69:5,7 | formulation |
| 40:20 41:5,20 | doubt 38:13 | 8:17,19 | evidence 2:5 8:6 | fairly 8:6 10:8 | flats 47:20 | 26:15 |
| 42:13 43:17 | doubtless 48:3 | encouraging | 24:14 27:1,4 | faith 23:21 26:14 | flippant 10:14 | forward 3:12 |
| 44:1,8,8,21,22 | 52:11 | 5:20 | 30:6 40:10,17 | fake 58:3,5 | 12:22 35:10 | 52:19 |
| 44:25 46:16,22 | down 2:1,2,11 | end 1:18 17:12 | 41:4,10,11 | fall 11:11 16:21 | floor 2:3 | found 62:14 66:2 |
| , | | | | | focused 16:17 | |
| 48:7,9,11 | 11:8 22:21 | 35:13,14 40:16 | 42:10,25 43:1 | falling 40:2 | | four 11:16 15:1 |
| 49:19 51:2,11 | 24:23 36:1,5,5 | 40:25 41:2 | 43:5,6,7 46:18 | false 38:9,15 | follow 60:12 | frame 6:5 35:13 |
| 53:9,14,17 | 43:15 51:14 | 42:15 61:3,15 | 47:6 59:20 | 39:1 40:14,17 | followed 39:16 | framed 12:1,2 |
| 54:7 56:15 | 63:16 | 65:9 70:4 | 66:25 67:4 | 41:5,8,13,18 | 39:17 60:13 | 30:2 |
| 58:23 61:5 | dozen 46:1 | ends 38:12 | 68:11,17,17,19 | 43:24 64:25 | 61:6 63:16 | Francis 30:17,20 |
| 62:10 64:2,7,8 | Dr 19:2 | engaging 27:17 | 68:22,22 | 66:24 70:5 | 69:1,3,4 | freedom 8:3 |
| 64:12,14,16,22 | draconian 12:18 | England 10:17 | exact 48:25 | falsity 38:16 | follows 22:23 | freelance 32:5,7 |
| 64:24 65:7 | draw 47:5 | enormous 27:16 | exactly 22:13 | 41:10 67:11,15 | footage 42:7 68:5 | friend 64:1 |
| 66:10 67:21 | dress 65:17,25 | enormously | example 5:3 | family 56:21 | 68:14 | friends 44:22 |
| 70:3,4,25 | dressed 65:14 | 25:18 | 10:15 28:19 | 59:8 | football 35:13,14 | 67:2 |
| dob 67:2 | drinking 40:4 | enough 11:3 12:9 | 34:21 39:6,17 | fancy 65:17,25 | 66:19 | from 1:17 2:2,11 |
| document 45:23 | 47:2,4 | 12:10 | 39:20 52:14 | fantastic 65:19 | footballer 10:18 | 2:20 5:6 6:14 |
| 46:11 48:1 | drinks 60:16,24 | enquiries 51:2 | 57:21 58:4 | far 6:13 7:5 | 12:5 19:22 | 6:18 7:5,7 |
| does 14:10,11,15 | 61:9 | enquiry 9:5,14 | 59:6 65:5 | 19:14 44:22 | footballers 50:22 | 10:12 13:3 |
| 15:17,23,25 | drive 36:5,6 | ensure 25:15 | 67:18 | 51:7,16 60:5 | footnote 13:14 | 17:2 18:1 |
| 17:17 30:3 | driveway 34:21 | ensuring 6:15 | examples 1:17 | 70:2 | for 3:1,2,18,21 | 22:12 25:16 |
| 32:3 44:19 | drug 41:22 | enter 4:20 | 1:24 9:21 | fascinated 13:5 | 4:14,20,22 | 26:16 28:17 |
| 67:9 | drugs 9:23 | enterprise 6:20 | 43:12 69:15 | favour 18:2 67:1 | 5:18,19 7:11 | 30:25 32:2,10 |
| doesn't 2:4,6,6 | drug-taking 43:9 | entire 26:14 | ExaroNews | fear 5:14 | 7:24 8:5,13,24 | 34:10 35:12 |
| 9:25 14:16,17 | during 8:15 | entirely 4:3 23:5 | 54:22 | features 9:1 | 9:18 10:8 11:6 | 40:17 44:4 |
| 16:21 19:16 | 24:18 | 23:6,22 25:3 | excited 52:5 | 31:25 42:15 | 11:22 12:7 | 47:4,11,17 |
| 25:21 28:5 | duties 68:3 | 27:13 30:5 | excitement 28:22 | fee 43:18 | 14:10,13,14,19 | 51:2,22,25 |
| 43:22 47:12 | duty 52:11 67:6 | 45:18 | excluded 28:20 | feel 17:20 19:9 | 15:16,23 16:2 | 55:5 56:7,20 |
| 57:4,8 60:20 | dwindling 4:13 | entries 45:25 | exclusive 62:17 | 24:9 30:12 | 16:25 17:16,17 | 56:20 57:4 |
| 63:2 65:22 | | 46:8 | 64:10 | 70:2 | 17:19,20 18:2 | 60:12 61:10 |
| 67:9 | E | environment 3:7 | exercise 29:4 | feeling 56:23 | 18:12 19:4,12 | 63:6,7 64:19 |
| doing 17:19 25:3 | each 9:1 46:1 | 39:10 53:19 | 70:12 | feels 70:20 | 19:13 21:1 | 67:12 |
| 33:18,20,22 | earlier 1:7 4:5 | 59:5 | exist 28:19 | feet 7:7 | 22:12 23:15,21 | front 65:18 |
| 46:12,16 51:16 | 10:12 13:3 | equally 27:25 | existing 3:19 | fell 11:11 | 24:9 28:15,19 | 66:21 |
| 60:18 64:20 | 41:14 69:12,14 | equipment 35:7 | expand 8:5 | felt 12:14 56:21 | 30:9 31:11,19 | fruits 29:25 |
| 67:7,10 | earn 48:12 | 42:14 | expectation | Ferguson 65:9 | 31:20 32:5,11 | full 30:19 34:7 |
| domain 59:19 | | essential 27:18 | 34:17 36:14 | few 1:17 2:13,22 | 32:15 33:4 | |
| dominated 15:1 | earning 49:17 | essentially 18:1 | expected 68:3 | 8:16 16:8 27:1 | 34:21 36:23 | 35:13 42:13,15 fully 31:17,22 |
| done 10:12 13:8 | easy 55:2 58:9 | established | expected 68.3 expert 30:9 | field 51:4 | 37:18,20,22 | full-time 32:4 |
| 16:11 18:24 | edit 55:6 | 47:10 | | | | |
| | editor 1:23 2:6,6 | | expertise 16:16 | figures 11:6 14:4 | 38:24 39:6,17 | fundamental |
| 23:8 24:21 | 22:17,25 23:3 | establishing | 17:3,10 | file 43:3 | 40:9,25 42:13 | 3:17 |
| 27:15 39:19 | 23:4,5,17 24:2 | 38:16 67:15 | explain 9:24 33:3 | fill 35:12 | 43:17,22,23 | further 4:12 6:11 |
| 42:17 45:8 | 25:4 55:4 | et 1:18 13:20 | 44:13 | filled 61:10 | 44:18 45:11,25 | 24:23 28:16 |
| 50:9 57:24 | editorial 1:16,22 | 27:2 49:14 | explaining 52:14 | final 1:11 30:16 | 46:1 47:25 | 49:21 |
| 66:25 67:4,13 | 22:18 | ethical 2:15 3:5 | explains 45:14 | finally 26:9 63:9 | 48:9,16 49:6 | |
| 69:20 | editors 8:2 17:8 | 38:7,9,17,17 | exploitation 45:4 | Financial 15:3,8 | 50:22,22 51:1 | |
| don't 6:12 8:8,24 | 32:23 70:9,15 | 40:8,18 70:21 | expose 19:10,23 | find 3:6 9:11 | 51:7,15,16 | gain 67:9 |
| 9:15 10:9 12:8 | educator 3:3 | ethics 1:14 14:16 | exposed 20:3 | 27:3 29:14 | 52:13,21 55:4 | game 65:9,11 |
| 12:8,24 16:15 | effect 27:2 | 18:7 | exposing 16:6 | 49:10 55:22 | 55:9 56:13 | 66:4 |
| 21:9 25:14 | effort 38:14 41:7 | European 7:10 | express 6:4 | 56:14 | 57:2,7,21 58:4 | games 66:19 |
| 26:1,7 28:7 | 64:24 66:23 | even 12:8,12 | expressing 3:13 | finding 56:24 | 59:3,6 60:4 | gather 41:11 |
| 29:11 32:11,18 | either 3:7,24 | 15:13 18:20 | 6:2 | Fine 22:24 | 61:1 62:4 | 42:10 62:18 |
| 35:3,7 36:17 | 10:23 66:19 | 26:11 63:17 | expression 8:3 | finished 55:8 | 63:25 64:5 | 66:25 67:4 |
| 37:3,21 39:1 | else 49:15 | 68:8 | expressly 15:7 | 61:23 68:7 | 66:7,9,15 | gathering 6:12 |
| 39:24 40:18 | email 19:24 20:9 | evening 60:13 | extra 48:19 | firearms 68:24 | 67:17 68:21 | 10:9 42:25 |
| 43:20,25 44:8 | 21:14,15,24 | event 21:17 | extremely 6:24 | first 2:9 7:23,25 | 70:1,11 | 43:5,7 68:11 |
| 44:23 46:10 | 22:3,7,8,19 | eventually 21:13 | | 16:3 20:14 | force 4:15 | gave 1:16 8:6 |
| 47:20 50:4 | emanate 6:18 | ever 20:18 23:8 | F | 22:12,15 25:23 | forced 3:25 | 11:9,12 24:13 |
| 51:8,15 54:7 | embrace 1:20 | 24:11 38:22 | face 69:21 | 27:25 32:24 | foreign 4:15 9:22 | 47:6 |
| | l | | l | l | | |
| L | | | | | | |

| | | | | | | Page 76 |
|--|--|---|--|---|---|---|
| | İ | Ī | İ | Ī | Ī | |
| gazillion 23:14 | Google 55:16 | 50:10,12 | 19:25 20:3,5,6 | holiday 55:20,22 | 27:3,3,5,12,13 | 24:4,11,13 |
| genuine 5:10 | Gordon 30:17,20 | happening 65:2 | 21:14 22:2,3,6 | 56:13 | 27:14,15,21,23 | 25:3,5,7 26:14 |
| genuinely 9:15 | got 5:12 10:19 | 65:2,3 68:13 | 22:7,8,24 | home 60:10,11 | 28:2,16,21 | 27:9 28:3,6 |
| Gerry 57:21 | 12:12 19:25 | 68:15 | 24:12,18,22 | 61:5 65:23 | 29:6,18 30:5,5 | 29:10,15,16 |
| get 5:11 7:1 | 21:14 23:12 | happens 2:3 6:25 | 26:12 27:13 | honest 22:8 | 30:10,12,12,23 | 30:1,3 33:14 |
| 13:17 20:5 | 28:24 52:20 | 57:8 68:9 | 54:19 59:16,21 | hope 6:2,3 17:7 | 31:1,19,20 | 33:18,18,20 |
| 21:12 22:12 | 53:24 54:9 | 70:22 | 59:21 60:20 | 25:24 26:1 | 32:11,16 33:21 | 35:5 36:4,5 |
| 29:14 34:7 | 57:9,25 60:24 | has 5:2,4,5,21 | 63:15 64:1,15 | hoped 27:12 | 33:23 34:2,3 | 38:21,23 39:1 |
| 43:17,18,20,20 | 61:20 62:24 | 12:5 15:14 | 64:15,16 66:10 | horrible 52:16 | 34:20,23 35:3 | 39:6,7,14,17 |
| 43:22,24 44:3 | 63:18 64:21,23 | 16:14 19:9,11 | 66:15,16 68:24 | horrific 23:12 | 35:3,4,7 36:11 | 40:2 41:3,12 |
| 47:19 48:10 | 66:17 68:9 | 19:23 20:3,15 | 69:4,7,7,16,20 | hospital 52:17 | 36:17 37:3,21 | 44:8 46:25 |
| 49:21 50:20 | 69:4 | 20:16 22:2 | head 52:6 59:15 | hotel 39:15,16 | 37:22 38:10,16 | 49:13,23,25 |
| 51:2,6,8,10 | great 21:17 44:8 | 23:1,9 24:22 | heads 2:23 | 42:5,12,21 | 38:21 39:14,14 | 50:14,15,19 |
| 53:15 55:7,7 | 64:9 65:15 | 27:24 33:14 | hear 7:6 | 54:6 | 39:15,18,25 | 51:2 52:13 |
| 55:10 57:4 | greater 18:5 | 38:10,11 40:11 | heard 2:20 14:11 | house 47:1 68:14 | 40:9,14,16,22 | 53:2,23 57:1 |
| 58:9,19 59:3 | Griffin 60:14,15 | 41:3 43:9 | 16:8,24 26:25 | 68:23 | 43:11 45:8,20 | 59:19 65:5 |
| 65:1 67:14 | grooming 69:2 | 45:16 51:18 | 67:20 | how 1:17,25 6:20 | 45:23 46:7,20 | 66:4 67:12,16 |
| 69:18 | ground 30:12 | 52:4 68:23 | hearing 71:16 | 6:21 11:18 | 46:20,25 47:5 | 67:24 68:6,9 |
| gets 4:6 20:17 | 35:13 | hasn't 31:1 | heavily 40:12 | 17:8 27:15 | 47:10,20,23 | 68:12 69:18,20 |
| 29:15 65:13 | group 11:2 | have 2:17 4:6,8 | 47:3 | 28:4 32:3,7,9 | 48:25 49:17,22 | 70:20 71:5 |
| getting 15:23 | growth 3:20,21 | 4:25 5:1,18 7:3 | hedge 36:6 | 42:3 43:17 | 49:24 51:11,11 | ignore 3:7 |
| 29:1 35:5 | 3:24 | 8:8,12 9:16 | held 15:16 69:21 | 44:19,25 46:17 | 51:13,22,23 | ignored 67:14 |
| girl 63:15,20 | guaranteeing | 10:9,21 11:2 | help 44:15 51:12 | 46:22 49:25 | 52:7 53:10 | ignoring 37:24 |
| girlfriend 64:4 | 6:11 | 11:15,20,23 | 59:15 67:5 | 55:1 57:24 | 54:24 55:19,22 | illegal 9:23 68:12 |
| give 13:7 14:11 | guess 11:20,24 | 14:4,21 15:18 | helpful 8:8 56:24 | 58:9 62:4 | 56:3,9,18,18 | illustrate 4:23 |
| 15:5 17:17 | guideline 24:19 | 16:2,10 17:13 | her 2:7 42:7,14 | However 19:12 | 56:19,21 57:9 | image 57:22 |
| 22:18 45:10 | guidelines 25:17 | 17:13,20 18:18 | 42:16,17 52:15 | 27:20 | 57:13,22 58:1 | images 68:8 |
| 46:16 59:11 | 27:13 | 18:25 20:25 | 52:15,17 60:8 | hugely 44:21 | 58:3,13,16,25 | imperatives 2:2 |
| 66:8 69:14 | guiding 41:12 | 21:6,7,16 22:9 | 60:12,13 61:6 | human 40:25 | 59:18,18,20 | important 3:4 |
| given 1:24 5:3 | guiltiness 41:6 | 22:12,15,15 | 61:8 63:16,16 | hunters 69:17 | 60:5,7,10,12 | 5:11 9:13 |
| 11:16 22:22 | gun 68:19,22 | 24:7,9 25:2,24 | 63:17 | husband 60:9 | 60:13,13,14 | 16:13 19:7,8 |
| 23:25 41:3 | guy 63:14 64:23 | 26:19 27:16,23 | here 4:7 9:3,15 | hypothetical | 61:13,17,21,25 | 26:20 |
| 46:18 68:21 | 66:2,6 69:4,6 | 29:11,13,16 | 15:15 16:2 | 50:11 52:13 | 61:25 62:2,7,8 | impossible 24:15 |
| gives 47:12 | 69:15 | 30:12 31:1,10 | 22:4,16 40:12 | | 62:8,14,17,24 | impunity 2:14,20 |
| giving 12:13 | | 32:5,18 34:3 | 65:22 66:8,8 | I | 62:25,25 63:1 | 3:11 |
| 48:16 | H | 34:16,18,20,25 | 66:13 | I 1:3,4,6,7,12,15 | 63:2,13,13,18 | in 1:3,11,12,14 |
| go 3:16 5:14 6:13 | hack 22:19 | 35:4,4,8,15,20 | he'd 65:17 | 1:15,16,18,24 | 63:19,21,21,23 | 1:24 2:13 3:6 |
| 8:6 22:19 28:4 | hacked 20:8 | 35:25 36:1,2 | he's 20:8,10 | 1:25 2:15,19 | 64:1,7,11,15 | 3:15,17 4:1,5 |
| 43:3 44:3 46:2 | hacking 19:24 | 36:13,24 37:2 | 22:22 23:13,14 | 2:19,20,22,25 | 64:19,20,21,23 | 4:13,16,21 5:4 |
| 49:11,21 56:7 | 21:14,15,24 | 37:3,5,21 | 23:18 24:21 | 3:2,4,10,12,14 | 65:5,15,20,22 | 5:9,20 6:5,11 |
| 56:7 59:8,9 | 29:7 | 39:20 41:3,20 | 63:25 65:11,11 | 3:16 4:3,4,5,22 | 66:6,11,12,12 | 6:12 7:9,10,10 |
| 60:12 62:9 | hacks 22:3,7,8 | 42:18,20 44:25 | 65:12 68:16 | 4:25 5:10,12 | 66:13,17 67:8 | 8:1,3,20,22,23 |
| 66:23 67:6 | had 1:15 8:6 | 45:17 46:21,24 | 69:18 | 5:13 6:2,2,3,6 | 67:11,24,24,24 | 8:25 9:4,14,17 |
| goal 35:13 67:15 | 9:22 11:22 | 47:9,25 48:15 | hidden 70:3 | 6:6,9,12,25 7:3 | 67:25 68:2,6,8 | 9:22 10:16,16 |
| goes 5:13 17:12 | 13:19 14:13 | 53:21 54:5 | high 4:23 5:6 | 7:6,7,17 8:6,6 | 68:18 69:4,6 | 10:20,22,24 |
| 58:3 | 16:10 17:23 | 56:3,5,18 58:5 | 9:21 12:21 | 8:8,8,10 9:6,9 | 69:14,14,15,18 | 11:2,4,19,24 |
| going 11:15,21 | 19:6 20:23 | 58:12,13,16 | higher 67:15 | 9:13,15,16,24 | 70:2,3,7,13,15 | 12:7,11,15,17 |
| 14:18 16:3 | 24:12 29:13 | 59:3 61:1 | highlighting | 10:2,9,11,13 | 70:16,23 71:1 | 13:2,17,20 |
| | 24.12 27.13 | | | | | |
| 17:20 19:10 | 35:25 42:6,7,9 | 62:24 63:9 | 58:16 | 11:14,17,18,23 | 71:1,1,1 | 14:22,23 15:3 |
| | | | 58:16 him 23:13,15 | 11:14,17,18,23 11:25,25 12:2 | 71:1,1,1 idea 13:17 59:6 | 14:22,23 15:3 15:11,19 16:6 |
| 17:20 19:10 | 35:25 42:6,7,9 | 62:24 63:9 | | | , , | |
| 17:20 19:10 20:25 22:16 | 35:25 42:6,7,9 42:17 45:12,23 | 62:24 63:9 64:5,19,20 | him 23:13,15 | 11:25,25 12:2 | idea 13:17 59:6 | 15:11,19 16:6 |
| 17:20 19:10 20:25 22:16 23:4,20 25:1 | 35:25 42:6,7,9 42:17 45:12,23 55:7 57:2,23 | 62:24 63:9 64:5,19,20 66:5,25 67:4,6 | him 23:13,15 24:13 59:18,20 | 11:25,25 12:2 12:14,17,18,21 | idea 13:17 59:6 66:13,16 69:6 | 15:11,19 16:6 17:18 18:2,8 |
| 17:20 19:10 20:25 22:16 23:4,20 25:1 25:11,12 28:3 | 35:25 42:6,7,9 42:17 45:12,23 55:7 57:2,23 57:24 60:16,24 | 62:24 63:9 64:5,19,20 66:5,25 67:4,6 67:7,12,13 68:2,20 69:1 69:20,21 70:15 | him 23:13,15 24:13 59:18,20 61:19 63:21 64:1,20,20 66:8,18 69:18 | 11:25,25 12:2 12:14,17,18,21 12:24 13:7,13 | idea 13:17 59:6 66:13,16 69:6 ideas 3:12,14 6:17 7:24 51:6 identical 6:23 | 15:11,19 16:6 17:18 18:2,8 19:17 20:2 |
| 17:20 19:10 20:25 22:16 23:4,20 25:1 25:11,12 28:3 30:1 37:9 | 35:25 42:6,7,9 42:17 45:12,23 55:7 57:2,23 57:24 60:16,24 61:9 62:14,16 | 62:24 63:9 64:5,19,20 66:5,25 67:4,6 67:7,12,13 68:2,20 69:1 | him 23:13,15 24:13 59:18,20 61:19 63:21 64:1,20,20 | 11:25,25 12:2 12:14,17,18,21 12:24 13:7,13 14:1,10,18 | idea 13:17 59:6 66:13,16 69:6 ideas 3:12,14 6:17 7:24 51:6 identical 6:23 13:12 | 15:11,19 16:6 17:18 18:2,8 19:17 20:2 21:8,17 22:11 |
| 17:20 19:10 20:25 22:16 23:4,20 25:1 25:11,12 28:3 30:1 37:9 41:21,25 55:9 56:13 59:4 60:17 61:11,21 | 35:25 42:6,7,9 42:17 45:12,23 55:7 57:2,23 57:24 60:16,24 61:9 62:14,16 63:10,13,25 | 62:24 63:9 64:5,19,20 66:5,25 67:4,6 67:7,12,13 68:2,20 69:1 69:20,21 70:15 haven't 6:2 49:9 68:8 | him 23:13,15 24:13 59:18,20 61:19 63:21 64:1,20,20 66:8,18 69:18 himself 50:6 60:9 64:17 | 11:25,25 12:2 12:14,17,18,21 12:24 13:7,13 14:1,10,18 15:3,5,6,7,18 | idea 13:17 59:6 66:13,16 69:6 ideas 3:12,14 6:17 7:24 51:6 identical 6:23 13:12 identity 37:24 | 15:11,19 16:6 17:18 18:2,8 19:17 20:2 21:8,17 22:11 23:7,17,21,24 24:4,20,22 25:9,19,19,20 |
| 17:20 19:10 20:25 22:16 23:4,20 25:1 25:11,12 28:3 30:1 37:9 41:21,25 55:9 56:13 59:4 | 35:25 42:6,7,9 42:17 45:12,23 55:7 57:2,23 57:24 60:16,24 61:9 62:14,16 63:10,13,25 66:4,12,13,16 | 62:24 63:9 64:5,19,20 66:5,25 67:4,6 67:7,12,13 68:2,20 69:1 69:20,21 70:15 haven't 6:2 49:9 | him 23:13,15 24:13 59:18,20 61:19 63:21 64:1,20,20 66:8,18 69:18 himself 50:6 60:9 | 11:25,25 12:2 12:14,17,18,21 12:24 13:7,13 14:1,10,18 15:3,5,6,7,18 16:2,5,15,25 | idea 13:17 59:6 66:13,16 69:6 ideas 3:12,14 6:17 7:24 51:6 identical 6:23 13:12 | 15:11,19 16:6 17:18 18:2,8 19:17 20:2 21:8,17 22:11 23:7,17,21,24 24:4,20,22 |
| 17:20 19:10 20:25 22:16 23:4,20 25:1 25:11,12 28:3 30:1 37:9 41:21,25 55:9 56:13 59:4 60:17 61:11,21 | 35:25 42:6,7,9 42:17 45:12,23 55:7 57:2,23 57:24 60:16,24 61:9 62:14,16 63:10,13,25 66:4,12,13,16 67:24 69:6 | 62:24 63:9 64:5,19,20 66:5,25 67:4,6 67:7,12,13 68:2,20 69:1 69:20,21 70:15 haven't 6:2 49:9 68:8 | him 23:13,15 24:13 59:18,20 61:19 63:21 64:1,20,20 66:8,18 69:18 himself 50:6 60:9 64:17 hire 66:1 his 2:6,7 19:24 | 11:25,25 12:2 12:14,17,18,21 12:24 13:7,13 14:1,10,18 15:3,5,6,7,18 16:2,5,15,25 17:18,23,25 | idea 13:17 59:6 66:13,16 69:6 ideas 3:12,14 6:17 7:24 51:6 identical 6:23 13:12 identity 37:24 | 15:11,19 16:6 17:18 18:2,8 19:17 20:2 21:8,17 22:11 23:7,17,21,24 24:4,20,22 25:9,19,19,20 |
| 17:20 19:10 20:25 22:16 23:4,20 25:1 25:11,12 28:3 30:1 37:9 41:21,25 55:9 56:13 59:4 60:17 61:11,21 64:2,8,8,9,14 | 35:25 42:6,7,9 42:17 45:12,23 55:7 57:2,23 57:24 60:16,24 61:9 62:14,16 63:10,13,25 66:4,12,13,16 67:24 69:6 half 11:12 46:1 | 62:24 63:9 64:5,19,20 66:5,25 67:4,6 67:7,12,13 68:2,20 69:1 69:20,21 70:15 haven't 6:2 49:9 68:8 having 10:19 | him 23:13,15 24:13 59:18,20 61:19 63:21 64:1,20,20 66:8,18 69:18 himself 50:6 60:9 64:17 hire 66:1 | 11:25,25 12:2 12:14,17,18,21 12:24 13:7,13 14:1,10,18 15:3,5,6,7,18 16:2,5,15,25 17:18,23,25 18:2,3,4,5,15 | idea 13:17 59:6 66:13,16 69:6 ideas 3:12,14 6:17 7:24 51:6 identical 6:23 13:12 identity 37:24 68:13 | 15:11,19 16:6 17:18 18:2,8 19:17 20:2 21:8,17 22:11 23:7,17,21,24 24:4,20,22 25:9,19,19,20 25:25 26:12,21 |
| 17:20 19:10 20:25 22:16 23:4,20 25:1 25:11,12 28:3 30:1 37:9 41:21,25 55:9 56:13 59:4 60:17 61:11,21 64:2,8,8,9,14 64:16 66:21 | 35:25 42:6,7,9 42:17 45:12,23 55:7 57:2,23 57:24 60:16,24 61:9 62:14,16 63:10,13,25 66:4,12,13,16 67:24 69:6 half 11:12 46:1 hand 3:18,20 | 62:24 63:9 64:5,19,20 66:5,25 67:4,6 67:7,12,13 68:2,20 69:1 69:20,21 70:15 haven't 6:2 49:9 68:8 having 10:19 12:5 19:22 | him 23:13,15 24:13 59:18,20 61:19 63:21 64:1,20,20 66:8,18 69:18 himself 50:6 60:9 64:17 hire 66:1 his 2:6,7 19:24 | 11:25,25 12:2 12:14,17,18,21 12:24 13:7,13 14:1,10,18 15:3,5,6,7,18 16:2,5,15,25 17:18,23,25 18:2,3,4,5,15 18:16 19:3,5,5 | idea 13:17 59:6 66:13,16 69:6 ideas 3:12,14 6:17 7:24 51:6 identical 6:23 13:12 identity 37:24 68:13 if 1:6 2:10 4:16 | 15:11,19 16:6 17:18 18:2,8 19:17 20:2 21:8,17 22:11 23:7,17,21,24 24:4,20,22 25:9,19,19,20 25:25 26:12,21 26:23 27:10,18 |
| 17:20 19:10 20:25 22:16 23:4,20 25:1 25:11,12 28:3 30:1 37:9 41:21,25 55:9 56:13 59:4 60:17 61:11,21 64:2,8,8,9,14 64:16 66:21 68:14,16 69:18 | 35:25 42:6,7,9 42:17 45:12,23 55:7 57:2,23 57:24 60:16,24 61:9 62:14,16 63:10,13,25 66:4,12,13,16 67:24 69:6 half 11:12 46:1 hand 3:18,20 66:8 | 62:24 63:9 64:5,19,20 66:5,25 67:4,6 67:7,12,13 68:2,20 69:1 69:20,21 70:15 haven't 6:2 49:9 68:8 having 10:19 12:5 19:22 20:11 21:24 | him 23:13,15 24:13 59:18,20 61:19 63:21 64:1,20,20 66:8,18 69:18 himself 50:6 60:9 64:17 hire 66:1 his 2:6,7 19:24 22:25 50:8 | 11:25,25 12:2 12:14,17,18,21 12:24 13:7,13 14:1,10,18 15:3,5,6,7,18 16:2,5,15,25 17:18,23,25 18:2,3,4,5,15 18:16 19:3,5,5 19:14,18 20:23 | idea 13:17 59:6 66:13,16 69:6 ideas 3:12,14 6:17 7:24 51:6 identical 6:23 13:12 identity 37:24 68:13 if 1:6 2:10 4:16 4:18 5:19,25 | 15:11,19 16:6 17:18 18:2,8 19:17 20:2 21:8,17 22:11 23:7,17,21,24 24:4,20,22 25:9,19,19,20 25:25 26:12,21 26:23 27:10,18 28:4,9,14,19 |
| 17:20 19:10 20:25 22:16 23:4,20 25:1 25:11,12 28:3 30:1 37:9 41:21,25 55:9 56:13 59:4 60:17 61:11,21 64:2,8,8,9,14 64:16 66:21 68:14,16 69:18 gone 42:19,20 | 35:25 42:6,7,9 42:17 45:12,23 55:7 57:2,23 57:24 60:16,24 61:9 62:14,16 63:10,13,25 66:4,12,13,16 67:24 69:6 half 11:12 46:1 hand 3:18,20 66:8 handle 59:20 | 62:24 63:9 64:5,19,20 66:5,25 67:4,6 67:7,12,13 68:2,20 69:1 69:20,21 70:15 haven't 6:2 49:9 68:8 having 10:19 12:5 19:22 20:11 21:24 39:8,15 48:11 53:16 59:17,22 59:25 61:16 | him 23:13,15 24:13 59:18,20 61:19 63:21 64:1,20,20 66:8,18 69:18 himself 50:6 60:9 64:17 hire 66:1 his 2:6,7 19:24 22:25 50:8 57:21 64:3 65:10,15,16 68:3 69:8,21 | 11:25,25 12:2 12:14,17,18,21 12:24 13:7,13 14:1,10,18 15:3,5,6,7,18 16:2,5,15,25 17:18,23,25 18:2,3,4,5,15 18:16 19:3,5,5 19:14,18 20:23 21:2,4,9,12,14 | idea 13:17 59:6 66:13,16 69:6 ideas 3:12,14 6:17 7:24 51:6 identical 6:23 13:12 identity 37:24 68:13 if 1:6 2:10 4:16 4:18 5:19,25 6:18,22 9:10 | 15:11,19 16:6 17:18 18:2,8 19:17 20:2 21:8,17 22:11 23:7,17,21,24 24:4,20,22 25:9,19,19,20 25:25 26:12,21 26:23 27:10,18 28:4,9,14,19 29:5,23 30:2,2 |
| 17:20 19:10 20:25 22:16 23:4,20 25:1 25:11,12 28:3 30:1 37:9 41:21,25 55:9 56:13 59:4 60:17 61:11,21 64:2,8,8,9,14 64:16 66:21 68:14,16 69:18 gone 42:19,20 good 8:6 17:1 | 35:25 42:6,7,9 42:17 45:12,23 55:7 57:2,23 57:24 60:16,24 61:9 62:14,16 63:10,13,25 66:4,12,13,16 67:24 69:6 half 11:12 46:1 hand 3:18,20 66:8 handle 59:20 hands 2:13 | 62:24 63:9 64:5,19,20 66:5,25 67:4,6 67:7,12,13 68:2,20 69:1 69:20,21 70:15 haven't 6:2 49:9 68:8 having 10:19 12:5 19:22 20:11 21:24 39:8,15 48:11 53:16 59:17,22 | him 23:13,15 24:13 59:18,20 61:19 63:21 64:1,20,20 66:8,18 69:18 himself 50:6 60:9 64:17 hire 66:1 his 2:6,7 19:24 22:25 50:8 57:21 64:3 65:10,15,16 68:3 69:8,21 hitmen 68:20 | 11:25,25 12:2 12:14,17,18,21 12:24 13:7,13 14:1,10,18 15:3,5,6,7,18 16:2,5,15,25 17:18,23,25 18:2,3,4,5,15 18:16 19:3,5,5 19:14,18 20:23 21:2,4,9,12,14 21:16 22:10,15 22:17 23:1,15 23:16,18,23 | idea 13:17 59:6 66:13,16 69:6 ideas 3:12,14 6:17 7:24 51:6 identical 6:23 13:12 identity 37:24 68:13 if 1:6 2:10 4:16 4:18 5:19,25 6:18,22 9:10 10:15 11:6,7 | 15:11,19 16:6 17:18 18:2,8 19:17 20:2 21:8,17 22:11 23:7,17,21,24 24:4,20,22 25:9,19,19,20 25:25 26:12,21 26:23 27:10,18 28:4,9,14,19 29:5,23 30:2,2 30:4,9,10 31:9 |
| 17:20 19:10 20:25 22:16 23:4,20 25:1 25:11,12 28:3 30:1 37:9 41:21,25 55:9 56:13 59:4 60:17 61:11,21 64:2,8,8,9,14 64:16 66:21 68:14,16 69:18 gone 42:19,20 good 8:6 17:1 20:16,17 23:21 26:14 27:15 28:8,15 32:19 | 35:25 42:6,7,9 42:17 45:12,23 55:7 57:2,23 57:24 60:16,24 61:9 62:14,16 63:10,13,25 66:4,12,13,16 67:24 69:6 half 11:12 46:1 hand 3:18,20 66:8 handle 59:20 hands 2:13 happen 32:19 | 62:24 63:9 64:5,19,20 66:5,25 67:4,6 67:7,12,13 68:2,20 69:1 69:20,21 70:15 haven't 6:2 49:9 68:8 having 10:19 12:5 19:22 20:11 21:24 39:8,15 48:11 53:16 59:17,22 59:25 61:16 | him 23:13,15 24:13 59:18,20 61:19 63:21 64:1,20,20 66:8,18 69:18 himself 50:6 60:9 64:17 hire 66:1 his 2:6,7 19:24 22:25 50:8 57:21 64:3 65:10,15,16 68:3 69:8,21 hitmen 68:20 hold 19:10 | 11:25,25 12:2 12:14,17,18,21 12:24 13:7,13 14:1,10,18 15:3,5,6,7,18 16:2,5,15,25 17:18,23,25 18:2,3,4,5,15 18:16 19:3,5,5 19:14,18 20:23 21:2,4,9,12,14 21:16 22:10,15 22:17 23:1,15 | idea 13:17 59:6 66:13,16 69:6 ideas 3:12,14 6:17 7:24 51:6 identical 6:23 13:12 identity 37:24 68:13 if 1:6 2:10 4:16 4:18 5:19,25 6:18,22 9:10 10:15 11:6,7 12:8,24 13:4 14:1 15:20,23 17:25 19:9 | 15:11,19 16:6 17:18 18:2,8 19:17 20:2 21:8,17 22:11 23:7,17,21,24 24:4,20,22 25:9,19,19,20 25:25 26:12,21 26:23 27:10,18 28:4,9,14,19 29:5,23 30:2,2 30:4,9,10 31:9 31:9,11,15,18 31:18,21,22,24 32:8 33:4,12 |
| 17:20 19:10 20:25 22:16 23:4,20 25:1 25:11,12 28:3 30:1 37:9 41:21,25 55:9 56:13 59:4 60:17 61:11,21 64:2,8,8,9,14 64:16 66:21 68:14,16 69:18 gone 42:19,20 good 8:6 17:1 20:16,17 23:21 26:14 27:15 28:8,15 32:19 48:12 62:3,10 | 35:25 42:6,7,9 42:17 45:12,23 55:7 57:2,23 57:24 60:16,24 61:9 62:14,16 63:10,13,25 66:4,12,13,16 67:24 69:6 half 11:12 46:1 hand 3:18,20 66:8 handle 59:20 hands 2:13 happen 32:19 40:15 44:3,19 | 62:24 63:9 64:5,19,20 66:5,25 67:4,6 67:7,12,13 68:2,20 69:1 69:20,21 70:15 haven't 6:2 49:9 68:8 having 10:19 12:5 19:22 20:11 21:24 39:8,15 48:11 53:16 59:17,22 59:25 61:16 69:22 70:2 Hayman 60:16 61:8 | him 23:13,15 24:13 59:18,20 61:19 63:21 64:1,20,20 66:8,18 69:18 himself 50:6 60:9 64:17 hire 66:1 his 2:6,7 19:24 22:25 50:8 57:21 64:3 65:10,15,16 68:3 69:8,21 hitmen 68:20 hold 19:10 holding 16:7 | 11:25,25 12:2 12:14,17,18,21 12:24 13:7,13 14:1,10,18 15:3,5,6,7,18 16:2,5,15,25 17:18,23,25 18:2,3,4,5,15 18:16 19:3,5,5 19:14,18 20:23 21:2,4,9,12,14 21:16 22:10,15 22:17 23:1,15 23:16,18,23 | idea 13:17 59:6 66:13,16 69:6 ideas 3:12,14 6:17 7:24 51:6 identical 6:23 13:12 identity 37:24 68:13 if 1:6 2:10 4:16 4:18 5:19,25 6:18,22 9:10 10:15 11:6,7 12:8,24 13:4 14:1 15:20,23 17:25 19:9 20:18 21:16,18 | 15:11,19 16:6 17:18 18:2,8 19:17 20:2 21:8,17 22:11 23:7,17,21,24 24:4,20,22 25:9,19,19,20 25:25 26:12,21 26:23 27:10,18 28:4,9,14,19 29:5,23 30:2,2 30:4,9,10 31:9 31:9,11,15,18 31:18,21,22,24 32:8 33:4,12 33:16 36:10,12 |
| 17:20 19:10 20:25 22:16 23:4,20 25:1 25:11,12 28:3 30:1 37:9 41:21,25 55:9 56:13 59:4 60:17 61:11,21 64:2,8,8,9,14 64:16 66:21 68:14,16 69:18 gone 42:19,20 good 8:6 17:1 20:16,17 23:21 26:14 27:15 28:8,15 32:19 | 35:25 42:6,7,9 42:17 45:12,23 55:7 57:2,23 57:24 60:16,24 61:9 62:14,16 63:10,13,25 66:4,12,13,16 67:24 69:6 half 11:12 46:1 hand 3:18,20 66:8 handle 59:20 hands 2:13 happen 32:19 40:15 44:3,19 45:9 | 62:24 63:9 64:5,19,20 66:5,25 67:4,6 67:7,12,13 68:2,20 69:1 69:20,21 70:15 haven't 6:2 49:9 68:8 having 10:19 12:5 19:22 20:11 21:24 39:8,15 48:11 53:16 59:17,22 59:25 61:16 69:22 70:2 Hayman 60:16 | him 23:13,15 24:13 59:18,20 61:19 63:21 64:1,20,20 66:8,18 69:18 himself 50:6 60:9 64:17 hire 66:1 his 2:6,7 19:24 22:25 50:8 57:21 64:3 65:10,15,16 68:3 69:8,21 hitmen 68:20 hold 19:10 | 11:25,25 12:2 12:14,17,18,21 12:24 13:7,13 14:1,10,18 15:3,5,6,7,18 16:2,5,15,25 17:18,23,25 18:2,3,4,5,15 18:16 19:3,5,5 19:14,18 20:23 21:2,4,9,12,14 21:16 22:10,15 22:17 23:1,15 23:16,18,23 24:17,22 25:16 | idea 13:17 59:6 66:13,16 69:6 ideas 3:12,14 6:17 7:24 51:6 identical 6:23 13:12 identity 37:24 68:13 if 1:6 2:10 4:16 4:18 5:19,25 6:18,22 9:10 10:15 11:6,7 12:8,24 13:4 14:1 15:20,23 17:25 19:9 | 15:11,19 16:6 17:18 18:2,8 19:17 20:2 21:8,17 22:11 23:7,17,21,24 24:4,20,22 25:9,19,19,20 25:25 26:12,21 26:23 27:10,18 28:4,9,14,19 29:5,23 30:2,2 30:4,9,10 31:9 31:9,11,15,18 31:18,21,22,24 32:8 33:4,12 |
| 17:20 19:10 20:25 22:16 23:4,20 25:1 25:11,12 28:3 30:1 37:9 41:21,25 55:9 56:13 59:4 60:17 61:11,21 64:2,8,8,9,14 64:16 66:21 68:14,16 69:18 gone 42:19,20 good 8:6 17:1 20:16,17 23:21 26:14 27:15 28:8,15 32:19 48:12 62:3,10 | 35:25 42:6,7,9 42:17 45:12,23 55:7 57:2,23 57:24 60:16,24 61:9 62:14,16 63:10,13,25 66:4,12,13,16 67:24 69:6 half 11:12 46:1 hand 3:18,20 66:8 handle 59:20 hands 2:13 happen 32:19 40:15 44:3,19 45:9 happened 13:5 | 62:24 63:9 64:5,19,20 66:5,25 67:4,6 67:7,12,13 68:2,20 69:1 69:20,21 70:15 haven't 6:2 49:9 68:8 having 10:19 12:5 19:22 20:11 21:24 39:8,15 48:11 53:16 59:17,22 59:25 61:16 69:22 70:2 Hayman 60:16 61:8 | him 23:13,15 24:13 59:18,20 61:19 63:21 64:1,20,20 66:8,18 69:18 himself 50:6 60:9 64:17 hire 66:1 his 2:6,7 19:24 22:25 50:8 57:21 64:3 65:10,15,16 68:3 69:8,21 hitmen 68:20 hold 19:10 holding 16:7 | 11:25,25 12:2 12:14,17,18,21 12:24 13:7,13 14:1,10,18 15:3,5,6,7,18 16:2,5,15,25 17:18,23,25 18:2,3,4,5,15 18:16 19:3,5,5 19:14,18 20:23 21:2,4,9,12,14 21:16 22:10,15 22:17 23:1,15 23:16,18,23 24:17,22 25:16 25:24 26:1,1,7 | idea 13:17 59:6 66:13,16 69:6 ideas 3:12,14 6:17 7:24 51:6 identical 6:23 13:12 identity 37:24 68:13 if 1:6 2:10 4:16 4:18 5:19,25 6:18,22 9:10 10:15 11:6,7 12:8,24 13:4 14:1 15:20,23 17:25 19:9 20:18 21:16,18 | 15:11,19 16:6 17:18 18:2,8 19:17 20:2 21:8,17 22:11 23:7,17,21,24 24:4,20,22 25:9,19,19,20 25:25 26:12,21 26:23 27:10,18 28:4,9,14,19 29:5,23 30:2,2 30:4,9,10 31:9 31:9,11,15,18 31:18,21,22,24 32:8 33:4,12 33:16 36:10,12 |

| | | | | | | Page 77 |
|---------------------------------|-----------------------------------|-------------------------------|----------------------------------|----------------------------------|------------------------------------|---------------------------------|
| | İ | | İ | İ | İ | İ |
| 39:3,3,4,6,9,11 | 33:9 38:11,13 | 29:7,19 33:6 | 23:23,24,25,25 | 14:11,16,16 | 11:10 12:4,10 | job 30:3 37:22 |
| 39:12,15,24 | 45:1 48:9,16 | 35:6 38:14,19 | 24:1,1,3,10,23 | 15:6,20,23 | 12:11,14 13:7 | 40:13,14 42:15 |
| 40:3,6,24 41:7 | 49:25 50:1 | 38:20,21 39:10 | 24:23 25:10,23 | 16:2,19,20,22 | 14:10 16:1,15 | 46:23 54:19 |
| 41:15 42:5,7 | 56:19 71:8 | 39:15,16 40:2 | 26:3,4,6,10,11 | 17:4 19:4,5,6 | 16:17,24 17:11 | 56:3 61:15 |
| 42:12,15,18,21 | informative | 41:25 42:15,19 | 26:12,24,25 | 19:16 20:5,8 | 18:1 19:13 | 63:4 64:2 |
| 43:2,10,13 | 27:17 | 44:21 45:19 | 27:3,5,8,17,21 | 20:20 21:6,11 | 20:2,11,14 | 67:10 |
| 44:1,7,14,23 | injured 15:24 | 55:16 58:4,10 | 27:23 28:3,10 | 21:12,15,20 | 21:9 22:13,14 | jobs 69:14 |
| 45:24 46:1,2 | inkling 11:15 | 59:3,23 63:16 | 29:2,2,8,20 | 22:14,17 23:8 | 23:6,7 25:16 | joined 60:23 |
| 46:21,25 47:21 | innermost 16:9 | 63:22 64:24 | 30:1,6,12,16 | 23:10,11,25 | 25:18,18,19,20 | Jones 56:10 |
| 48:3,25 49:1 | innocence 41:6 | 65:13 66:23 | 30:22 31:1,4,6 | 24:1,9,14,14 | 28:5,12,13 | journalism 3:3 |
| 49:23 50:5,14 | innocent 66:20 | introduced 18:17 | 31:12,23 32:20 | 24:23 25:5,7 | 29:7,16 30:3 | 9:18 14:20 |
| 50:17,18,19,19 | Inquiry 16:14 | | 32:25 33:15,16 | 25:10,11,12,16 | 30:15,20 31:25 | 16:12 17:1,2,3 |
| 52:11,15,16,17 53:2,21 54:22 | 24:18 27:20 52:5 | intrude 41:25 45:19 | 33:18,19,20 34:4,10 35:17 | 25:21 26:1,1 26:10,15,20 | 35:6,11 36:2 39:25 40:9,25 | 18:6,9,10 27:6 27:8,15 28:12 |
| 55:3,21,21,22 | inside 68:23 | intruding 39:10 | 35:22 37:10,14 | 27:20 28:5,14 | 41:1,10,18,20 | journalist 2:11 |
| 56:6,20,22,24 | insignificant | intrusion 39:3 | 38:9,13,14,15 | 28:24 29:1,14 | 42:25 43:5,6 | 14:23 19:10,14 |
| 57:9 58:12,14 | 27:22 | intrusions 38:19 | 38:23 39:1,2 | 29:15,18,24,25 | 43:23 44:9,20 | 19:20,21 20:23 |
| 59:14,19,24 | instance 4:2 | invaded 15:12 | 39:21,21 40:17 | 30:2,3,3,5,7 | 45:23 47:20 | 21:4,23 23:12 |
| 60:4,7,14,21 | instant 46:21 | 20:15 | 40:20 41:7,7,8 | 31:1,2,3,6,18 | 50:10,12,23,24 | 24:2,12 26:4 |
| 60:22,23 61:9 | institute 70:13 | invasion 8:22 | 41:9,12,13,13 | 32:3,4 33:9,23 | 51:5 52:13 | 26:11 56:7 |
| 61:11 62:2,18 | 70:14,18,19,21 | 23:22 | 41:13,16 42:20 | 34:10,11 35:11 | 53:19,22 55:8 | 58:1 60:23 |
| 63:10,13,15,18 | 71:2 | invest 4:16 5:2,4 | 42:21 43:5,7,8 | 37:8,9,11,15 | 57:6 58:6,6,15 | journalistic 9:4 |
| 64:11,12,13,18 | integrity 25:25 | 5:9,20 | 43:18,22,24 | 37:16,21 38:4 | 58:21 59:5,5 | 9:14 15:21 |
| 65:9 66:18 | intended 19:13 | investigate 22:17 | 44:12,15 45:1 | 38:11,25 39:1 | 59:19 60:15 | 18:7 71:2 |
| 67:1,3,14,25 | intention 41:9 | investigated 25:6 | 45:12,18 46:13 | 39:3,10,25,25 | 63:21 64:13,14 | journalists 1:19 |
| 68:3,6,14,24 | interest 7:22 8:3 | 60:3 | 48:1,10,10,12 | 40:1,6,13,14 | 65:3,11 67:16 | 2:21 3:3 16:17 |
| 69:21,22,25 | 8:7,10,21,22 | investigation | 49:4,20,22 | 40:14,17,19,22 | I'd 1:6,14 12:20 | 19:7 23:2 |
| 70:2,5,9,12,20 | 8:23,25 9:4,7 | 6:11 20:18 | 50:18 53:5,8 | 41:12 42:5,12 | 13:5 18:16 | 24:21 26:20 |
| 71:6 | 9:11 10:20,22 | investigative | 53:15,16,17,20 | 42:14,15,18,20 | 57:11 65:5 | 27:17 70:13,15 |
| inaccurate 71:8 | 10:25 12:7,9 | 28:12 67:18 | 54:20 55:2,12 | 42:21,24,25 | 66:5 69:21 | 70:19 |
| inadequacy 5:15 | 12:11 16:5,6 | investment 4:15 | 55:13,14 56:2 | 43:3,10,15,22 | I'm 6:2,3,9 7:12 | judge 9:22 12:1 |
| inappropriate | 18:1,3,14,19 | 6:12 | 56:5 57:7 58:8 | 46:17,23,23 | 8:1 9:3,9,20 | 12:21 26:4,10 |
| 16:11,19 23:22 | 19:24 20:2 | investments 9:22 | 58:9,9,14 59:1 | 47:3,5,9,12,16 | 10:5 13:2,13 | judgment 40:19 |
| 29:16 53:22 | 21:7,9,19 | invited 24:17 | 59:12,21,22 | 47:21,24 48:6 | 14:16 15:6 | 70:12 |
| 54:17 | 24:13,20 25:7 | inviting 52:9 | 60:17 63:14 | 48:24 49:2,17 | 17:16 18:19,20 | July 31:3 36:24 |
| inappropriately 9:12 | 26:13 27:11 | involved 16:16 | 64:24 65:2,10 | 49:20,21,23 | 19:15 21:4,5 | 46:10 54:21 71:17 |
| inappropriate | 28:18 29:12,13 29:20 30:1 | 24:22 31:24 45:10 58:1,12 | 66:9,24 67:11 67:13,18 68:2 | 50:1,7,7,8,16 50:20 51:2,13 | 21:17 23:7 24:3 25:11,12 | June 14:3 36:24 |
| 54:25 | 43:10 52:18 | 60:7 64:12 | 68:5,7,9,12,12 | 51:14,23,24 | 26:13,17 36:17 | jury 26:6 |
| incident 60:4 | 53:2,11,18 | IPCC 60:3 | 68:13,14,15,17 | 52:8,12,14,18 | 41:25 45:17 | just 1:11 3:12 |
| inclinations 1:23 | 58:14 60:6 | is 2:7,9,10,24 3:4 | 69:10,24 70:4 | 52:20 53:4,6,7 | 46:18,25 52:3 | 10:11,14 11:14 |
| including 6:10 | 69:10 | 3:10 4:3,6,13 | 70:5,17,25 | 53:19,20,21,24 | 60:19 67:10 | 12:14 13:19 |
| increasingly | interested 12:20 | 4:19 5:3,6,11 | 71:2,7 | 53:24 54:5,13 | 68:4 70:20 | 14:1,23 15:6 |
| 4:14 | 13:2 46:18 | 5:16,17,19,21 | isn't 3:21 5:16 | 54:14,20 55:3 | I've 1:24 8:13 | 15:15 17:25 |
| indeed 30:14 | 48:1,8 52:7 | 5:25,25 6:6,15 | 7:19 10:14 | 55:7,7,10,12 | 9:15,19,20 | 18:12 19:4 |
| 60:15 71:11 | 53:2,12 61:22 | 6:20,22 7:9,10 | 11:5 26:12,20 | 55:14,17,18,19 | 11:16,22 14:11 | 26:1 27:23 |
| Independent | 62:2 | 7:17,18,23,25 | 34:3,4,11 40:4 | 56:5,5,10,11 | 14:12 16:24 | 28:16 32:18 |
| 60:1 | interesting 12:10 | 8:8,8,10,10,11 | 42:21 58:21 | 56:20,21 57:4 | 17:18 18:24 | 33:21 36:24 |
| indirect 2:12,18 | 12:12 13:18,24 | 8:17 9:3,10,11 | issue 4:11 6:7,8 | 57:6,8,13,13 | 19:25 23:12,13 | 37:9 39:25 |
| individual 2:21 | 14:2 33:18,20 | 9:13,13,14,15 | 27:5 32:24 | 57:24 58:9,21 | 39:16 42:8 | 41:10 47:25 |
| 4:8 38:19 | 52:18 64:5 | 9:16,16 10:16 | 38:10,17 39:2 | 59:2,17,21,22 | 45:12 53:7 | 52:4 53:5,10 |
| 41:20,22 42:1 | interests 13:4 | 10:18 11:17,22 | 39:4 | 60:5,20 61:2 | 62:9,23 63:11 | 54:14 62:1,9 |
| 42:5,6,12 | Internet 69:2 | 11:23 12:5 | issues 1:3 5:10 | 61:17,20 62:1 | 63:24 68:19 | 65:5 66:11,13 |
| individuals 5:20 | interpretations | 13:4,4 14:3,8,9 | 5:11 38:7,17 | 62:3,17 63:6 | 69:22 70:23 | 70:1 |
| 54:5 | 8:9 16:4 | 14:18,19,20,25 | 38:20,21 | 63:19 64:2,5,7 | | justice 2:4 5:16 |
| individual's 38:4 | interpreted 6:3 interview 42:9 | 15:17,24 16:11 16:13,22,25 | it 1:11,17 2:4,17 3:21 4:6,11,22 | 64:8,9,10,12 | | 5:24 6:18,22 7:12,16,21 |
| industry 4:22 45:9 47:21 | 42:11,13 65:10 | 17:1,1,3,6,7,9 | 4:24 5:22,25 | 64:12,15,16,19 64:22,22 65:16 | January 39:20 | 8:12,20 9:9,20 |
| inevitable 5:17 | 67:24 | 17:11,17,18,25 | 6:22 7:5,9,9 | 65:19 66:5,5 | Jay 1:3 2:9 7:22 10:2 13:11 | 9:25 12:20,24 |
| inevitably 1:21 | intimacy 60:25 | 18:10 19:7,10 | 8:8,10,10,13 | 66:12,12,13 | 17:22 30:16,18 | 13:2,10,13,22 |
| influence 1:16 | intimate 61:17 | 19:12,22,25 | 8:19 9:13,13 | 67:16 68:15 | 30:19 35:9 | 14:2,7 16:13 |
| 2:10 4:9 | into 2:9 13:23 | 20:1,10,18,23 | 9:16,25 10:5,5 | 69:24 70:16 | 37:2,9 47:10 | 17:14 18:12,21 |
| influenced 1:21 | 16:21 19:24 | 21:2,20 22:3,6 | 10:6,14,22,24 | its 10:10 45:24 | 47:15,17,25 | 18:24 19:4,16 |
| information 20:5 | 20:9 21:3,14 | 22:10,16,21,21 | 11:5,7,11,17 | itself 8:4 | 48:4,6 52:4 | 19:19 20:5,8 |
| 28:25 29:3,4 | 21:15,24 22:3 | 22:22 23:4,6 | 12:3,7,11 13:3 | it's 4:7 5:24 10:7 | 53:7 54:3 56:2 | 20:12,14,20 |
| 29:14,15 32:15 | 22:7,8 25:15 | 23:15,16,20,21 | 13:8,11 14:10 | 10:17,20,21 | 70:6 71:13 | 21:10,17 22:2 |
| | | | • | | | |
| | | | | | | |

| | | | | | | rage /c |
|-------------------------|--------------------------|-------------------|--------------------|------------------|------------------|-------------------------|
| | 1 | l | l | l | | l |
| 22:6,20,24 | last 8:7,16 14:5 | 24:17 25:2,10 | 49:6,15 50:2,6 | 15:25 16:20 | 57:25 60:23 | 47:15 49:18 |
| 23:4,6,11 24:7 | 14:23 16:8 | 25:18,21 26:3 | 57:6,8,20 58:9 | 17:4,14,15,15 | 62:20 63:3,25 | 54:5,13,14 |
| 24:17 25:2,10 | 27:1 47:1 55:9 | 26:9 27:12 | 66:8 | 18:11 47:17 | 66:3,10 67:9 | mile 47:18 |
| 25:18,21 26:3 | later 21:21 61:17 | 28:3,21 29:10 | looked 57:13 | 48:19 51:3 | 68:8,17,17,18 | millimetre 56:4 |
| 26:5,9 27:12 | 62:18 | 29:22 30:8,14 | looking 4:14,17 | 52:11 57:6 | 69:19 70:21 | million 14:24 |
| 28:3,21 29:10 | latter 4:2 | 34:24 37:1,5,8 | 15:20 30:4 | 59:8 66:9 71:6 | mean 6:6 8:19 | 15:1,9,13 |
| 29:22 30:8,14 | law 18:8 21:2 | 45:22 46:7,15 | 39:18 50:23 | makes 7:18 | 12:21 18:14,15 | mind 14:7 15:7 |
| | | | 69:12 | 15:20 17:4 | 25:16 28:21 | 56:22 |
| 34:24 37:1,5,8 | 23:9 25:9,15 | 46:18 47:5,14 | | | | |
| 45:22 46:7,15 | 26:21 28:14 | 47:25 48:5 | looks 58:7 69:15 | making 20:1 | 30:5 39:14 | mine 12:2 44:22 |
| 46:18 47:5,14 | 30:10 67:22 | 52:3,7,23 53:1 | LORD 2:4 5:16 | 38:15 | 45:8 69:14,15 | 64:1 65:23 |
| 47:25 48:5 | 68:10 | 53:5,23 54:2 | 5:24 6:18,22 | man 66:20 68:23 | 71:1 | minutes 18:13 |
| 52:3,7,23 53:1 | laws 67:17 | 56:1 70:7,11 | 7:12,16,21 | managing 32:2 | meanings 9:6 | 61:8 |
| 53:5,23 54:2 | lax 58:9 | 70:17,22,25 | 8:12,20 9:9,20 | Manchester 65:8 | means 7:14 8:10 | Mirror 64:18 |
| 56:1 70:7,11 | lay 25:6 | 71:4,10,14 | 9:25 12:20,24 | manifestly 21:8 | 8:14 41:15 | misfortunes |
| 70:17,22,25 | leading 11:4 | liberal 14:23 | 13:2,10,13,22 | manner 70:21 | 43:13 67:16 | 16:11 |
| 71:4,10,14 | leads 3:24 40:16 | 16:17 | 14:2,7 16:13 | many 2:21 27:15 | mechanism 3:1,9 | misleading 71:8 |
| justification 21:1 | 41:10 48:16 | lie 17:17 | 17:14 18:12,21 | 32:3,7,11 | 19:11 22:9,10 | missed 19:3 |
| | leap 20:22 | life 38:4 | | | 70:17 | |
| justifications | _ | | 18:24 19:4,16 | market 4:13,13 | | missing 17:3 |
| 12:7 | learn 3:6 | Lightyear 65:14 | 19:19 20:5,8 | 4:16,20 | mechanisms | mistake 53:4,6 |
| justified 21:24 | least 11:3 65:16 | 66:4 | 20:12,14,20 | marketing 49:4 | 25:22 | mistakes 42:16 |
| | leave 68:6 | like 1:6 2:11 5:7 | 21:10,17 22:2 | married 10:18 | media 1:4 22:11 | misunderstood |
| K | leaving 60:11 | 6:11 8:4 11:14 | 22:6,20,24 | 12:5 59:22 | 24:2 33:4 | 21:16 |
| keep 60:17 | Leeds 13:9 | 25:15 26:14 | 23:4,6,11 24:7 | 60:8 | 36:23 | ml 34:4,6 35:4,8 |
| keeping 56:23 | left 49:2 52:16 | 27:14 32:16 | 24:17 25:2,10 | marzipan 58:6 | Medium 56:2 | 35:9 46:24 |
| kept 18:12 32:13 | 61:3,13,14 | 33:21 44:24 | 25:18,21 26:3 | 58:19 | Medium-length | 47:9,10,12 |
| 63:12 | legal 50:8 52:21 | 50:10,18 51:9 | 26:9 27:12 | massive 45:5,6 | 56:1 | Mm 5:23 20:4 |
| key 6:14 | legality 50:7 | 57:6,9 58:7,15 | 28:3,21 29:10 | material 35:22 | meet 60:15 | 45:15 48:21 |
| | legally 31:21 | | | 58:5 | | 52:25 54:1 |
| kill 68:21 | | 63:19 65:6,12 | 29:22 30:8,14 | | meeting 42:5 | |
| kilometre 47:15 | legislation 3:19 | 65:20 67:8 | 34:24 37:1,5,8 | matter 9:25 | 61:1 64:3,14 | Mm-hm 20:7 |
| kind 3:1,9 7:7,8 | legitimate 9:4,14 | 68:20 | 45:22 46:7,15 | 11:10,23 12:15 | meetings 61:2 | 26:2 29:9 |
| 14:20 25:19,20 | 27:10 | likely 6:22 40:3 | 46:18 47:5,14 | 15:23 28:6 | member 51:10 | 34:15 41:24 |
| 27:8 55:2 | length 34:7,24 | Limited 30:22 | 47:25 48:5 | 38:18,24 43:22 | 59:7 62:25 | model 7:6 12:4,7 |
| kindly 30:24 | 34:25 35:6 | 31:23 | 52:3,7,23 53:1 | 60:20 64:14 | 70:14 | 14:12 |
| kinds 3:5 27:6 | 47:22 56:2 | limits 15:11 | 53:5,23 54:2 | matters 18:9 | members 32:4 | Module 1:15 |
| kit 56:6 68:9 | lens 34:1,3,3,4,5 | line 2:7 16:3 | 56:1 70:7,11 | 36:10 38:3 | 51:8 69:23 | moment 5:12,19 |
| knell 4:22 | 34:6,9,25 35:4 | 26:23 | 70:17,22,25 | Matthew 30:17 | men 69:25 | 19:5 21:19 |
| knew 66:15 | 35:8,9,12 | lines 25:10 | 71:4,10,14 | 30:20 | mention 35:15 | 22:6 29:5,7,10 |
| | | | loss 5:6 | mature 7:11 | mentioned 34:24 | |
| know 7:9 12:20 | 46:13,22,23 | link 21:11,11,13 | | | | 29:11,23 30:4 |
| 13:5 14:11 | 47:15,19,22 | linkage 1:13 2:1 | lost 55:15 | maximum 11:22 | merely 7:12 | 46:9 |
| 15:6 23:18 | 55:25 56:1,3,6 | linked 9:23 | lot 15:10 26:25 | 35:4 | 16:19 21:23 | Monday 64:18 |
| 24:21 26:1 | lenses 35:1,6 | list 51:22 52:1 | 27:1 38:14,14 | may 1:3,6 2:9 | 23:21 27:17 | 71:13,17 |
| 28:14 30:10 | 46:11,19 47:7 | 69:11 | 43:13 64:1,24 | 4:11,12,14,19 | merger 3:18 | money 6:19 |
| 34:20 35:3,7 | 47:17 56:4 | listen 19:6 22:19 | 66:7 | 7:5 9:8,8 12:11 | merit 4:24 | 17:14,15,15 |
| 37:3,21,22 | less 15:13 18:15 | 49:24 | lots 30:9 50:9 | 14:4 16:22 | merry-go-round | 18:11 45:10 |
| 38:22 48:7,9 | 18:17 | little 43:9 | love 15:18 | 18:25 19:21,23 | 28:12 | 48:19 49:17 |
| 48:11,11 52:7 | let 18:21 34:20 | Liverpool 60:14 | | 20:20 21:16 | message 22:19 | 51:3 52:11 |
| 53:9,14 54:18 | letters 12:16,17 | 61:7 | M | 23:17 27:20 | met 64:4 69:2 | 66:7 |
| , | let's 11:18 19:4 | lives 15:12 | made 4:4 14:19 | 28:24 29:1,1 | method 39:20 | months 14:5 |
| 57:22 61:20 | 19:19,19 20:22 | living 48:10 | | 32:24 58:4,4 | 43:7 46:11 | 16:8 27:1 |
| 64:25 66:10 | | | 20:22 48:8,15 | | | |
| 67:2 70:23,25 | 21:21,22 59:19 | 53:15 | 53:12 55:3 | maybe 6:2 14:1 | 47:8 | 55:10 61:17 |
| knowing 33:17 | level 4:5 | loads 51:2 | 61:19 62:2,9 | 23:1 25:2 30:1 | methods 10:7 | Moore 19:2 |
| 46:5 48:20 | levelled 16:24,25 | local 32:10 | 65:9 66:13 | 44:4 | 15:21,21 38:19 | moral 40:25 |
| 51:12 | Leveson 2:4 5:16 | Lockerbie 69:16 | Madeleine 56:14 | McCann 57:21 | 46:13 | 41:12 |
| knowledge 23:24 | 5:24 6:18,22 | 69:20 | 56:23,25 | McCanns 55:20 | Metropolitan | morally 41:1 |
| 31:4 33:24 | 7:12,16,21 | logical 28:17 | Mail 37:19,19,23 | 55:22 56:13,22 | 31:11 | more 2:12 14:1 |
| known 16:10 | 8:12,20 9:9,20 | London 60:4 | 46:1,1 62:1,4 | 57:11,12,14 | Michael 13:8 | 14:20 15:19,22 |
| knows 59:21 | 9:25 12:20,24 | long 34:3,4,9 | 62:11,13 | me 13:4,24 14:10 | mid-market | 17:6,19,25 |
| 1110 115 57.21 | 13:2,10,13,22 | 46:10,13,19,22 | MailOnline | 14:11 15:16 | 16:16 | 18:13,15,16 |
| L | 14:2,7,25 | 46:23 47:7,15 | 62:17 | 16:2 17:16,17 | might 3:6,22 4:1 | 35:8 62:19 |
| | 16:13 17:14 | 55:24 56:2,3 | | 17:21 18:21 | 4:21 8:21 | morning 63:19 |
| L 16:18 | | | main 31:23 | | | 68:24 |
| lady 60:7 61:6,18 | 18:12,21,24 | longer 35:6,10 | 41:12 | 20:24 21:1 | 10:14 15:22 | |
| laid 22:11 65:18 | 19:4,16,19 | 35:11 46:24 | mainly 51:5 | 22:18 25:16 | 16:10 27:9 | Morrison 13:7 |
| languidly 15:3 | 20:5,8,12,14 | 47:9 55:4 63:3 | major 55:14 | 28:11 30:9,10 | 29:13 30:7 | most 23:1,11 |
| large 6:19 9:22 | 20:20 21:10,17 | longest 34:3 | majority 1:20 | 45:16 46:16,22 | 33:9 34:16 | 27:3,4 32:10 |
| larger 35:5 | 22:2,6,20,24 | look 10:15 11:6,7 | make 6:16 12:3 | 49:24 50:20,24 | 36:4,13 38:4 | 33:6,25 34:9 |
| largest 45:12 | 23:4,6,11 24:7 | 36:24 37:9 | 14:1,2,11,18 | 51:7,13 57:19 | 38:17 45:19 | 35:3 38:11 |
| | | |] | | | |
| L | | | | | | |

| 39:5 41:7 | | | | | | | Page 79 |
|--|-------------------------|----------------|---------------------------------------|-----------------|----------------|---------------------------------------|---------------------------------------|
| 4441 457 more 201220 23174.51,0 4925.501 3814.41,418 officer \$52.10 39.20.43.6 712 | | I | _ | I | I | _ | _ |
| 53-17 60-25 | | | | | 37:24,24 38:11 | | |
| 1712 | | | | | | | |
| motor 36.20 | | | | | | | |
| move 19:19 | | | | | | | |
| Moved 31:14 | | | | | | | |
| | | | | | | | |
| MPs 472 | | | | | | | |
| | | | | | , | | |
| 1922 13:11 | | | | | | | |
| 1722192 | | | | | | | |
| 2217 90.16,16 | | | | | | | |
| 3017,18,19,19 11:12 14:24 26:17 27:17,12 cocasions 57:18 48:7,111,11.5 complex 5:19 29:124 30:9 44:13 48:15,25 9:9 complex 5:19 29:124 30:9 44:13 49:13,17 50:3 complex 5:19 29:124 30:9 44:13 49:13,17 50:3 complex 5:15 29:124 30:9 44:13 50:77,9,12 5:3 31:8,08 8.7 28:13,15 47:17,25 48:4 40:94.29 43:2 35:11.22 37:9 25:55,13,15,16 50:25,25 5:12 97:10:15,17 58:15,16 18:1 50:03.9 50:14,15 67:10 50:03.9 50:14,15 67:10 50:03.9 50:14,15 67:10 50:03.9 50:14,15 67:10 50:03.9 50:14,15 67:10 50:03.9 50:14,15 67:10 50:03.9 50:14,15 67:10 50:03.9 50:14 50:03.9 50:14 50:03.9 50:14 50:03.9 50:14 50:03.9 | | | | | | | |
| 331 35.9 37.2 15.25 32:10 28.71,021,122 37.20 40.22 48.15,25 49.9 momibus 10.8 32.73 51.9 21.12 43.09 44.13 41.31 51.50 37.10 38.24 30.12 34.91,18 of 11.31,72.32.5 50.73,91.92.5 31.82.08.5.7 44.12 48.8 40.94 29.4 32 38.12 23.12 52.51,31.5.16 50.25,25 51.32 50.73,91.92.5 53.18.20 85.7 53.75 43.5 50.2 50.35,9 52.21 41.29,21.25 39.11,11.21 51.20,21.22 16.17 17.11,12 onto 34.21 17.11 | | | | occasions 37:18 | | | |
| 44:25 47:10,15 37:10 38:24 30:12 34-9,18 of 1:13.17.23.25 50:77.9,19.25 33:18,20.85.7 28:13,15.47.5 28:13.15.47. | | 15:25 32:10 | | 37:20 40:22 | 48:15,25 49:9 | omnibus 10:8 | |
| 4471.72.5 48.4 40.9 42.9 43/2 3511.12.237.9 2.55.13.15.16 50.25.25 51:2 97.10.15.17 53:1 54:18 486.52.43.23 4412.48.8 512.13.12.5 2.20 31.1.1.5 51.00.12.18 10.24 15.8 641.98.1.1 onto 34:21 55:10.63.9 53:14.55.19 42.92.12.5 3.91.11.1.21 55:10.63.9 53:14.15.19 42.92.12.5 3.91.11.1.21 55:10.20.12.22 16:17.17.11.1 onto 34:21 onto 34 | 37:9 40:18 | 33:7 35:19 | 29:1,24 30:9 | 44:13 | 49:13,17 50:3 | on 1:4,16 2:3 | 21:19 25:19 |
| 48.6 52-423 | 44:25 47:10,15 | | | | 50:7,7,9,19,25 | | 28:13,15 47:5 |
| 581 5843 5862 503,5.9 52211 412,921,25 5610 639 531,415 5519 5010 639 5314 5519 571,923 636 4517 4718,20 4172,0.25 58 539,17 546,68 2216 2319 414 157 17.6 6514 5023 5214,17 611,0.60,77.8 182,3014 3220 3511 664,13 14;22 555 573,7,18 522,4 548.8 721,16,60,77.8 78,13,19,23 564,14,16,24 313 326,62 711,0.14 3212 651 6622 712,10.14 315 66 112 6210 899,16 91,1 582,612,23 361,31,23 332 6112 4121 21718 21.5 55.9 91.8 1063 42,2 63 10,2 11,2 112,1 112 | | | , | | 50:25,25 51:2 | 9:7 10:15,17 | |
| 56:10 63:9 70:6 71:11.13 577.923 63:6 63:7 64:6 144:15:717:6 182:30:14 182:30:14 182:30:14 182:20:15:11 182:20:14:17 182:20:35:11 182:20:35:11 64:13:14:22 152:20:35:11 64:13:14:22 152:20:35:11 64:13:14:22 152:20:35:11 64:13:14:22 152:20:35:11 64:13:14:22 152:20:35:11 64:13:14:22 152:20:35:11 64:13:14:22 152:20:35:11 64:13:14:22 152:20:35:11 64:13:14:22 152:20:35:11 64:13:14:22 152:14:15:14:15 152:20:16:18:11 152:20:16:18:11 152:20:16:18:11 152:20:16:18:11 152:20:16:18:11 152:20:16:18:11 152:20:16:18:11 152:20:16:18:11 152:20:16:18:11 152:20:16:18:11 152:20:16:18:11 152:20:16:18:11 152:20:16:18:11 152:20:16:18:11 152:20:16:18:11 152:20:16:18:11 152:20:16:18:11 152:20:16:18:11 152:20:16:18:11 152:20:18:18:18:18:18:18:18:18:18:18:18:18:18: | | | | | | | |
| 706 71:11,13 706 71:11,13 706 71:11,13 577,923 636 45:17 47:18,20 41:20,25 5:8 53:9,17 54:68 22:16 23:19 29en 23:11 25:11 59:5 14:4 15:7 17:6 65:14 50:23 52:14,17 61:17,17,19:20 54:25,25 5:5:1 28:8 30:12 open 23:11 25:11 59:5 open 23:11 25:11 59:5 open 23:12 25:11 open 23:12 25:12 open 23:12 25:11 open 23:12 25:11 open 23:12 25:14 open 23 | | | | | | | |
| much 2:12 4:8,9 144 155 717:6 637 64:6 49.316 50:3 55.14,15 67.10 54:121,519.21 24:19 25:3 59:5 182:3 0:14 14 157 717:6 65:14 14:22 55:02 57:14,12 20 55:23 57:14,17 55:2,14 16:24 31:3 32:6,20 9perate 55:4 o | | | | | | · · | |
| 144 15:7 17:6 65:14 18:2 30:14 18:2 | | | | | | | |
| 182 30:14 newspapers 5:18 53:24 44:8 73:11.16.67.78 55:21.41.624 31:3 32:6.20 operate 55:4 40:19 43:17 15:2.16 18:11 58:5.5 57:37.31.8 78:81.31.9.33 57:11.12.13.24 35:16.21.25 35:16.21.25 35:16.21.25 71:7 Newspics 30:21 64:22 65:10.21 64:22 65:10.21 64:22 65:10.21 64:22 65:10.21 64:22 65:10.21 66:22 67:11.21 71:8 21:5 65:29 71:7 71 | | | | | | | |
| 322.0 35:11 | | | | | | | |
| 40:19 43:17 15:2,16 18:11 58:5,6.20 59:5 7:24 81:12,33 57:11,12,13;24 35:16,21,25 operational 32:10 50:16 66:22 63:12,21 64:16 94,6,14,17,21 59:7,12,14,15 37:15,18,19,20 operations 59:25 operations 59:25 11:24 12:1,21 news-gathering 17:18 21:5 55:26 12:23 33:2 news-gathering 17:18 21:5 55:26 12:24 12:1,21 12:1,25 12:5 | | | | | | | |
| 62-4 71:10,14 must 30:10 50:16 71:7 my 1:14 3:15 6:6 71:7 my 1:14 3:15 6:6 11:24 12:1,21 11 8 21:5 12:62:2 73:2,1 12:12:10 1 12:13 21:2,01 12:14 2:12.01 12:14 2:12.01 12:14 2:12.01 12:14 2:12.01 12:14 2:12.01 12:14 2:12.01 12:15 2:13.01 12:14 2:12.01 12:14 2:13.01 12:15 2:13.01 12:14 2:13.01 12:15 2:13.01 12:14 2:13.01 12:15 2:13.01 12:14 2:13.01 12:15 2:13.01 12:13 2:22.14 10:22 2:11.01,11 12:15 2:24 10:22 2:11.01,11 12:15 2:24 10:22 2:11.01,11 12:15 2:24 10:22 2:11.01,11 12:15 2:24 10:22 2:11.01,11 12:15 2:24 10:22 2:11.01,11 12:15 2:24 10:22 2:11.01,11 12:15 2:22 44 12:13 3:22 12:15 3:23 3:22 12:15 3:23 3:23 13:11 3:24 13:13 1:5 1:5 1:5 1:5 1:5 1:5 1:5 1:5 1:5 1:5 | | | | | | | |
| must 30:10 50:16 66:22 63:12.21 64:16 9:46,14,17.21 59:7,12,14,15 37:15,18,19.20 operations 59:25 my 1:14 3:15 6:6 31:23 33:2 67:16 68:14 11:34,58,12 59:16,24 60:10 37:23,23,25 opinion 3:13 6:5 11:24 12:1,21 news-gathering 69:18 70:12,20 71:7 12:69,12,24 62:15,19,19,21 39:22 40:13 39:22 40:13 17:11< | | | | | | | |
| Ti-7 My 1:14 3:15 6:6 my 1:14 3:15 6:6 my 1:14 3:15 6:6 my 1:14 3:15 6:6 my 1:14 3:15 6:6 my 1:14 3:15 6:6 mothing 53:17 my 1:14 3:15 6:6 mothing 53:17 mothing 53:13 mothing 59:20 mothing 53:17 mothing 53:17 mothing 53:13 mothing 59:20 mothing 53:17 mothing 53:17 mothing 53:17 mothing 53:17 mothing 53:17 mothing 53:17 mothing 53:12 mothing 53:12 mothing 53:20 mothing 53:12 mothing 53:20 mothing 53:12 mothing 53:20 mothing 53:12 | , | | | | | | |
| my 1:14 3:15 6:66 31:23 33:2 67:16 68:14 11:34,58,12 61:23,13,15 38:32 39:9 6:17:7:11:20 17:18 21:5 news-gathering 69:18 70:12 11:15,15,16,24 62:15,19,19,21 39:22 40:13 39:22 40:13 17:11 26:25 27:3,21 next 39:2 61:5 nothing 53:17 13:3,48,917 63:10,21,24 48:12,20 46:1 58:17 68:8 70:2 night 63:14 67:21 14:19,20 15:10 64:23,23,24 47:2,3,41,923 43:1 49:23 no 9:25 15:6 17:9 18:18 19:23 14:4 18:2,5,23 66:25 67:1,6 65:15,19,23 49:2,3,17,24 62:27,33,21 60:25,7,16,20 3:25 48:6,15 8 name 30:19 24:13 29:20 11:16 14:16 21:7 22:9,18 68:2,3,4,22 55:2,45 56:6 17:2,49 18:11 3 mame 23:18 36:18 37:7 23:15 37:24 24:12,18 20:20 69:24 70:2,4 55:20,22 56:3 17:2,49 18:11 55:19 59:18 35:3,5 36:11 20:17 22:2,14 24:12,18 20:2 69:24 70:2,4 55:20,22 56:3 17:2,49 18:11 names 37:3 46:24 50:13 53:20,22< | | | | | | | |
| 17:18 21:5 26:25 27:3,21 26:25 27:3,21 26:25 27:3,21 26:25 27:3,21 26:25 27:3,21 26:12 27:20 26:25 27:3,21 26:12 27:20 2 | my 1:14 3:15 6:6 | | | | | | |
| 26.25 27.3,21 | 11:24 12:1,21 | news-gathering | 69:18 70:12,20 | 11:15,15,16,24 | 62:15,19,19,21 | 39:22 40:13 | 17:11 |
| 52:19 63:12 6:19 63:12 6:19 63:14 night 63:14 nice 34:7 49:17 of 60:25 6:15 for:9 notice 30:25 notion 3:1 7:8 notion 3:1 7:8 notwithstanding 18:18 19:23 now 1:9;16 7:22 notion 3:1 7:8 notwithstanding 18:25,23 now 1:9;16 7:22 now 1:9;16 now 1:9;16 7:22 now 1:9;16 now 1:9;16 7:22 now 1:9;16 now 1:9;16 7:22 now 1:9;16 now 1:9;16 7:22 now 1:9;16 now 1:9;16 7:22 now 1:9;16 now | | , | | | 62:21 63:1,4 | | |
| 68:8 70:2 | | | | | | | |
| 68:8 70:2 myself 6:2 10:13 65:25 66:3 e9:4 myself 6:2 10:13 notice 30:25 e9:4 motion 3:1 7:8 motion 3:2 7:2 8:2 8:2 8:2 9:3 3:3 10 45:24 motion 3:2 8:2 8:3 motion 3:3 8:3 8:2 motion 3:2 8:2 9:3 3:3 10 45:24 3:3 3:3 10 45 | | | | | | | |
| myself 6:2 10:13 69:4 notion 3:1 7:8 notwithstanding notwithstanding 18:2,5:23 16:1,4,9,13,16 65:15,19,23 49:23,17,24 or 2:2,7 3:8,22 3:25 48:6.1,5 or 2:2,7 3:8,22 or 2:2,7 3:8,22 or 2:2,7 3:8,22 3:25 48:6.1,5 or 2:2,7 3:8,22 or 2:2,1 3:10 or 3:1:16 or 2:2,7 3:8,22 or 2:2,1 3:10 or 2:2,7 3:8,22 or 2:2,1 3:10 or 2:2,7 3:8,22 or 2 | | _ | | | | | |
| May | | | | | | | |
| N | | | | | | | |
| N 20:3,13 23:19 now 1:9,16 7:22 20:21 21:2,3,6 67:15,18,20,23 52:24 53:6 10:10,23 11:16 name 30:19 39:24 41:21 34:20,23 35:3 11:16 14:16 21:7 22:9,18 68:2,3,4,22 54:9,20,24 14:7 15:1 16:1 55:19 59:18 35:3,5 36:11 20:17 22:2,14 24:12,18,20,20 69:24 70:2,4 55:20,22 56:3 17:2,49 18:11 named 23:18 36:18 37:7 23:15 37:24 24:21,218,20,20 69:24 70:2,4 55:20,22 56:3 17:2,49 18:11 61:18,18 40:22 43:9,23 46:21 48:1,13 25:14,22,23 70:15,19,19 58:5,81,725 20:1,20 21:20 naming 59:20 51:5,8 54:24 nowhere 29:16 27:1,2,3,4,68 0ff 16:20 37:1 62:14,11,13 25:1 26:15 nature 50:25 60:22,55 61:21 number 2:5 7:24 27:23 28:7.25 55:15,18 66:14 63:17 66:18,18 28:5 29:1,7 nearly 66:20 66:16,19 67:8 58:2,12 71:9 30:21 31:4,20 69:4,17 66:19,21 68:20 38:9,15,25 necessarily 3:13 3:23 6:24 70:13 71:1 numbers 6:15 31:23,22 <t< th=""><th>49.23</th><th></th><th></th><th></th><th></th><th></th><th></th></t<> | 49.23 | | | | | | |
| name 30:19 24:13 29:20 11:16 14:16 21:7 22:9,18 68:2,3,4,22 54:9,20,24 14:7 15:1 16:1 39:24 41:21 34:20,23 35:3 18:4 19:19 23:19 24:10,11 69:11,17,19,23 55:1,6,9,10,16 16:9,10,11 55:19 59:18 35:3,5 36:11 20:17 22:2,14 24:12,18,20,20 69:24 70:2,4 55:20,22 56:3 17:2,49 18:11 61:18,18 40:22 43:9,23 46:21 48:1,13 25:14,22,23 70:15,19,19 58:5,817,25 20:1,20 21:20 naming 59:20 51:5,8 54:24 nowhere 29:16 27:10,16,17,22 54:7,8 55:12 62:13,15,16,18 28:5 29:1,7 31:9 32:12 57:25 59:4 number 2:5 7:24 27:23 28:7,25 55:15,18 61:14 63:17 64:18,22 33:11 35:24 near 50:8 61:7 66:20, 23,23 66:13 33:10 45:24 29:25 30:49 69:4,17 66:19,21 68:20 38:9,15,25 necessarily 3:13 67:16 69:6 numbers 6:15 31:23 32:4,58 22:2 28:25 71:17 66:19,619 69:6,117:9 40:13 41:2,6 10:22 21:10,11 nood 95:19 52:13,20 32:14,17,21,23 66:23,3,4,10 66:19, | | | | | | | |
| 39:24 41:21 34:20,23 35:3 18:4 19:19 23:19 24:10,11 69:11,17,19,23 55:1,6,9,10,16 16:9,10,11 25:19 59:18 35:3,5 36:11 20:17 22:2,14 24:12,18,20,20 69:24 70:2,4 55:20,22 56:3 17:2,4,9 18:11 61:18,18 40:22 43:9,23 46:24 48:1,13 25:14,22,23 70:15,19,19 58:5,8,17,25 20:1,20 21:20 21:20 20:3,5,6,15,19 71:5,6,9 60:6 61:11,14 22:19 23:21 23:19 32:12 57:25 59:4 nowhere 29:16 27:10,16,17,22 31:9 32:12 57:25 59:4 number 2:5 7:24 89:25:22 29:3,3,12,24 63:5 64:15,16 65:18 66:15,18 36:9,12 37:14 29:25 30:4,9 69:4,17 66:19,21 68:20 38:9,15,25 nearly 66:20 66:16,19 67:8 67:16 69:6 number 6:15 31:23 32:4,5,8 22:2 28:25 71:17 41:9,13,18,18 36:13 41:5 normal 48:3 66:5 39:21 41:22 34:24,25 35:3 36:24 nod 19:14 Nods 52:6 nor 22:4 31:1 normal 48:3 66:5 39:21 41:22 34:24,25 35:3 36:9,12,14 56:13 50:24 67:11,14,15 15:44:4 36:22 37:3,11 54:4 60:9,17 25:23 27:24,24 67:11,14,15 27:23 27:24,24 67:11,14,15 27:23 27:24,24 67:11,14,15 27:23 27:24,24 37:23 27:2 | | | | | | | |
| 55:19 59:18 35:3,5 36:11 20:17 22:2,14 24:12,18,20,20 69:24 70:2,4 55:20,22 56:3 17:2,49 18:11 named 23:18 6i:18,18 36:18 37:7 23:15 37:24 24:21,22 25:5 70:12,13,14,14 56:13 57:10 18:15,17 19:10 names 37:3 names 37:3 46:24 50:13 53:20,22 26:3,5,615,19 71:5,69 60:6 61:11,14 22:19 23:21 naming 59:20 national 12:4 56:3,5 57:4,19 40:16 27:10,16,17,22 54:7,8 55:12 62:13,15,16,18 28:5 29:1,7 31:9 32:12 natre 50:25 60:22,25 61:21 8:9 25:22 29:3,3,12,24 63:5 64:15,16 63:17 64:18,22 33:11 35:24 near 50:8 61:7 nearly 66:20 necessarily 3:13 66:16,19 67:8 58:2,12 71:9 30:21 31:4,20 69:4,17 66:19,21 68:20 38:9,15,25 necessarily 3:13 23:22:4 38:22 70:13 71:1 numbers 6:15 31:23 32:45,8 22:2 28:25 71:17 41:9,13,18,18 3:23 6:24 10:22 24:10,11 70:13 71:1 nurses 48:19 32:10,10,12,13 29:8 0nce 19:6 51:22 42:11 43:6,9 53:13 18 redd 2:6,7 6:13 Nods 52:6 O O <th></th> <th></th> <th></th> <th>,</th> <th></th> <th></th> <th></th> | | | | , | | | |
| named 23:18 61:18,18 36:18 37:7 40:22 43:9,23 23:15 37:24 46:21 48:1,13 24:21,22 25:5 25:14,22,23 70:12,13,14,14 70:15,19,19 56:13 57:10 58:5,8,17,25 18:15,17 19:10 naming 59:20 national 12:4 31:9 32:12 55:20,22 57:25 59:4 neture 50:25 nearly 66:20 25:14,22,23 60:22,25 61:21 nearly 66:20 71:5,69 60:66 61:11,14 60:17,22 60:22,25 61:21 nearly 66:20 60:62,25 61:21 60:22,23,23 66:13 66:16,19 67:8 58:2,12 71:9 numbers 6:15 numbers 6:15 numbers 6:15 27:10,16,17,22 29:33,31,2,24 55:15,18 61:14 69:4,17 66:19,21 68:20 69:2,6,11 71:9 69:2,6,11 71:9 40:13 41:2,58 33:10 45:24 29:25 30:4,9 10:22 21:10,11 40:14 20:22 21:10,11 40:13 41:2,58 41:2,23 20:13,20 numbers 6:15 30:21 41:22 33:214,17,21,23 30:21 41:22 60:22,4 31:1 30:21 41:22 | | | | | | | |
| 61:18,18 40:22 43:9,23 46:21 48:1,13 25:14,22,23 70:15,19,19 58:5,8,17,25 20:1,20 21:20 names 37:3 46:24 50:13 53:20,22 26:3,5,6,15,19 71:5,6,9 60:6 61:11,14 22:19 23:21 national 12:4 56:3,5 57:4,19 40:16 27:10,16,17,22 54:7,8 55:12 62:13,15,16,18 28:5 29:1,7 31:9 32:12 57:25 59:4 number 2:5 7:24 27:23 28:7,25 55:15,18 61:14 63:17 64:18,22 33:11 35:24 near 50:8 61:7 60:22,25 61:21 8:9 25:22 29:3,3,12,24 63:5 64:15,16 65:18 66:15,18 36:9,12 37:14 necessarily 3:13 67:16 69:6 numbers 6:15 31:23 32:45,8 22:2 28:25 71:17 41:9,13,18,18 3:23 6:24 70:13 71:1 nurse 48:19 32:10,10,12,13 29:8 0nec 19:6 51:22 42:11 43:69 12:13 22:24 38:22 nurses 52:9 33:3,6,8,10,16 62:3,3,4,10 66:61:10,12 45:2,19 46:1 23:8 28:23 nod 19:14 Nods 52:6 O Objective 38:1 34:17,18,21,22 66:21 14:1 16:20,20 5 | | 36:18 37:7 | 23:15 37:24 | | 70:12,13,14,14 | | |
| naming 59:20 51:5,8 54:24 nowhere 29:16 27:1,2,3,4,6,8 off 16:20 37:1 62:1,4,11,13 25:1 26:15 national 12:4 56:3,5 57:4,19 40:16 27:10,16,17,22 54:7,8 55:12 62:1,4,11,13 28:5 29:1,7 nature 50:25 60:22,25 61:21 8:9 25:22 29:3,3,12,24 55:15,18 61:14 63:17 64:18,22 33:11 35:24 nearly 66:20 66:16,19 67:8 58:2,12 71:9 30:21 31:4,20 66:16,19 67:8 58:2,12 71:9 30:21 31:4,20 66:19,17 66:19,2 168:20 38:9,15,25 necessarily 3:13 67:16 69:6 numbers 6:15 31:23 32:4,5,8 22:22 28:25 71:17 41:9,13,18,18 3:23 6:24 70:13 71:1 nobody 5:19 52:13,20 32:14,17,21,23 6fer 52:4,24 53:8 43:24,24,25 23:13 22:24 38:22 nor 22:4 31:1 0 33:24,24,25 66:21 66:21,3,4,10 62:1,41,1,13 25:1 26:15 1 0:22 21:10,11 nobdy 5:19 52:13,20 31:23 32:4,5,8 22:22 28:25 71:17 41:9,13,18,18 21:13 22:24 38:22 36:13 | | 40:22 43:9,23 | 46:21 48:1,13 | 25:14,22,23 | 70:15,19,19 | 58:5,8,17,25 | 20:1,20 21:20 |
| national 12:4 56:3,5 57:4,19 40:16 27:10,16,17,22 54:7,8 55:12 62:13,15,16,18 28:5 29:1,7 31:9 32:12 57:25 59:4 number 2:5 7:24 27:23 28:7,25 55:15,18 61:14 63:17 64:18,22 33:11 35:24 near 50:8 61:7 62:23,23 66:13 33:10 45:24 29:25 30:4,9 69:4,17 66:19,21 68:20 38:9,15,25 necessarily 3:13 67:16 69:6 numbers 6:15 31:23 32:4,5,8 22:2 28:25 71:17 41:9,13,18,18 3:23 6:24 70:13 71:1 nurse 48:19 32:10,10,12,13 32:10,10,12,13 29:8 once 19:6 51:22 42:11 43:6,9 23:8 28:23 nod 19:14 Nods 52:6 O O 34:1,6,13,16 66:21 45:2,19 46:1 48:10,17,19 49:14 52:20 needed 2:6,7 6:13 6:3 41:5 normal 48:3 66:5 39:21 41:22 35:4,7,7,9,13 36:9,12,14,19 49:23 50:24 20:17,18,23 42:21,29 66:24 10,22 42:11,41,5 needed 3:8 18:7 44:9 39:25 39:8 36:9,12,14,19 36:9,12,14,19 49:23 50:24 20:17,18,23 62:21,23 64:25 | | | | | | | |
| 31:9 32:12 57:25 59:4 number 2:5 7:24 27:23 28:7,25 55:15,18 61:14 63:17 64:18,22 33:11 35:24 nature 50:25 60:22,25 61:21 8:9 25:22 29:3,3,12,24 63:5 64:15,16 65:18 66:15,18 36:9,12 37:14 near 50:8 61:7 62:23,23 66:13 33:10 45:24 29:25 30:4,9 69:4,17 66:19,21 68:20 38:9,15,25 necessarily 3:13 67:16 69:6 numbers 6:15 31:23 32:4,5,8 32:23 22:2 28:25 71:17 41:9,13,18,18 3:23 6:24 70:13 71:1 number 52:5 31:23 32:4,5,8 32:10,10,12,13 29:8 once 19:6 51:22 42:11 43:6,9 10:22 21:10,11 nobody 5:19 52:13,20 32:14,17,21,23 33:24,24,25 53:8 43:24,24,25 23:8 28:23 nod 19:14 Nods 52:6 O 34:1,6,13,16 66:19,21 68:20 53:8 43:24,24,25 needed 2:6,7 6:13 nor 22:4 31:1 objective 38:1 34:17,18,21,22 34:17,18,21,22 68:21 14:1 16:20,20 55:18,23,24 needed 42:14 68:3 43:8 57:2 35:4,7,7,9,13 36:9,12,14,19 | | , | | | | | |
| nature 50:25 60:22,25 61:21 8:9 25:22 29:3,3,12,24 63:5 64:15,16 65:18 66:15,18 36:9,12 37:14 near 50:8 61:7 62:23,23 66:13 33:10 45:24 29:25 30:4,9 69:4,17 66:19,21 68:20 38:9,15,25 necessarily 3:13 67:16 69:6 numbers 6:15 31:23 32:4,5,8 22:2 28:25 71:17 40:13 41:2,5,6 3:23 6:24 70:13 71:1 nurse 48:19 32:10,10,12,13 29:8 once 19:6 51:22 42:11 43:6,9 10:22 21:10,11 nobody 5:19 52:13,20 32:14,17,21,23 offer 52:4,24 53:8 43:24,24,25 23:13 20:24 nod 19:14 00 33:24,24,25 68:3 62:3,3,4,10 one 1:6 2:10,12 45:2,19 46:1 33:13 8:15 Nods 52:6 0 0 34:1,6,13,16 68:21 68:21 71:17 41:9,13,18,18 16:13 41:5 normal 48:3 66:5 39:21 41:22 34:16,13,16 36:24,24,25 36:21 31:1 16:20,20 35:5,15,24 16:23 17:25 43:8 57:2 35:4,7,7,9,13 35:4,7,7,9,13 35:4,21,25,25 49:23 50:24 | | | | | | | |
| near 50:8 61:7 62:23,23 66:13 33:10 45:24 29:25 30:4,9 69:4,17 66:19,21 68:20 38:9,15,25 necessarily 66:20 66:16,19 67:8 58:2,12 71:9 30:21 31:4,20 offence 21:20 69:2,6,11 71:9 40:13 41:2,5,6 necessarily 3:13 67:16 69:6 numbers 6:15 nurse 48:19 32:10,10,12,13 29:8 once 19:6 51:22 42:11 43:6,9 10:22 21:10,11 nobody 5:19 52:13,20 32:14,17,21,23 offer 52:4,24 53:8 43:24,24,25 23:8 28:23 nod 19:14 Nods 52:6 O 34:1,6,13,16 66:21 34:17,18,21,22 68:21 71:17 41:9,13,18,18 6:13 41:5 normal 48:3 66:5 39:21 41:22 33:3,6,8,10,16 62:3,3,4,10 one 1:6 2:10,12 45:2,19 46:1 needed 42:14 normal 48:3 66:5 39:21 41:22 34:24,25 35:3 66:21 14:1 16:20,20 53:5,15,24 needless 49:20 normally 34:2 obtain 26:21 35:14,21,25,25 49:23 50:24 20:17,18,23 62:21,23 64:25 needs 3:8 18:7 44:9 29:25 39:8 36:9,12,14,19 | | | | | | | |
| nearly 66:20 66:16,19 67:8 58:2,12 71:9 30:21 31:4,20 offence 21:20 69:2,6,11 71:9 40:13 41:2,5,6 necessarily 3:13 67:16 69:6 numbers 6:15 31:23 32:4,5,8 22:2 28:25 71:17 41:9,13,18,18 3:23 6:24 70:13 71:1 nobody 5:19 52:13,20 32:10,10,12,13 29:8 once 19:6 51:22 42:11 43:6,9 23:8 28:23 nod 19:14 53:13 Nods 52:6 O objective 38:1 34:16,13,16 66:23,3,4,10 one 1:6 2:10,12 45:2,19 46:1 needed 2:6,7 6:13 nor 22:4 31:1 normal 48:3 66:5 39:21 41:22 34:16,13,16 36:21 68:21 14:1 16:20,20 53:5,15,24 needed 42:14 68:3 aomally 34:2 43:8 57:2 35:14,21,25,25 49:23 50:24 19:4 20:10,11 58:4,7,10,25 needs 3:8 18:7 44:9 29:25 39:8 36:9,12,14,19 54:4 60:9,17 25:23 27:24,24 67:11,14,15 | | | | | | | |
| necessarily 3:13 67:16 69:6 70:13 71:1 numbers 6:15 nurse 48:19 31:23 32:45,8 32:10,10,12,13 22:2 28:25 29:8 71:17 once 19:6 51:22 41:9,13,18,18 once 19:6 51:22 42:11 43:6,9 once 19:6 51:22 42:11 43:6,9 once 19:6 51:22 42:11 43:6,9 once 19:6 51:22 42:11 43:6,9 once 19:6 51:22 42:11 43:6,9 once 19:6 51:22 42:11 43:6,9 once 19:6 51:22 43:24,24,25 once 19:6 51:22 53:8 once 19:6 51:22 43:24,24,25 once 19:6 51:22 43:24,24,25 once 19:6 51:22 43:24,24,25 once 19:6 51:22 43:24,24,25 once 19:6 51:22 43:24,24,25 once 19:6 51:22 43:24,24,25 once 19:6 51:22 43:24,24,25 once 19:6 51:22 43:24,24,25 once 19:6 51:22 43:24,24,25 once 19:6 51:22 43:24,24,25 once 19:6 51:22 43:24,24,25 once 19:6 51:22 43:24,24,25 once 19:6 51:22 43:24,24,25 once 19:6 51:22 43:24,24,25 once 19:6 51:22 44:10,17,19 once 19:6 51:22 44:10,17,19 once 19:6 51:22 44:10,17,19 once 19:6 51:22 44:10,17,19 once 19:6 51:22 44:10,17,19 once 19:6 51:22 44:10,17,19 once 19:6 51:22 44:10,17,19 once 19:6 51:22 44:10,17,19 once 19:6 51:22 44:10,17,19 once 19:6 51:22 44:10,17,19 once 19:6 51:22 44:10,17,19 once 19:6 51:22 44:10,17,19 once 19:6 51:22 44:10,17,19 once 19:6 51:22 44:10,17,19 once 19:6 51:22 44:10,17,19 once 19:6 51:22 44:10,17,19 once 19:6 51:22 44:10,17,19 once 19:6 51:22 | | , | | | | , | |
| 3:23 6:24 70:13 71:1 nurse 48:19 32:10,10,12,13 29:8 once 19:6 51:22 42:11 43:6,9 10:22 21:10,11 nobody 5:19 52:13,20 32:14,17,21,23 offer 52:4,24 53:8 43:24,24,25 21:13 22:24 38:22 nod 19:14 62:3,3,4,10 one 1:6 2:10,12 45:2,19 46:1 53:13 Nods 52:6 O offered 51:21,22 3:18 4:12 6:17 48:10,17,19 6:13 41:5 normal 48:3 66:5 39:21 41:22 34:17,18,21,22 offers 33:2 14:1 16:20,20 53:5,15,24 needed 42:14 68:3 43:8 57:2 35:4,7,7,9,13 office 46:21 19:4 20:10,11 58:4,7,10,25 needs 3:8 18:7 44:9 29:25 39:8 36:9,12,14,19 49:23 50:24 20:17,18,23 62:21,23 64:25 18:10 30:5 not 2:21 3:12 41:15 44:4 36:22 37:3,11 54:4 60:9,17 25:23 27:24,24 67:11,14,15 | | , | , | | | , , | |
| 10:22 21:10,11 nobody 5:19 52:13,20 aurses 52:9 32:14,17,21,23 offer 52:4,24 53:8 43:24,24,25 21:13 22:24 38:22 nod 19:14 53:8 62:3,3,4,10 one 1:6 2:10,12 45:2,19 46:1 23:8 28:23 nod 19:14 53:13 offered 51:21,22 3:18 4:12 6:17 48:10,17,19 33:24,24,25 offering 51:20,25 7:1 9:21 12:2 49:14 52:20 need 2:6,7 6:13 nor 22:4 31:1 objective 38:1 39:21 41:22 34:17,18,21,22 68:21 14:1 16:20,20 53:5,15,24 needed 42:14 68:3 43:8 57:2 35:4,7,7,9,13 office 46:21 19:4 20:10,11 58:4,7,10,25 needs 3:8 18:7 44:9 29:25 39:8 36:9,12,14,19 49:23 50:24 20:17,18,23 62:21,23 64:25 18:10 30:5 not 2:21 3:12 41:15 44:4 36:22 37:3,11 54:4 60:9,17 25:23 27:24,24 67:11,14,15 | | | | | | | |
| 21:13 22:24 38:22 nurses 52:9 33:3,6,8,10,16 62:3,3,4,10 one 1:6 2:10,12 45:2,19 46:1 23:8 28:23 Nod 19:14 | | | | | | | |
| 23:8 28:23 nod 19:14 O 33:24,24,25 offered 51:21,22 offering 51:20,25 3:18 4:12 6:17 7:1 9:21 12:2 49:14 52:20 48:10,17,19 49:14 52:20 offering 51:20,25 need 2:6,7 6:13 normal 48:3 66:5 needed 42:14 needless 49:20 needles 3:8 18:7 18:10 30:5 68:3 normally 34:2 and 2:21 3:12 39:21 41:22 and 2:21 3:12 34:17,18,21,22 and 2:21 3:12 68:21 and 2:21 a | | | | | | | |
| 53:13 Nods 52:6 Objective 38:1 34:1,6,13,16 offering 51:20,25 7:1 9:21 12:2 49:14 52:20 need 2:6,7 6:13 nor 22:4 31:1 objective 38:1 34:17,18,21,22 68:21 14:1 16:20,20 53:5,15,24 needed 42:14 68:3 43:8 57:2 35:4,77,9,13 office 46:21 19:4 20:10,11 58:4,7,10,25 needs 3:8 18:7 44:9 29:25 39:8 36:9,12,14,19 office 48:18,19 21:6 24:10,22 66:24 67:2,9 18:10 30:5 not 2:21 3:12 41:15 44:4 36:22 37:3,11 54:4 60:9,17 25:23 27:24,24 67:11,14,15 | | | | | | | |
| need 2:6,7 6:13 nor 22:4 31:1 objective 38:1 34:17,18,21,22 68:21 14:1 16:20,20 53:5,15,24 needed 42:14 needless 49:20 68:3 43:8 57:2 35:4,7,7,9,13 office 46:21 19:4 20:10,11 58:4,7,10,25 needs 3:8 18:7 44:9 29:25 39:8 36:9,12,14,19 office 48:18,19 21:6 24:10,22 66:24 67:2,9 18:10 30:5 not 2:21 3:12 41:15 44:4 36:22 37:3,11 54:4 60:9,17 25:23 27:24,24 67:11,14,15 | | | 0 | | | | , , |
| 6:13 41:5 normal 48:3 66:5 39:21 41:22 34:24,25 35:3 offers 33:2 16:25 17:25 57:18,23,24 needed 42:14 68:3 43:8 57:2 35:47,79,13 office 46:21 19:4 20:10,11 58:4,710,25 needless 49:20 normally 34:2 obtain 26:21 35:14,21,25,25 49:23 50:24 20:17,18,23 62:21,23 64:25 needs 3:8 18:7 44:9 29:25 39:8 36:9,12,14,19 officer 48:18,19 21:6 24:10,22 66:24 67:2,9 18:10 30:5 not 2:21 3:12 41:15 44:4 36:22 37:3,11 54:4 60:9,17 25:23 27:24,24 67:11,14,15 | | nor 22:4 31:1 | objective 38:1 | | | 14:1 16:20,20 | 53:5,15,24 |
| needless 49:20 needs 3:8 18:7 18:10 30:5 normally 34:2 44:9 not 2:21 3:12 obtain 26:21 29:25 39:8 41:15 44:4 35:14,21,25,25 36:9,12,14,19 36:22 37:3,11 49:23 50:24 36:25 50:24 36:21 20:17,18,23 36:21,23 64:25 36:9,12,14,19 36:22 37:3,11 20:17,18,23 36:21 20:17,18, | | | | | | | , , |
| needs 3:8 18:7 44:9 29:25 39:8 36:9,12,14,19 officer 48:18,19 21:6 24:10,22 66:24 67:2,9 18:10 30:5 not 2:21 3:12 41:15 44:4 36:22 37:3,11 54:4 60:9,17 25:23 27:24,24 67:11,14,15 | | | | | | | |
| 18:10 30:5 not 2:21 3:12 41:15 44:4 36:22 37:3,11 54:4 60:9,17 25:23 27:24,24 67:11,14,15 | | | | | | | |
| | | | | | | · · | · · |
| 52:15 5:25 0:2,5,4,0 obtained 15:24 57:12,15,16,18 62:25 63:5 27:25 28:1 71:8 | | | | | | | |
| | 52:15 | 3:23 6:2,3,4,6 | obtained 15:24 | 37:12,13,16,18 | 02:23 03:3 | 21:25 28:1 | /1:8 |
| | | 1 | · · · · · · · · · · · · · · · · · · · | 1 | 1 | · · · · · · · · · · · · · · · · · · · | · · · · · · · · · · · · · · · · · · · |

| | | | | | | Page 80 |
|--------------------------------------|----------------------------------|------------------------------------|--|---------------------------------------|----------------------------------|-------------------------------------|
| | l | | ĺ | İ | | |
| order 26:21 | P | 37:14,15,17,22 | 62:16 63:11,24 | 59:10,12 | 35:17 70:23 | property 34:14 |
| 67:14 | page 10:17 13:9 | 39:7,7,12,14 | 69:24 | point 4:6,24 7:3 | presume 71:1 | 34:19 35:16,21 |
| orders 2:1 | 33:1 66:21 | 40:2,4 44:2 | photographer's | 7:12 10:15 | presupposes | 36:1,3,7 |
| organic 3:20,20 | pages 65:19 | 45:25 47:17 | 35:12 | 14:1,3,18 17:4 | 35:20 | proportion 11:8 |
| 3:24 | paid 42:13 43:17 | 48:15 49:7,9 | photographic | 17:6 23:6 28:8 | pretty 10:5 14:9 | proposed 9:15 |
| organisation | 43:18,20,20,23 | 49:10,12 50:21 | 43:6 | 61:10 71:6 | price 3:22 4:7 | proprietor 2:5 |
| 2:14 5:2,4 | 43:25 52:20 | 51:3 54:5 | photographing | pointless 58:21 | prima 22:15 | 2:11 |
| 22:13 | paper 15:4 36:1 | 55:20 56:8 | 63:17 | 59:11 | primarily 34:2 | propriety 26:1 |
| organisations | 38:11 40:11 | 58:2 62:12,14 | photographs | points 8:4 | 37:10 49:5 | prosecute 8:24 |
| 33:4 36:23 osmosis 2:10 | 52:21 59:23 | 62:21 64:20 | 33:23 34:13,16 | police 20:17 | 55:13 | 24:8 |
| | 61:11,20,25 | 65:1,13 67:1,2 | 35:15 36:12,19 | 21:12 25:6 31:11,19 48:18 | prime 5:3 prince 58:4 | prosecuted 25:1 |
| 3:11 | 62:8 64:8,13 | 68:21 69:9,11 | 39:5,8,12 | 49:14 51:24 | | prosecution 9:8 24:6,7 |
| other 3:20 7:10 7:11,17 14:18 | 65:19,20 66:7 | people's 4:10 15:11 34:9 | 43:17 44:14,17 45:11 46:2 | 54:3,12,14 | principle 3:17 19:7 28:13 | prosecutions |
| 14:19 17:6 | papers 32:15 | 50:22 | 47:3 57:15 | 59:24 60:2,2,9 | principles 70:9 | 24:10,20 |
| 19:24 23:7,19 | 61:25 66:11,12 | Peppiatt 2:24 | 58:23 60:21 | 60:17 62:22,23 | printed 33:5 | prospect 26:3,6 |
| 32:4,12,15 | paper's 61:23 | per 10:19,21 | 61:13,24 62:5 | 62:24,25 63:5 | printed 33.3 prison 48:18 | prospect 20.3,0 prostitute 41:23 |
| 33:12 35:14 | parapet 2:23 | 11:11,23 12:12 | photography | 69:1,3,7,8 | 52:9 68:25 | 43:9 |
| 36:13 44:21 | parcel 2:16 | 14:7,7 65:3 | 31:25 32:1 | policeman 20:25 | privacy 8:22 | protect 19:11 |
| 46:2 49:12 | 58:23 | perfectly 16:25 | phrases 16:8 | political 5:14 | 20:15 21:3 | protected 18:7,8 |
| 51:16 62:14 | parents 64:4,13 | perhaps 7:4 | pick 13:13 68:14 | 16:18 | 23:22 34:17 | 19:9 |
| 63:23 65:3 | part 2:16 6:17 | 14:14 49:14 | picture 34:7,22 | politician 19:22 | 36:14 38:20 | protection 19:12 |
| others 15:23 | 7:1,2,19 22:9 | period 36:24 | 37:15,16 40:23 | 20:1,15,24 | 39:3,11 42:1 | 19:12,13 25:23 |
| 28:7 | 55:14 58:23 | permission | 41:2 46:3 | 21:3,23 | 45:20 64:21 | 28:19,23 29:2 |
| ought 27:25 | 69:19 participant | 22:12,18,22 | 48:16 | politicians 2:17 | private 11:10,23 | 29:13 |
| our 7:24 27:18 | 45:16 | 23:25 | pictures 34:18 | Ponting 26:7 | 12:14 14:8 | protections |
| 27:18 30:16 | particular 6:1 | person 37:14 | 35:25 36:2,6 | popular 11:20 | 15:11 21:22 | 26:19 |
| 32:25 35:7 | 10:11 15:4,19 | 42:10,16 44:3 | 40:20 42:4 | 17:13 18:5 | 34:19 35:16,21 | prove 29:17 |
| 36:11 43:23 | 23:20 33:4 | 48:10 53:15 | 43:2,3,25 44:1 | population 15:14 | 35:25 36:3,7 | 33:10 38:13 |
| 44:11 49:11 | 40:13 44:2 | 54:18 59:24 | 44:11 45:7 | pose 57:2 | 36:20 38:4 | 40:13 41:6,7,9 |
| 50:5 55:14 | 45:21 52:4 | 64:19 | 50:20 51:6,21 | posed 1:12 | 58:25 59:4,5 | 41:17 60:25 |
| 63:22 64:8 | particularly 34:3 | personal 58:16 | 51:21,22,25 | possibilities 4:14 | 64:13,14 | 64:25 66:23 |
| 68:7,22 | 34:4 46:23 | personalising | 57:10,12,18,20 | 54:12 | probably 8:17 | 67:10 70:4 |
| ourselves 44:11 | parties 66:1 | 39:25 | 57:24 61:19,20 | possibility 23:9 | 13:20 43:11 | proved 38:23 |
| out 5:8 11:16 | partisan 6:5,14 | persons 32:3 | 62:12,19 63:18 | possible 7:25 | 47:11 53:21,23 | 61:16 64:10 |
| 17:20 22:11 | 6:16 | phenomenon | 63:21 64:9,18 | 8:18 12:3 23:7 | probation 48:18 | proves 68:15 |
| 23:25 25:7 | partly 15:17 | 2:16 | 65:13,15,18,21 | possibly 17:7 | 54:4 | provide 21:1 |
| 29:14 31:20 | parts 69:19 | phone 22:19 | 65:24 66:7,18 | 27:14 35:23,24 | problem 2:18 | 25:7 40:10 |
| 32:17 33:4,8 | party 15:24 | 50:21 51:6,18 52:14 | 68:2 piece 9:17 13:3,4 | post-match 65:10 | 3:10 5:1,16 | 41:4 52:10 provided 24:4 |
| 33:12,15,17 34:21 39:9 | 65:12,17 66:2 | phoned 38:10 | 13:21 15:17 | potential 12:6 | 10:9 24:23 process 3:10 | 30:24 31:2,3 |
| 44:2,4 47:2,3 | 66:2,3,5,20 | 40:11 50:14,19 | pitch 35:14 | 13:16 | 22:14 40:21 | 36:22 |
| 52:4,11 53:7 | pass 50:7 | 61:25 62:8 | place 33:17 39:4 | pounds 48:15 | profession 28:5 | proving 65:24 |
| 54:25 55:1 | passed 49:24 | 64:20 65:1,15 | 41:15 44:15 | power 2:12 16:7 | professional | 66:17 |
| 60:20 62:14,18 | 50:2,5,16,20 | phones 29:7 | 50:17,18 51:19 | Powers 67:18 | 1:19 3:5 32:18 | provision 23:1 |
| 63:14 65:12,18 | 51:23 | 50:19 51:10 | 60:4 | PR 31:25 49:5 | 67:7 71:2 | psyche 11:19 |
| 69:18,23 70:2 | passing 26:17 | phoning 70:5 | placed 42:11 | 55:13 | professionally | pub 60:13,21,22 |
| 70:9 | passport 68:18 patients 52:15 | photograph | 48:24 | practice 8:2 | 31:8 32:16 | 60:23 61:7,9,9 |
| outcome 41:17 | Pause 46:9 | 33:15,16,24 | places 36:13 | 32:22,23 45:1 | Professor 1:3 | 61:11,14 |
| outlets 44:6 | pavement 34:22 | 34:10 35:20 | plane 69:20 | 61:23 70:16,20 | 7:22 17:24 | public 7:6,8,22 |
| outlined 42:8 | pay 48:9 53:14 | 41:15 43:15 | planned 33:19 | 71:7,9 | 18:13 24:8 | 8:3,7,10,21,21 |
| over 4:9 13:25 | payments 20:2 | 44:4,5 51:12 | played 65:8 | practices 1:13 | 30:8 | 8:23,25 9:4,7 |
| 16:8 26:25 | PCC 32:23 70:12 | 56:16 57:2 | please 1:8,10 | pragmatic 4:12 | profile 44:18 | 9:10,17 10:20 |
| 32:8 34:25 | 70:15 71:5,6,9 | 59:12 60:7,10 | 10:2 18:22 | prayed 9:16 | profitable 5:21 | 10:22,24 12:6 |
| 36:17,23 47:15 | penalise 3:23 | 69:18 | 30:19 31:2,7 | prefer 4:3 | programme | 12:9,11 13:25 |
| overrepresented | 4:18 5:7 | photographed | 31:23 33:3 | premises 58:25 | 61:18 | 14:13 16:4,5,6 |
| 7:2 | people 4:16,16 | 57:1,6 63:15 | 37:1 45:20 | prepared 5:2,4,9 | prominent 48:9 | 17:10 18:1,3 |
| overwhelming | 5:8 6:18 8:24 | photographer | 48:22 64:12 | 5:22 21:5 23:2 | 53:15 59:24 | 18:14,18 19:11 |
| 45:24 | 9:11 10:4 11:2 | 31:8,10,11,25 | 65:7 67:5 | 28:6 37:2 | promote 5:25 | 19:24 20:2 |
| own 27:21 31:15 | 12:13 14:21,21 | 55:13 62:24 | pleasure 30:15 | present 3:21 | 27:7,15,25 | 21:7,8,18 |
| 36:10,11 50:4 | 14:24 15:9,20 | 63:1,23 64:15 | plenty 12:6 | presentations | promoted 27:9 | 24:13,19 25:7 |
| owner 1:23 24:3 | 16:10,10 19:12 | photographers | plugged 11:19 | 11:16 | promulgated 27:13 | 26:13 27:10 28:18 29:12,13 |
| ownership 1:13 9:5 | 28:8 30:8 | 32:5,7,11,16 32:17,19,21 | plurality 1:4,16 3:16 7:13 8:25 | press 7:8,9 11:4 17:8 27:23 | proofed 30:5 | 29:20 30:1 |
| o'clock 71:13,16 | 32:14 33:22 | 35:1,3,8 45:2,3 | pm 1:2 71:15 | 33:5 71:7 | proper 42:15 | 33:16 34:13 |
| 5 CIOCK / 1.13,10 | 34:13,16 35:25 | 51:5,6 54:7 | podium 59:7,9 | Presumably | properly 50:1 | 36:4,13 39:6 |
| | 36:12,19 37:10 | 0 1.0,0 0 1.7 | F 541411 57.7,7 | | Froperio | 20,25.57.0 |
| | | | | | | |

| | | | | | | Page 81 |
|------------------|-----------------|-----------------------------|------------------------|--------------------------------|------------------------|---------------------------------|
| | İ | l | İ | l | l | l |
| 39:10,11 43:10 | 57:15,18 58:1 | 38:3 40:9,18 | repeat 13:4 | 67:17,22 68:10 | 68:12,17 | 18:5 27:10 |
| 51:8,10 52:18 | 58:12,14,18,21 | 47:15 59:5 | repeated 10:12 | risk 24:1 27:8 | saying 6:4 9:10 | 44:1,15,25 |
| 53:2,11,17 | 58:23,25 59:11 | 61:16 62:8,10 | report 10:16 | 28:3 | 14:8 23:8 24:3 | 45:10 |
| 58:14 59:3,19 | 59:14,19 60:17 | 65:6 70:3,3 | 22:11 70:21 | road 24:24 63:16 | 46:25 51:11,18 | sensibly 8:11 |
| 60:5 69:10,23 | 60:20 61:12 | reason 5:22,25 | reported 20:20 | role 12:4,7 14:12 | 53:1 57:11 | sensitivity 32:13 |
| publication | 62:4,7,21 63:4 | 7:11 8:13 17:1 | 70:23 | room 39:17 42:5 | 59:12 | sent 33:8,10,15 |
| 28:24 29:3,3 | 63:7,9 65:7 | 18:2 20:16,17 | reporter 50:2,3,3 | 42:12,21 68:6 | says 19:25 20:1 | 33:17,20 55:19 |
| publications | 67:4,11,20,23 | 22:15,21 28:15 | 50:5 68:2,23 | roots 5:13 | 20:23,25 21:4 | 55:22 60:7 |
| 49:5 | 69:11 | 55:12 | reporters 50:4 | route 2:17,18 | scandal 48:7 | 65:13,22,23 |
| publicity 56:23 | qualifications | reasonable 34:17 | 61:10 | routes 2:9 | 53:9,10 | sentence 26:17 |
| publish 19:20 | 32:18 | 36:13 | represent 6:17 | routinely 3:8 | Scandinavian | separate 6:8 |
| 24:19 34:22 | qualified 31:8 | reasons 5:18 | 17:10 | Royal 59:7 | 7:5 | 61:14 |
| 38:25 71:7 | 32:16 | 16:25 20:21 | representative | rubbish 65:4 | Scotland 59:25 | separately 61:3 |
| published 10:21 | quality 5:7 | 32:15 33:10 | 10:10 | 66:17 | scrapyard 69:16 | separation 6:7 |
| 10:23,24 11:11 | quarter 15:13 | recall 39:18 | represents 15:13 | rubric 38:1 | scratch 5:6 | September 41:20 |
| 12:8,15 13:18 | question 1:11 | 56:19 | require 29:4 | rules 67:13 | search 49:10 | series 4:20 26:19 |
| 13:19,20 14:8 | 6:15,25 7:17 | receiving 20:1 | required 28:11 | run 6:20 61:21 | second 2:12 28:1 | serious 22:16 |
| 15:12 20:10 | 10:11 11:18 | recognise 16:19 | 32:6 | 68:16 | 46:7 | 50:25 60:4 |
| 21:8,13 31:10 | 12:1,3 14:11 | recommissioned | research 9:18 | running 5:6,8 | Secondly 20:16 | servant 48:18 |
| 36:8 49:21 | 16:4 17:21 | 55:8 | 10:2 11:17,24 | 7:7 | 26:3 | 49:14 54:4 |
| 52:20 57:11 | 30:4 32:25 | reconsider 62:10 | 13:3,5 15:17 | | secrets 16:9 | servants 52:10 |
| 62:12 66:11,11 | 33:1 41:14 | record 68:4 | 16:21 17:17 | S | section 1:15 7:23 | 54:15 |
| publishes 20:6 | 43:8 45:18 | recoverable 29:1 | resources 15:18 | sack 63:10 | sections 11:4 | services 33:2 |
| publishing 29:11 | 46:7 70:8 | redacted 37:2,6 | respect 21:17 | sack 63:10 sacked 63:11,21 | 27:22 | 55:14 |
| 29:18 | questions 17:23 | 45:24 48:1 | respected 64:1 | 64:20 | security 58:9,16 | serving 60:9 |
| purpose 54:24 | 30:18 | redesigned 49:1 | response 11:9,13 | safe 30:12 | 69:25 | 62:22,23 |
| purposes 61:2 | quite 2:22 4:23 | 55:9,10 | 12:13 | safeguard 27:7 | see 3:16 5:24 | set 9:6 31:15,17 |
| pursuant 30:25 | 5:24 11:25 | refer 57:15 71:5 | responsibilities | safeguards 25:15 | 10:16 11:18 | 35:25 43:24 |
| pursued 23:21 | 12:18 13:24 | referee 65:11 | 25:25 | safer 70:2 | 12:16 21:10 | 44:23 45:8 |
| put 4:22 11:18 | 14:16 28:21 | reference 13:7 | responsibility | said 1:7,18 3:22 | 23:20 33:17,20 | 50:3,19 51:16 |
| 17:11 38:14 | 35:6 44:7 56:2 | 15:5,6,7 21:25 | 10:13 | 8:13 10:14 | 37:25 38:1 | 51:20,22 57:7 |
| 41:7 46:11 | 33.0 44.7 30.2 | referring 8:1 | rest 25:5 26:15 | 21:12 27:24 | 41:10 44:3 | 57:12,12,13,18 |
| 47:19 52:8,23 | R | 15:6 | restaurants | 33:21 38:12 | 49:16 53:7 | 57:19,20,23,24 |
| 53:3,6 55:10 | raise 1:3 38:10 | reflects 2:4 | 36:12 | 40:11 42:10 | 54:3 59:19 | 57:25 64:7,9 |
| 55:16 59:10 | 44:18 | regarded 15:22 | result 12:19 | 45:19 46:10 | 60:23 62:7 | 65:13,15 70:9 |
| 64:24 | raises 6:25 | regarding 67:17 | 43:20,22 | 48:6 49:25 | 63:19,22 69:11 | sets 34:18 51:21 |
| putting 3:12 | raising 2:22 | region 32:8 | results 11:21 | 50:14 62:8 | seeing 4:12 | setting 57:13 |
| putting 3.12 | ran 62:13 | regs 5:15 | 13:11,23 | | seek 29:25 30:7 | Seven 69:5 |
| Q | rang 66:6 | regularly 57:8 | reveal 19:8 20:6 | 65:10,20 66:7 66:10 67:8,25 | seeking 51:3 | several 8:15 |
| Q 1:8,10 3:12,16 | range 4:17 6:10 | regulation 27:2 | 21:5 22:24 | 70:8 | seem 13:24 | 34:18 |
| 4:11 10:4,14 | 34:6 35:9 | 67:18 | 23:2 39:25 | same 16:12 58:1 | seems 16:21 | severely 7:2 |
| 11:2 15:3,6 | 37:15,24 40:1 | regulatory 3:1 | revealed 61:18 | 61:5 | 25:16 | shape 43:6 |
| 30:21,24 31:4 | 56:2 | 22:10 70:17 | revealing 16:9 | | seen 18:25 | shape 43.0 share 4:9,9 62:11 |
| | | rejected 35:16 | revelatory 14:20 | sample 10:4,6,7 10:10 | self-justified | 65:6 |
| 31:7,14,23 | rarely 44:7 | 35:17 | reverse 27:23 | | 21:20 | she 42:10,17 |
| 32:2,7,9,21,24 | rather 3:19,22 | relates 33:1 46:4 | Review 9:18 | Sandhurst 58:4 | self-refused | 60:8,15 63:17 |
| 33:12,23 34:1 | 8:11 15:19,22 | relating 54:22 | Richard 2:24 | 58:10 59:6 | 21:21 | 65:16 |
| 34:6,9,13,16 | 40:9 41:14 | relating 54.22 | rid 64:23 | sat 67:24 | self-serving 8:2 | She's 41:22 |
| 35:15,20,24 | 42:18 45:2 | relationship | right 2:19 5:12 | satisfied 24:9 | 17:6 23:7 27:1 | shift 32:6 43:18 |
| 36:9,12,16,19 | rationale 14:13 | 64:10 | 21:18 22:1,5 | 26:13 29:17 | 27:5 | shoot 47:17 |
| 36:22 37:14,18 | reach 27:21 | relevant 61:19 | 28:22 30:22 | say 1:24 3:10 4:6 | sell 18:11 44:5 | shoots 45:8 |
| 37:24 38:3,7 | read 1:15 9:20 | reluctance 2:16 | 31:12 35:18 | 4:19 6:13 7:7 | 44:14,18 49:4 | shortly 54:21 |
| 38:16 39:1,12 | 14:24 15:1,10 | rely 28:8 | 37:8,11 42:21 | 10:11,19,21 | 49:6,7,10 51:5 | shortly 54:21 should 5:7 6:4 |
| 39:20,24 40:8 | 52:4 53:7 | remedies 3:25 | 45:23 46:25 | 11:14,18,24 | 51:13 61:22,24 | 10:20,23,24 |
| 40:16,24 41:9 | readers 11:7,12 | 4:1,17,18 6:10 | 45:25 46:25 47:14 48:5 | 12:10 14:14 | 66:6 69:19 | 11:10 12:15 |
| 41:12,19,25 | 17:13 | 6:10 | 59:1 61:12 | 17:18 18:16 | selling 45:1 | |
| 42:3,20,23 | readership 11:3 | remedy 4:4 | 65:21 67:21 | 19:21 21:14 | 68:12,13 69:17 | 13:18,19,20 14:8 15:12,12 |
| 43:5,12,17,20 | 11:8,9 | remedy 4:4 remember 29:6 | 71:4,14 | 22:15 23:12,18 | ′ | 14:8 15:12,12 17:9 24:4 |
| 44:1,13,19,25 | reading 15:3 | 37:19 40:14 | rightly 45:18 | 24:5 25:11,12 | semi-private 58:25 | |
| 45:6,10,14,16 | real 58:6 60:25 | | • | 26:4,6,12 | | 28:13,14,20 |
| 47:23 48:22 | 64:11 | 42:3 | rights 28:7 | 27:16 28:16 | Semtex 58:6,7,19 | 41:2 70:16 |
| 49:13 50:12,14 | realistic 24:10 | remembered | right-hand 37:25 | 30:10 34:13,20 | send 44:2 | show 22:21 |
| 50:16 51:2,10 | reality 48:12 | 1:14 66:5 | ring 49:19 61:25 | 34:23 36:3 | senior 22:13,17 | show 33:21 |
| 51:18 54:9,12 | really 11:25 | remorsefulness | 65:1 | 39:14 40:16 | 63:5 | 68:17,17,18 |
| 54:20 55:19,24 | 12:18 13:24 | 42:17 | ringing 50:21 | 45:23 49:20 | sense 2:13,19 | showing 63:18 |
| 56:4,7,10,12 | 16:3 17:12 | removed 54:20 | 51:20 67:2 | 50:12 56:18 | 3:11 14:15 | shown 68:22 |
| 56:15,17 57:1 | 18:9,10 33:22 | 54:24 | RIPA 18:20 | 58:15 65:2 | 15:14 16:1 | side 49:17 51:3 |
| | I | I | I | I | I | I |
| | | | | | | |

| | | | | | | Page 82 |
|-----------------------------------|-------------------------------|-------------------------------------|--------------------------------|--------------------------------------|-------------------------------|---------------------------------|
| | I | 1 | I | I | I | I |
| 66:20 | 8:4 11:3 14:15 | 23:2 28:10 | 14:8 15:23,24 | sufficient 6:15 | 38:20,21 39:5 | thank 17:22 |
| signed 31:1 | 14:19 15:14,22 | souvenir 69:17 | 19:20 20:6,6 | sufficiently 6:19 | 40:18,23 43:14 | 30:14,15 48:4 |
| signing 4:21 | 21:1,25 23:22 | SO19 68:24 | 20:10 21:8,13 | suffix 17:11 | 44:1,10,17 | 48:5 71:10,12 |
| similar 12:3 | 32:12,17 33:8 | speak 2:3 9:17 | 21:22,25 23:20 | suggest 4:1 13:24 | 47:11 49:22 | 71:14 |
| 13:11,23 | 36:2 40:3,6 | 14:15 | 33:6,8,9,11,14 | 16:22 25:10 | 51:11 54:17 | that 1:9,11,14,24 |
| simply 4:7 8:17 | 48:19 50:25 | speaking 16:7 | 33:18,21 38:9 | suggested 16:23 | 55:12,18 58:23 | 1:25 2:4,5,13 |
| 15:24 16:18 18:10 57:2 | 69:23 | 65:25 66:1 | 38:15,18,23,23 | suggesting 6:9 14:24 | 59:11 60:21 71:7 | 2:16,19,21 3:9 |
| since 31:10 45:18 | somebody 33:14 | spec 44:1 | 39:1,2 40:17 | | | 3:10,10,23 4:2 |
| 55:15 | 33:16,18,18,19 33:20 34:20 | special 59:24 specialist 35:7 | 41:3,6,8,13 42:6,14,17 | suggestion 28:17 39:7 47:1 | taken 32:20 33:16,23 34:18 | 4:3,4,5,7,12 5:2,4,5,8,13,14 |
| single 23:14 | 36:3,4 38:10 | specifically 9:3,5 | 43:24,25 46:4 | suicidal 55:17 | 34:19 35:16,21 | 5:17,21,25 6:4 |
| single 23.14 sir 37:7 | 40:11 49:23 | spectrum 6:17 | 46:5,24 48:7 | summer 66:19 | 35:25 36:2 | 6:9,13,15,16 |
| Sisters 69:5 | 50:19 51:20 | 7:1,19 | 48:17 49:4,8,9 | sums 6:19 45:10 | 41:2 45:3,7 | 6:19,20,23,25 |
| sitdown 42:13 | 57:10 60:1 | speech 59:7,8 | 49:11,20 50:6 | Sunday 14:23 | 47:4 51:19,25 | 7:3,7,11,18,19 |
| site 49:3,11 | 65:20 66:4 | spend 40:12 | 50:7,14 52:17 | 37:19,23 46:1 | 56:3 57:15 | 8:13,13,17 9:9 |
| 55:17 | 68:12,13 70:5 | 66:14 | 52:19 53:9 | 62:1,4,12,13 | 65:25 66:18 | 9:10,11,13,16 |
| sitting 26:10 | 70:20 | spending 39:21 | 54:24 58:8,21 | 62:13 66:22 | taking 13:23 | 9:16,20,21,24 |
| 47:1,2 | someone 22:12 | spent 43:21 | 58:23 59:11,23 | Sunderland 65:8 | 24:25 28:16 | 10:2,11,11 |
| situation 5:17 | 35:21 43:8 | 65:24 | 60:6,8 62:2,15 | support 5:18 6:1 | 41:22 55:15 | 11:2,9,10,12 |
| 40:25 50:11 | 47:11 49:13,15 | spoke 29:6 | 62:16 63:6 | 46:5 | talk 14:3 | 11:22,24 12:12 |
| 52:13 53:11 | 50:14 58:3 | spoken 53:21 | 64:5 65:19 | suppose 2:15 | talked 2:24 8:15 | 12:13,14,17,24 |
| 63:23 | someone's 43:13 | sports 35:12 | 66:9,16,17,24 | 27:3 49:17 | talking 7:13 9:3 | 13:3,17,23 |
| situations 3:18 | something 5:17 | Sprake 30:16,17 | 67:3,9 68:16 | 51:13 53:10 | 15:25 29:6,22 | 14:3,16,18,19 |
| 63:13 | 13:17 15:18 | 30:19,20 33:1 | 70:5 | 58:25 | 29:23 | 14:20,24 15:3 |
| size 10:6,10 | 16:11 17:2 | 40:18 44:25 | story's 38:21 | supposedly 67:1 | tape 66:18 | 15:13,15,21,25 |
| skilled 63:25 | 22:16 30:11 | 52:23 63:9 | 41:5 | supposition 59:9 | tasked 40:10 | 16:8,11,14,15 |
| slightly 9:1 13:16 | 33:20 47:20 | 71:11 | straight 31:19 | suppress 28:1 | team 32:5,14 | 16:17,22 17:3 |
| 18:16 29:5 | 48:7 49:3 | squad 59:15 | 51:7,24 62:6 | sure 6:16 10:5,23 | 50:8 52:21 | 17:11,11,17 |
| 35:10 70:7 | 50:23,24 53:12 | square 25:4 | street 39:9 43:14 | 12:23 16:20 | 62:15 | 18:2,2,4,9,9,10 |
| slow 3:24 | 57:8,23 58:7 | stability 13:25 | 60:14 61:7 | 21:18 33:6 | technically 47:21 | 18:15,17,18,21 |
| slowly 61:10 | 59:10 63:19 | staff 2:7 32:4 | 69:22 | 38:15 45:17 | TECHNICIAN | 19:1,3,7,12,17 |
| small 16:18 | 65:21 | 63:1 | streets 39:13 | 48:25 52:3 | 37:7 | 19:20,21,23,23 |
| 32:14 | Something's | stage 28:16 | striking 57:22 | 62:9 | technique 10:8 | 19:25 20:2,3,8 |
| snatch 33:15 | 65:21 | stand 59:8 | stringent 4:21 | surely 69:10 | telescope 47:19 | 20:21,22,24 |
| 43:14 46:2 | sometimes 1:21 | standard 10:6,7 10:8 41:12 | strongly 63:13 | surprise 62:20 | tell 2:6,7 15:20 | 21:1,4,7,19,22 |
| so 2:3,17 4:21 5:10 9:5,17 | 16:23 35:15 44:1 66:24 | | structural 3:24 4:17 | surprised 12:18 surveillance 33:2 | 19:5 28:9 31:7 | 21:23 22:16 |
| 10:12,23 11:12 | 67:4,12,13 | 43:18 56:6 standards 2:15 | studio 32:1 | 33:3,13 36:22 | 46:20,22 49:19 57:5 | 23:6,11,12,16 23:18,23,24 |
| 12:4,6,16 | somewhat 9:20 | 22:11,18 63:12 | stuff 66:11 | 43:12 46:14 | telling 63:4 | 24:1,3,12,13 |
| 14:21 15:14 | somewhere | stands 16:2 | stunned 11:25 | 59:14 63:4 | 67:13 | 24:14,21,23,23 |
| 18:19,25 19:14 | 54:22 | start 7:4 9:10 | stunicu 11.23 stupid 58:21 | 67:17 | ten 10:12 13:5 | 24:24 25:2,3,5 |
| 19:25 20:17 | sophisticated | 15:9 28:11 | subcontractor | survey 10:5,8,12 | 31:12 | 25:11,14,15,15 |
| 26:11 28:24 | 15:19 | started 61:25 | 31:21 | 10:17 12:16 | tend 37:14 43:17 | 25:16,16 26:6 |
| 29:19 31:21 | sorry 13:13 15:8 | starting 28:8 | subject 33:24 | surveys 11:14 | 44:22 62:17 | 26:11,13,20,21 |
| 34:9,19,22 | 19:18 20:10 | statement 7:23 | 37:25 38:18 | 17:19 | tendentiously | 26:22,22,24,25 |
| 36:1,7,18 | 21:4 60:19 | 30:24,25 31:4 | 39:24 46:4 | suspicion 54:13 | 4:23 | 27:4,6,7,8,8,9 |
| 39:10,12,14 | sort 4:11 6:20 | 45:14 | subjects 37:3 | sustain 27:7 | term 8:11 55:2 | 27:14,14,14,21 |
| 40:1,19 42:20 | 7:6 11:5,15 | station 61:7 69:5 | submission 1:14 | sustainability | terminology | 27:23,23 28:3 |
| 43:3,23 47:15 | 12:24 14:15 | 69:8 | 1:24 | 5:1 | 34:10 | 28:13,16,17,18 |
| 50:9,16 53:2 | 34:1 39:18 | stations 69:3 | submitted 9:19 | Svennevig 13:8 | terms 1:12 9:4 | 28:18,22 29:3 |
| 53:17 55:5,17 | 40:4,6 44:9 | statute 30:2 | subordinated | sworn 30:17 | 9:14 39:24 | 29:11,17,18,19 |
| 56:21 57:8,13 | 51:18 54:8 | statutes 29:20 | 1:22 | system 26:5 | 53:22 | 29:24 30:2,3,5 |
| 58:3,21 59:4 | 63:21 69:24 | statutory 5:15 | subscribe 70:8 | 49:22 50:17,18 | terrace 47:4 | 30:6,6,11,22 |
| 59:11,19 60:7 | sorts 20:21 48:15 | 18:3,14 29:17 | subsidiary 7:8 | 69:6 70:25 | terrible 25:11 | 31:4,9,12,19 |
| 60:9,21 61:3 | 54:12 | 30:25 | subsidies 7:6 | | terribly 3:4 | 31:23 32:11,13 |
| 61:22 62:8,12 | sound 7:6 | still 15:10 18:2 | substantial 14:9 | T | test 21:7 24:9 | 32:14,15,24 |
| 62:17 64:19 | sounds 35:10 | 29:16 60:8 | 14:10 15:19 | table 10:16 | 30:2 | 33:8,11,21 |
| 65:22 66:6,23 | 40:17 41:12 | stolen 51:23 52:1 | substantive | tabloid 11:6,9,12 | Thames 47:2 | 34:18,20,23 |
| 68:4 70:23 | 51:2 | stops 66:1 | 32:25 | 14:21 15:16 | than 8:11 15:13 | 35:3,4,5,5,6,10 |
| society 27:18,19 | source 19:9,13 | stories 23:19 | success 3:22,23 | 16:16 17:1,8,8 | 15:22 17:19 | 35:11,15,17,20 |
| sociology 17:18 | 19:25 20:3,23 | 26:21 49:7 | 4:7 | 64:6 | 35:5,6,8,10 | 35:20,22 37:4 |
| softer 3:25 software 46:21 | 20:24 21:5 | 51:7 52:10 53:2 58:2 3 12 | successful 4:19 | tabloids 14:25 | 40:10 41:14 | 37:11,21,22 |
| software 46:21 sold 48:17 49:9 | 22:25 23:13,13 23:18 24:12 | 53:2 58:2,3,12 58:14 64:25 | such 20:3 30:2 50:14 | take 12:8 19:14 | 42:18 43:2 44:22 46:24 | 38:1,5,8,10,13 |
| 68:18,19 | 23:18 24:12 28:10 56:21 | 58:14 64:25 68:20 | 50:14 suddenly 3:6 | 19:19 25:2 | 44:22 46:24 47:9 51:17 | 38:13,22 39:4 39:5,7,8,18,19 |
| some 3:1,9 4:19 | sources 19:8 | story 11:5,22 | suddenly 5:6 suffered 54:14 | 33:23 34:13,16 36:12,19 37:1 | 53:20 | 40:2,5,13,14 |
| Some 3.1,7 4.17 | 50u1CC5 17.0 | 5001 y 11.3,22 | Suffered 54.14 | 30.12,19 37.1 | 33.20 | 70.2,3,13,14 |
| | 1 | | • | • | 1 | |

| | | | | | | Page 83 |
|----------------------------------|---------------------------------|---------------------------------------|---------------------------------|---------------------------------|----------------------------------|---|
| | ı | | I | I | I | |
| 40:18,20,22 | 43:15 45:17 | 24:19,20,22,23 | 54:25,25 55:1 | 60:10,22,23 | 11:17,20 14:19 | 27:5 29:18 |
| 41:1,4,6,8,13 | 46:5,11,13 | 24:23,25 25:3 | 55:2,2,3,4,4,6 | 61:13,21,22,23 | 23:19 36:10 | 36:11,17,17 |
| 41:16,17 42:12 | 47:22 49:20 | 25:5,6,10,17 | 55:9,9,12,15 | 62:19,19,21 | 38:3 40:11,16 | 39:16 40:8,9 |
| 42:14,16,18,21 | 50:18,24 51:14 | 25:23,23 26:3 | 55:16,16,19,20 | 67:3 69:2,3 | 43:17 45:25 | 45:23 46:25 |
| 42:23 43:10,13 | 59:2 62:18 | 26:4,4,5,6,6,7 | 55:22 56:8,13 | themselves 3:6 | 49:13 54:4 | 47:10,20,23 |
| 44:2,7,8,8,10 | 65:2 66:23 | 26:15,21,24,25 | 56:13,19,21,21 | 45:2,3 | 61:20 62:4,9 | 58:1,3 59:20 |
| 44:13,15,15,19 | 68:1,13 71:2,8 | 27:2,6,8,10,12 | 56:22,24,24 | then 1:6,18 3:24 | 65:21,24 66:6 | 61:17 62:17 |
| 44:21,23,23,24 | the 1:13,18,19,20 | 27:16,22,23,25 | 57:7,10,11,12 | 5:21 6:23 | 69:9 | 65:15 66:12 |
| 45:7,8,19,23 | 1:22,23 2:1,2,2 | 28:1,3,7,9,16 | 57:14,15,20,23 | 14:14 15:9 | they 3:5,7,14 | 69:23,25 |
| 46:19,23,25,25 47:2,6,17,19 | 2:3,5,6,7,9,10 2:11,11,11,12 | 28:17,19,23,24 28:24 29:2,3,4 | 57:24,25 58:1 58:2,5,8,14,23 | 20:8 23:23 24:1,14 25:5 | 4:18 6:5,18,19 6:22 9:3 10:23 | thinking 7:4 15:9 16:18 18:19,20 |
| 47:20 48:7,8,9 | 2:14,17,18,18 | 29:4,7,7,10,10 | 59:6,7,9,9,10 | 28:7 29:11,16 | 13:12,19 24:4 | third 11:2 12:14 |
| 48:11,16,24 | 2:23,23,25 3:2 | 29:12,12,14,15 | 59:12,15,15,19 | 29:19 30:1 | 24:8 26:21,22 | Thirdly 26:6 |
| 49:1,3,6,10,16 | 3:5,9,11,18,19 | 29:17,17,23,25 | 59:23,25 60:1 | 31:14,15 37:9 | 26:23 32:18 | this 2:9,25 3:4 |
| 49:16,20,22,25 | 3:20,22,25 4:3 | 30:3,10,21,25 | 60:3,5,6,7,7,10 | 38:22,24 39:12 | 33:7 34:16 | 4:8,9,20 6:20 |
| 50:1,2,10,18 | 4:4,6,13,13,14 | 30:25 31:4,11 | 60:14,15,17,18 | 44:5,10 48:3 | 35:16 36:5,13 | 8:13 9:15 |
| 50:22,23,25 | 4:16,22,22,23 | 31:15,17,18,19 | 60:21,22,23 | 49:25 50:1,2 | 44:15,17,22 | 10:14 11:4,15 |
| 51:5,9,11,15 | 4:25 5:3,11,11 | 31:21 32:2,8,8 | 61:3,5,5,9,9,10 | 51:4 53:24 | 45:9 46:2 | 11:17,24 12:1 |
| 51:17,18,18,23 | 5:12,12,13,14 | 32:12,13,17,23 | 61:11,13,14,15 | 56:15 58:8,25 | 47:17 48:10 | 12:2,3,16,19 |
| 51:24,25 52:1 | 5:15,16 6:5,7,9 | 32:24 33:2,3,4 | 61:15,18,18,19 | 59:15 60:12,12 | 49:12,16,16,19 | 13:4,17 14:1 |
| 52:9,15,16,17 | 6:14,17 7:1,5,6 | 33:6,7,9,23,24 | 61:20,23,24,25 | 60:21 61:19 | 49:19 50:15 | 14:15 15:16,17 |
| 52:17,19,20 | 7:8,8,9,12,13 | 33:24,25 34:3 | 62:1,4,8,11,12 | 69:8 70:22 | 51:7,15,25 | 16:13,21 17:17 |
| 53:1,3,12,13 | 7:17,18,19,22 | 34:6,24,25,25 | 62:12,13,15,19 | there 2:9 3:8,16 | 52:16 53:15 | 17:21,25 18:24 |
| 53:14,20 54:8 | 7:23,25,25 8:1 | 35:1,3,4,9,13 | 62:21 63:4,4,5 | 4:6 5:16,21 6:6 | 54:7 55:20 | 20:1,24 21:2,3 |
| 54:17,18,18,18 | 8:2,2,7,7,10,14 | 35:13,17,19,20 | 63:6,7,13,16 | 6:15 7:4,18,23 | 56:20 57:1,2,5 | 22:9,9,10,21 |
| 54:19,20,24 | 8:15,16,20,21 | 35:21,22 36:1 | 63:18,18,21,23 | 8:4,4 12:7,10 | 57:6,16,18,19 | 22:21,22 23:9 |
| 55:1,5,6,10,13 | 8:21,22,23,25 | 36:9,9,15,17 | 63:23,24 64:3 | 14:13,22 15:11 | 58:5,18 60:16 | 23:15,16,20,23 |
| 55:17 56:2,17 | 8:25 9:7,7,12 | 37:3,3,7,10,10 | 64:4,4,5,10,11 | 15:14 17:9 | 60:24,24 61:1 | 23:25 25:3,25 |
| 56:20,23 57:1 | 9:17,18,23 | 37:11,12,14,15 | 64:11,13,15,18 | 18:10,12 19:7 | 61:3,8,13,14 | 26:4,11 27:16 |
| 57:4,5,7,8,11 | 10:9,15,16,17 | 37:16,18,19,22 | 64:18,24 65:1 | 19:11 20:12,18 | 61:16 62:2,11 | 27:20 28:11 |
| 57:12,13,20,25 | 10:20,22,24 | 37:23,24,24,24 | 65:2,3,9,9,13 | 20:21,22 21:21 | 62:11,13 65:2 | 30:12 32:25 |
| 58:9,15,17,19 | 11:3,4,4,6,7,8 | 37:25,25 38:3 | 65:18,19,20,25 | 22:4,16 23:1 | 65:15 66:11 | 36:25 37:1 |
| 59:1,4,6,10,12 | 11:17,18,19,19 | 38:9,10,11,14 | 66:2,2,2,3,3,6 | 24:3,4,5 25:14 | 67:2,14 69:13 | 41:20 42:6,10 |
| 59:14,16,16,18 | 11:22,22 12:1 | 38:18,18,18,21 | 66:7,9,19,21 | 25:22 26:3,6 | 69:25 70:21,24 | 43:5 44:1 |
| 59:21,22,23,23 60:2,2,5,13,25 | 12:1,3,11,17 12:21 13:8,9 | 38:23,24 39:1 39:3,5,8,9,17 | 66:23,25 67:1 67:1,6,11,13 | 26:10,12,14,19 27:5,7,9,21 | 71:6 they'd 49:11 | 45:23 46:13,20 46:21 48:14 |
| 61:3,3,10,15 | 13:13,15,15,15 | 39:20,21,24 | 67:18,22,25 | 29:20 30:1,6,7 | 64:4 | 51:11,13 52:3 |
| 61:16,16,19 | 13:21,23 14:3 | 40:5,9,10,11 | 68:3,4,10,11 | 32:17 33:12 | they're 5:10,22 | 52:23 53:5,17 |
| 62:2,9,13,14 | 14:4,8,12,12 | 40:16,18,19,25 | 68:17,17,18,24 | 38:7,17,22 | 10:23 32:20 | 54:9,21 56:10 |
| 62:16,16 63:2 | 14:18,18,19,24 | 41:1,2,2,4,6,7 | 69:2,6,6,9,11 | 39:2,7,11 | 36:19 39:11 | 58:8 59:11,20 |
| 63:6,15,19,23 | 14:25 15:1,1,3 | 41:7,8,10,12 | 69:15,15,16,17 | 40:22 42:11 | 45:8 47:18 | 59:24 60:17 |
| 64:8,8,10,15 | 15:5,6,7,7,11 | 41:13,14,15,15 | 69:20,22,23 | 43:12 44:13,21 | 57:9 67:1 | 61:6,6 63:14 |
| 64:21,21,23,24 | 15:14,18,21 | 41:17,21,22 | 70:2,4,4,4,8,9 | 45:25 47:8,23 | 69:14 | 63:20 65:2,11 |
| 65:5,17 66:13 | 16:1,4,5,5,6,8 | 42:1,1,7,12,15 | 70:12,12,13,14 | 49:2 50:9,16 | they've 34:19 | 65:20 66:9,10 |
| 66:15,16,17,17 | 16:9,12,14,14 | 42:17,23 43:3 | 70:15,19,21,25 | 50:18 51:15 | 63:12 | 66:14,16 |
| 66:18,20,20,23 | 16:16,22,24 | 43:12,14,20,20 | 71:2,5,5,6,6,7 | 53:6,23 54:12 | thing 5:11 8:7 | those 3:3,12 6:16 |
| 67:20,21,21,25 | 17:6,8,8,10,11 | 43:22,23 44:2 | 71:9,16 | 54:13 56:23 | 12:24 17:25 | 15:10,15,16 |
| 68:1,2,5,6,7,9 | 17:12,13,17,23 | 44:5,7,9,9,14 | their 2:23 10:6,7 | 57:19 59:7,23 | 61:5 68:1 | 16:7 17:23 |
| 68:9,9,10,14 | 18:1,4,5,19,25 | 44:23 45:1,7,9 | 19:8 23:2,3 | 60:24 61:15,16 | things 6:10 8:14 | 18:6 27:3 |
| 68:15,15,16,18 | 19:9,9,11,13 | 45:10,11,12,12 | 25:24 32:9,19 | 62:15,18 63:1 | 30:9 50:25 | 28:18 29:19 |
| 68:18,19,20,23 | 19:14,16,20 | 45:22,24,25 | 34:21 36:5,5 | 63:9 65:23 | 57:20 66:24 | 30:7 36:6 |
| 69:6,9,10,15 | 20:2,5,6,6,9,10 | 46:1,4,7,8,11 | 36:19 39:11,17 | 66:3,15,19 | 67:4,5,12 | 37:20 38:20,21 |
| 69:16,19,20,23 | 20:15,15,17,23 | 46:13,16,21,22 | 39:22 44:18 | 67:17 70:17 | thing's 65:3 | 42:4 44:11 |
| 69:25 70:8,12 | 20:24,25 21:2 | 46:24,25 47:1 | 45:19 50:4 | thereafter 22:3 | think 1:25 2:19 | 46:12 47:7,25 |
| 70:16,18,20 | 21:3,3,6,6,8,8 | 47:1,2,2,3,4,8 | 51:5,12 52:11 | therefore 2:14 | 2:19,20,22,25 | 48:2,22 49:9 |
| 71:6 | 21:12,13,14,14 | 47:21 48:1,3 | 60:11 61:14 | 8:16 13:18 | 3:2,4,10,14 4:5 | 53:21 57:20 |
| that's 2:19 6:6,8 | 21:19,19,22,23 | 48:24,25 49:1 | 67:2 69:3 | 26:16 40:1 | 4:24 5:10,12 | 58:12,14 61:2 |
| 7:12,16 10:6 | 21:24 22:2,3,6 | 49:2,3,4,17,20 | 70:19 | thereof 8:23 | 5:13 6:6,9,12 | 65:18 66:18 |
| 11:2 13:20 | 22:6,7,8,8,11 | 49:22,22,23,23 | them 3:7,8 4:18 | there's 1:25 4:11 | 6:25 7:3,17 8:8 | 67:5 69:11,12 69:14 |
| 14:20 16:18 | 22:13,13,14,19 | 50:6,6,7,7,21 | 14:13,14 31:20 | 4:24 8:21,23 8:24 9:6 12:6,9 | 8:10 9:6,13,16 10:24 12:8 | 69:14 though 63:17 |
| 17:4,16,22 19:8 21:11,13 | 22:19,21,25 | 50:23,25,25 51:3,8,10,24 | 32:10 33:17 34:22 39:9,16 | 12:9 21:18 | 10:24 12:8 | though 03:17 thought 1:12 |
| 23:5 24:5,17 | 23:4,5,6,8,11 23:17,17,17,17 | 51:3,8,10,24 51:24 52:5,5 | 39:17 44:14,15 | 23:16,19 24:13 | 16:2,5,25 18:3 | 12:17 27:20 |
| 27:8,12 28:7 | 23:21,24 24:2 | 52:18 53:6,7 | 44:17,18 46:4 | 41:14,19 65:5 | 18:5 21:2,9 | 40:21 52:8 |
| 37:5 38:24 | 24:2,2,8,9,12 | 53:17,23 54:3 | 47:3 55:24 | 67:8,21 | 22:10 23:1,16 | 66:11,12 |
| 39:17 40:8 | 24:12,17,18,18 | 54:13,19,20,24 | 56:14,16 58:6 | these 5:10 9:1 | 25:14 26:22,25 | thousands 48:15 |
| | | · · · · · · · · · · · · · · · · · · · | | | 1,_0 | |
| | • | | | | | |

| three 11:10 15:1 | | | | | | | rage 01 |
|---|---------------------------------|------------------|------------------|------------------|------------------------|---------------------------------------|---------------------------------------|
| threw p1/21 2511.11.12.15 65.61.11.2.17 1 | 1 | Ī | I | i | I | I | Ī |
| threw p1/21 2511.11.12.15 65.61.11.2.17 1 | three 11:16 15:1 | 24:25 25:1,2,6 | 64:16,16,22,25 | 66:6,9 70:4 | 44:24 45:8 | very 1:25 6:3 | 51:24 52:1,8 |
| through 188 2516 264.4 2610 1215.2 2666.77.9.10 tucked 49.3 59.21 510.16 1114 1218 5319.20.32.4 5819 2624 276.14 2610 1215.2 2666.77.9.10 turned 36.1 5315 5511 163.13 17.72 552.17.22 turned 36.1 5315 5511 163.13 17.72 552.17.22 turned 36.1 5315 5511 163.13 17.72 552.17.22 turned 36.1 5315 5511 163.13 17.72 552.17.22 turned 36.1 5315 5511 163.13 17.72 552.17.22 turned 36.1 5315 5511 163.13 17.72 552.17.22 turned 36.1 5315 5511 163.13 17.72 552.17.22 turned 36.1 5315 5511 163.13 17.72 552.17.22 turned 36.1 5315 5511 163.13 17.72 552.17.22 turned 36.1 5315 5511 163.13 17.72 552.17.22 turned 36.1 5315 5511 163.13 17.72 552.17.22 turned 36.1 5315 5511 163.13 17.72 552.17.22 turned 36.1 5315 5511 163.13 17.72 552.17.22 turned 36.1 5315 5511 163.13 17.72 552.17.22 552.17.22 turned 36.1 5315 5511 163.13 17.72 552.17.22 552.17.22 turned 36.1 5315 5511 163.13 17.72 552.17.22 552.17.22 turned 36.1 5315 5511 163.13 17.72 552.17.22 552.17.22 turned 36.1 5315 5511 163.13 17.72 552.17.22 552.17.22 turned 36.1 5315 5511 163.13 17.72 552.17.22 552.27.23 552.17.22 turned 36.1 5315 5511 163.13 17.72 552.17.22 552.27.23 552.23 552.27.23 552 | threw 17:21 | | | tube 69:5 | 48:10 49:1.19 | | |
| Selip | | | | | | | · · · · · · · · · · · · · · · · · · · |
| 5849 2624 276,614 6612,232,525 turned 361 53115 5511 163,131722 552,17,22 166725 2714,184,182 6712,144,14,679 6614 5718,192,022 214,262,222 562,223,24 2718,192,023 2714,184,182 6814,162,122 274,184,182 6814,162,122 274,184,182 6814,1 | | | | | · · | | |
| throw 69:25 27:151.618,24 67:24.44.67.9 42:15 61:8 577.12.13.13 18.28.19.78 56:10.10.11.12 11.16.12 57:25.59.9 27:23.28.12.14 26:22.23.24 27:24.46.83 77:14.24.683 | | | | | | | |
| tie 6725 2724.52 821 6710.112.14.14 664 571.819.20.32 214.26.22.25 562.22.33.12.12 281.42.64 282.46.61.112 683.41.61.62.12 282.46.68.17 481.26.11.13 295.518.23 294.61.01.12 683.45.62.12 282.46.67.14 391.61.94.17 301.35.71.0 6971.71.70 407.45.11.13 391.61.94.17 301.35.71.0 6971.71.70 407.45.11.13 391.61.94.17 301.35.71.0 6971.71.70 407.45.11.13 391.61.94.17 301.45.71.1 501.22 302.43.1 391.61.94.17 301.45.71.1 501.23 301.43.21.1 391.61.94.17 301.45.71.1 501.23 301.43.21.1 391.61.94.17 301.45.71.1 501.23 301.43.21.1 452.15.0.21 301.43.71.1 501.23 301.43.21.1 592.25.60.2 371.71.20.23 301.43.21.2 401.23.25 302.43.21.2 302.43.21.2 302.43.21.2 302.43.21.2 302.43.21.2 302.43.21.2 302.43.21.2 302.43.21.2 452.11.2 502.2 302.43.21.2 452.11.2 502.2 302.43.2 302.43.2 452.11.2 502.2 302.43.2 302.43.2 452.23.2 302.43.2 302.43.2 302.43.2 452.23 | | | , , , | | | | |
| time 87 13:25 | throw 69:25 | 27:15,16,18,24 | 67:2,4,4,6,7,9 | 42:15 61:8 | 57:7,12,13,13 | 18:2,8 19:7,8 | 56:10,10,11,12 |
| time 87 13:25 | tie 67:25 | 27:24,25 28:1 | 67:10,12,14,14 | 66:4 | 57:18,19,20,23 | 21:4 26:22,22 | 56:22,23,24 |
| 223.42 42.42 42.62 | time 8:7 13:25 | 28:4.6.8.8.8.9 | | TV 48:12.61:17 | | 27:23 28:15.15 | |
| 295.18.23 294.6.10.12 6814.16.21.22 324.396.7.14 6218.647.20 401.62.44.27 591.61.82.12 591.61.82.12 591.61.82.12 591.61.82.12 591.61.82.12 591.61.82.12 591.61.82.12 592.85.26 592.85.26 605.78.8.91.2 592.85.26 592.85.26 605.78.8.91.2 592.85.26 592.85.26 605.78.8.91.2 592.85.26 592.85.26 605.78.8.91.2 592.85.26 592.85.26 605.78.8.91.2 592.85.26 592.85.26 605.78.8.91.2 592.85.26 592.85.26 605.78.8.91.2 592.85.26 592.85.26 605.78.8.91.2 592.85.26 592.85.26 605.78.8.91.2 592.85.26 592.95.26 592.8 | | | | | | | |
| 3043 33.625 59:24 3811,14 30:13.57.10 69:17.19 70:4 69:16.11.31 69:17.19 70:4 60:16.25 50:2 60:16.25 50:2 60:17.24 57:1 60:17.24 57:1 60:17.24 57:1 60:17.24 57:1 60:17.24 57:1 100:17.24 57:1 | | | | | | | |
| 39:163-941 30:13.57.10 69:17,19 70:14 41:24 32:15 30:13.57.10 50:13.57.10 30:14.52:15 70:21 71:15.75 41:20 43:21.23 31:14.32:13.15 70:21 71:15.75 42:15 42:15 42:15 31:14.32:13.15 50:23.57.15 31:14.32:13.15 50:23.57.15 31:14.32:13.15 50:23.57.15 31:14.32:13.15 50:23.57.15 31:14.32:13.15 50:23.57.15 31:14.32:13.15 50:23.57.15 31:14.32:13.15 50:23.57.15 31:14.32:13.15 50:23.57.15 31:14.32:13.15 50:23.57.15 31:14.32:13.15 50:23.57.15 31:14.32:13.15 50:23.57.15 50: | | | | | | | |
| 30:16,19.417 30:12.25 31:4 70:8,11.13.15 4:20.432.12.3 31:14.32.13.15 70:17.15.7 4:20.25.12.15 5:20.25 60:2 32:16,19.24 32:16,19.24 32:16,19.24 32:16,19.24 33:17,19.20.21 66:16.16.14 32:16.15.38 33:17,19.20.21 4:25.25.29.24 4:25.25.29.24 4:25.25.29.24 4:25.25.29.24 4:25.25.29.24 4:25.25.29.24 4:25.25.29.24 4:25.25.29.24 4:25.25.25.25 4:25.25.25.25 4:25.25.25.25 4:25.25.25.25 4:25.25.25.25 4:25.25. | | | | | | | |
| 44224 33.21.23 3114 32.13.15 70.21 71.15.7 ype 33.3 70.1.1 upon 8.14 upon 8.14 vpon 9.14 vpon 9.14 | 35:22 38:11,14 | | 69:17,19 70:4 | two-stage 22:14 | 66:4,8,13 67:2 | 54:21 57:22 | 60:5,7,8,9,12 |
| 44224 33.21.23 3114 32.13.15 70.21 71.15.7 ype 33.3 70.1.1 upon 8.14 upon 8.14 vpon 9.14 vpon 9.14 | 39:16,19 41:7 | 30:12,25 31:4 | 70:8,11,13,15 | two-year 36:23 | 68:14 69:22 | 59:2 60:4 | 60:20,25 61:2 |
| 48-21 50:21 50:23 50:24 317. 50:13.21 58:5 50:25 60:2 33:17,19.20,21 60:11 61:9 40:17 10:19.41 70:10.14 10:19.41:7 10:19.41:7 10:19.41:7 10:19.41:7 10:19.41:7 10:19.41:7 10:19.41:7 10:19.41:7 10:19.41:7 10:19.41:7 10:19.41:7 10:19.41:7 10:19.41:7 10:19.42:7 10:19.41:7 10:19. | 41:20 43:21.23 | | | | 70:1.1 | 63:20.25 67:6 | 61:3.10.11.15 |
| Soil.32.15.85 Sail.71,10.15 Sogether 51:13 U wpset 63:20 witer 54:15 clock 52:16.16.16.19 wpset 63:20 witer 54:17 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15.15 clock 52:16.16.19.20 witer 54:15.15 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15.15 clock 52:16.16.19.20 witer 54:15.15 clock 52:16.16.19.20 witer 54:15 witer 53:15.15 clock 52:16.16.19.20 witer 54:15.15 clock 52:16.16.19.20 witer 54:15.15 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15 clock 52:16.16.19.20 witer 54:15 clock 52:15 clock 5 | | | | J. P. C. C. | | | |
| 5902.5 60.2 631.6 149 561.6 644.5 342.20 363.7 42.37 437.4 662.5 662.5 437.9 1438.12 4562.5 20.24 662.5 456.2 456. | | | | | - | · · · · · · · · · · · · · · · · · · · | |
| 663.664.45 663.73 661.44 662.54 662.55 37.91.43.81.2 231.427.15 38.24.25.39.1 233.14.27.15 38.24.25.39.1 201.12,19.20 141.55.77.21 201.14.16.61.14 41.55.79.10 41.15.17.21.25 11.14.14 41.25.25.24.59 41.15.17.23.25 41.15.17.17.18 32.23.23.24.25 42.23.34.14 42.23.25.24.27 42.23.24.25 42.23.34.14 42.23.25.24.27 42.23.25.24.7 42.23.25.24.7 42.23.25.24.7 42.23.25.24.7 42.23.25.24.7 42.23.24.81 42.23.25.23.14 42.23.25.23.14 42.23.25.23.14 42.23.25.23.14 42.23.25.23.14 42.23.25.23.14 42.23.25.23.14 42.23.25.23.14 42.23.25.23.14 42.23.25.23.14 42.23.25.23.14 42.23.25.23.14 42.23.25.23.14 42.23.25.23.14 42.23.25.23.14 42.23.25.23.14 42.23.25.23.14 42.23.25.23.15 42.23.23.24 42.23.25.23.23 42.23.24.25 42.23.25.23.23 42.23.23.24 42.23.25.23.23 42.23.23 | | | | | • | | |
| 66:25 37:9,14 37:4 5012 2:25 20:24 films 15:3.8 38:16,18,19,23 63:17,19 38:16,18,19,23 64:17,19 63:5 40:10,12,19,20 tired 63:5 40:10,12,19,20 tired 65:11 40:25,23 4:4 40:20,22 4:14 40:20,23 4:14 40:20,22 4:14 40:20,23 4:14 40:20,22 4:14 40:20,23 4:14 40:20,22 4:14 40:20,23 4:14 40:20,22 4:14 40:20,23 4:14 40: | | | | | | | |
| 66:25 1379,14 38:12 2314 27:15 38:12,17 40:3 38:24,25 39:1 157 62:16 157 72:17 157 157 157 157 157 157 157 157 157 157 | 61:6 64:4,5 | 34:2,20 36:3,7 | | 40:19 41:17 | 32:5,20 33:7 | 42:25 43:1 | 63:14,15,17,20 |
| 66:25 1379,14 38:12 2314 27:15 38:12,17 40:3 38:24,25 39:1 157 62:16 157 72:17 157 157 157 157 157 157 157 157 157 157 | 65:1,3 66:14 | 36:17,24 37:4 | told 2:25 20:24 | ultimately 25:21 | 36:22 37:22 | 68:5,7,15 | 63:23,24 64:1 |
| times 15:3.8 38:16,18,19,23 647,11 66:3 unbalanced 43:22,23 44:10 cley 1.6 43:22,23 44:10 cley 3.15 45:3 64:11,1621 65:16,19,22,23 65:15,20,20,25 51:15,20,20,25 51:15,20,20,25 51:15,20,20,25 51:15,20,20,25 51:15,20,20,25 51:15,20,20,24 52:13,14,15 69:6 66:8 67:5,13 69:16 62:2,33,45,17 69:16 69:16 69:16 62:2,34,51 69:16 69:16 60:13,41 69:16 69:16 60:13,41 69:16 69:16 60:13,41 69:16 69:16 60:13,41 69:16 | | | | | 40:10 42:8 | video'd 67:25 | |
| 2314 27:15 38:24,25 39:1 tonight 40:12 to 2:12,13 4:21 to 2:12,13 4:21 to 2:12,13 4:21 to 40:20,23 41:15 to 60:49:5 titled 66:11 41:45,57.9;10 60:49:5 to 14:46,66,11,14 41:25,25 4:29 to 14:46,66,11,14 41:25,25 4:29 to 14:44,66,61,14 41:25,25 4:29 to 14:44,66,61,14 41:25,25 4:29 to 14:44,66,61,14 41:25,25 4:29 to 14:44,66,61,14 41:25,25 4:29 to 14:44,66,61,14 41:25,25 4:29 to 14:44,66,61,14 41:25,25 4:29 to 14:44,62,11,15 43:13,78,14 to 14:23,25 5:24 44:15,17,71,18 44:23,44,14 45:19,22,23 44:23,44,14 45:19,22,23 track 55:20 t | | | | | | | |
| tip 54:77 doi:10.1219.20 too:2:12.13.4221 too:2:12.13.4221 too:0:2:13.43.421 too:0:2:13.43.221 decilipse 6:3:3.37.25 decilipse 6:3:3.37.25 decilipse 6:3:3.422.34.43 decilipse 6:3:3.422.34.43 decilipse 6:3:3.42.34.14 decilipse 6:3:3.42.34.14 decilipse 6:3:3.42.34.14 decilipse 6:3:3.42.34.14 decilipse 6:3:3.37.38.14 decilipse 6:3:3.37.38.14 decilipse 6:3:3.37.38.14 decilipse 6:3:3.37.38.14 decilipse 6:3:3.37.38.14 decilipse 6:3:3.37.38.24 decilipse 6:3:3.37.38.24 decilipse 6:3:3.37.38.24 decilipse 6:3:3.37.38.24 decilipse 6:3:3.3.4.14 decilipse 6:3:3.3.4.14 decilipse 6:3:3.3.4.14 decilipse 6:3:3.3.4.14 decilipse 6:3:3.3.4.14 decilipse 6:3:3.3.4.14 decilipse 6:3:3.3.4.14 decilipse 6:3:3.3.4.14 decilipse 6:3:3.3.4.14 decilipse 6:3:3.3.4.14 decilipse 6:3:3.3.4.14 decilipse 6:3:3.3.4.14 decilipse 6:3:3.3.4.14 decilipse 6:3:3.3.4.14 decilipse 6:3:3.4.14 > <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> | | | | | | | |
| tipped 63:5 40:10,12,19.20 15:7 62:16 27:4 49:19,19 51:5 virtually 13:12 66:19.20 69:7 tired 65:11 41:45,5.7,9.10 60:4,10 61:13 60:4,10 61:13 42:23 54:13 59:16 63:4,6 virtually 13:12 66:19.20 69:7 tired 65:11 41:25,5.7,9.10 60:4,10 61:13 42:23 54:13 59:16 63:4,6 virtually 13:12 69:16 wash 51:5,20.20;5 vision 12:2 13:11,15:2 69:16 wash 67:23 43:15,17.23,25 69:16 wash 67:23 59:16 63:4,6 69:16 wash 67:23 59:16 63:4,6 virtually 13:12 69:16 wash 67:22 vision 12:2 13:11,15:20:20;25 vision 12:2 13:11,15:20:20;25 vision 12:2 13:11,15:20:20;25 vision 12:2 13:11,15:20:20;25 vision 12:2 13:11,15:20:20;25 vision 12:2 13:11,15:20:20;25 vision 12:2 13:11,15:20:20;25 vision 12:2 13:11,15:20:20;25 vision 12:2 13:11,15:20:20;25 13:23:33 13:23:23 43:23:23:23 43:13:73:25 45:28:33:13:72:2 47:21:55:3 48:20:23:53:3 49:21:25:23:3 48:21:23:34:1 49:21:25:23:3 49:21:25:23:3 49 | | | _ | | | | |
| tips 57:4 tred 65:11 40:20,23 41:4 14:4,5,7,9,10 toks 9:21 42:3 60:4,0.6,6,11,14 toks 9:21 42:3 42:23 54:13 54:8 57:5 59:3 54:8 57:5 59:3 virtue 15:24 visible 48:2 visible | | | | · · | | |
| tired 65:11 | | | | | | | |
| titled 46:13 | | , | | under 33:1 37:25 | | | |
| titled 46:13 to 1:44,6,6,611,14 to 1:42,525 42:9 to 1:42,525 42:9 to 1:42,525 42:9 to 2:2 to 2:6,7,11,5,15 to 2:10,13,16,16 to 2:17,25,525 3:4 dots 1:5,17,23,52 to 2:17,25,25 3:4 dots 1:5,17,17,18 dots 1:5,17,14,14 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,17 dots 1:4,17,17,17 dots 1:4,17,17,17 dots 1:4,17,17,17 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,19,17,17 dots 1:4,17,17,17 dots 1:4,17,17,17 dots 1:4,17,17,17 dots 1:4,17,17,17 dots 1:4,17,17,17 dots 1:4,17,17,17 dots 1:4,17,17,17 dots 1:4,17,17,17 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,17,17 dots 1:4,17,17,17 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,19,17,17 dots 1:4,17,17,18 dots 1:4,17,17,18 dots 1:4,17,17,17 dots 1:4,17,17,18 dots 1:4,17,17,1 | tired 65:11 | 41:4,5,5,7,9,10 | 60:4,10 61:13 | 42:23 54:13 | 54:8 57:5 59:3 | visible 48:2 | wasn't 12:2 |
| to 144,6.6.11,14 | titled 46:13 | 41:15.17.21.25 | tool 49:5 | | 59:16 63:4.6 | vision 1:22 | 13:11.15 21:21 |
| 1-19_20_22_23 42:10_13_16_16 topics 37:24 total 15:14-53:5 t | | | | | | | |
| 2:67.71.15.15 | | , | | | , | Voice 4.5 | |
| 2:17.25,25 3:4 43:15,17,23,25 54:17 24:11,14 24:11,14 24:11,14 45:23,14,14 45:23,24 45:1 touchstone 67:11 touch 59:2 track 55:23 track 55:23 track 55:23 track 55:23 track 55:23 track 55:23 track 55:23 track 55:23 track 55:24,7 65:41,31 65:41,31 61:14 64:16,19 77:3 | | | | | | XX / | |
| 3:57,8.8.9,16 3:22,23,24.25 44:23,14,14 45:19,22,23 5:20,12,12,12 45:33,16,17 5:20,12,12,12 46:23,45,7,8 61:11 45:13,14,15 46:13,14,16,19 47:21,52,03 46:23,45,7,8 46:23,45,7,8 46:23,45,7,8 46:23,23 46:23,45,7,8 48:10,16 49:6 49:7,9,10,11 49:10,10,17,23 49:12,15,20,24 11:3,11,15,19 49:24 50:2,5,8 11:20,21,23,24 12:33,7,10,20 15:57,14,15 15:71,14,18 15:18,25,25 15:31,72,42,44 15:14,15,14 15:18,25,25 15:31,72,14,24 15:14,15,14 15:18,25,25 15:31,72,10,20 15:54,57,7,10 15:71,14,18 15:18,25,25 15:31,72,10,20 15:54,57,7,10 15:18,20,22,22 16:20,21,17:4 15:48,24,78 16:19,14,11,13 16:20,21,17:4 17:79,17,17 17:55:18,20,22,22 16:20,21,17:4 17:79,17,17 17:55:18,20,22,22 16:20,11,11 19:6,9,10,10 17:79,17,17 17:55:18,20,22,22 18:10,17 18:10,17 19:6 | | | | | | | |
| 3:22,23,24,25 4:6,6,8,16,20 44:22,24 45:1 45:19,22,23 5:20,21,21,22 5:20,21,21,22 5:20,21,21,22 6:13,14,16,19 6:18,10,16,49,6 6:18,10,16,49,6 6:27 trade 9:23 28:5 11:20,21,23,24 11:31,11,5,19 11:31,11,5,19 11:31,11,5,19 11:31,11,5,19 11:31,11,5,19 11:31,11,5,19 11:31,11,15,19 | | | | | | | |
| 4.63,8.16,20 4.23,25.52,4,7 5.9,111,414 4.519,22,23 5.24,25.64,13 6.13,14,16,19 4.75,7,11 48,2 6.13,14,16,19 4.75,7,11 48,2 6.13,14,16,19 4.75,7,11 48,2 6.13,14,16,19 4.75,7,11 48,2 6.13,14,16,19 4.75,7,11 48,2 6.13,14,16,19 4.75,7,11 48,2 6.13,14,16,19 4.75,7,11 48,2 6.13,14,16,19 4.75,7,11 48,2 6.13,14,16,19 4.75,7,11 48,2 6.13,14,16,19 4.75,7,11 48,2 6.13,14,16,19 4.75,7,11 48,2 6.13,14,16,19 4.75,7,11 48,2 6.13,14,16,19 4.75,7,11 48,2 6.12,15,20,24 11:3,11,15,19 4.92,4 50:2,5,8 11:20,21,23,24 4.15,18,15,6 5.10,14,19,2 1.57,11,14,18 5.22,3 53:6,16 1.57,11,14,18 5.22,3 53:6,16 1.57,11,14,18 5.22,3 53:6,16 1.57,14,15 1.57,14,15 1.57,11,14,18 5.22,3 53:6,16 1.57,14,15 1.57,14,15 1.51,14,15,15 1.51,1 | | | | 24:11,14 | | walk 36:5 | |
| 48:2, 25 5:2, 47 45:3, 3, 16, 17 5:9, 11, 14, 14 45:19, 22, 23 track 5:20 | 3:22,23,24,25 | 44:15,17,17,18 | touchstone 67:11 | undermined | 47:21 55:3 | walked 36:6 69:8 | |
| 5:9,11,14,14 45:19,22,23 track 55:20 7:3 34:19 35:1 want 3:4,23 5:7 way 6:5 11:7,17 5:20,21,21,22 46:2,3,4,5,7,8 trade 9:23 28:5 trade 9:23 28:5 17:12 32:23 39:20 41:15,19 6:61 42:1 12:11 5:11 | 4:6,6,8,16,20 | 44:22,24 45:1 | tough 59:2 | 28:13,14,15 | used 8:11 15:21 | walking 36:5 | watching 40:4 |
| 5:9,11,14,14 5:20,21,21,22 6:13,14,16,19 6:22 7:4 8:1,4 8:6,8,12,16 9:10,10,17,23 49:12,15,20,24 11:3,11,15,19 9:10,10,17,23 49:12,15,20,24 11:3,11,15,19 11:0,21,23,24 50:16,20 51:3 11:20,21,23,24 51:24,52 4:7,8 11:52,17,24,24 11:51,18 15:6 52:10,14,19,22 15:7,11,14,18 52:23 53:6,16 15:18,25,25 15:7,11,14,18 52:23 53:6,16 15:18,25,25 15:7,11,14,18 52:23 53:6,16 15:18,25,25 16:37,7,19,20 54:17,23 55:2 16:37,7,19,20 54:17,23 55:2 16:37,7,19,20 17:41,18,19,20 16:37,7,19,20 16:37,7,19,20 16:37,7,19,20 16:37,7,19,20 16:37,7,19,20 16:37,7,19,20 16:37,7,19,20 16:37,7,19,20 17:40 18:18,19,20 18:41,15,19 18:19,19,19,19,20 18:41,15,19 18:19,19,19,19,19,19,19,19,19,19,19,19,19,1 | 4:23,25 5:2,4,7 | 45:3,3,16,17 | town 65:23 | underrepresen | 18:15 23:13,19 | walls 70:1 | 48:2 |
| 5:20,21,21,22 46:2,3,4,5,7,8 trade 9:23 28:5 training 6:12 training 6:12 training 6:12 training 6:12 training 6:12 training 6:12 transcript 19:17 22:13 38:16 52:3 asses 20:5 using 40:3 42:20 24:5 6:29,15 23:19 30:2 24:5 26:9,15 23:19 30:2 24:5 26:9,15 23:19 30:2 24:5 26:9,15 23:19 30:2 24:5 26:9,15 23:19 30:2 24:5 26:9,15 24:5 26:9,15 23:19 30:2 24:5 26:9,15 23:19 30:2 24:5 26:9,15 23:19 30:2 24:5 26:9,15 23:19 30:2 24:5 26:9,15 23:19 30:2 24:5 26:9,15 23:19 30:2 24:5 26:9,15 23:19 30:2 24:5 26:9,15 23:19 30:2 24:5 26:9,15 23:19 30:2 24:5 26:9,15 23:19 30:2 24:5 26:9,15 23:19 20:2 27:6 44:14,15 39:4 44:7,23 39:4 44:7,23 39:4 44:7,23 39:4 44:7,23 39:4 44:7,23 39:4 44:7,23 39:4 44:7,23 39:4 44:7,23 39:4 41:12 60:5 understands 16:2 1 transpires 20:8 trap 16:21 transpires 20:8 trap 16:21 transpires 20:8 trap 16:21 transpires 20:8 trap 16:21 transpires 20:8 15:7,11,14,18 52:23 53:6,16 52:10,14,19,22 53:23 53:6,16 52:10,14,19,22 53:23 53:6,16 52:10,14,19,22 53:23 53:6,16 52:10,14,19,22 53:23 53:6,16 52:10,14,19,12 53:10,14,15,15 53:11,12,12,15 53:10,14,15,15 53:11,12,12,15 53:10,14,15,15 53:11 | 5:9,11,14,14 | 45:19,22,23 | track 55:20 | | 34:19 35:1 | want 3:4.23 5:7 | way 6:5 11:7,17 |
| 5:24,25 6:4,13 46:8,16,22 training 6:12 transcript 19:17 transgress 3:8 17:12 23:23 as:16 52:3 62:24 63:2,23 asses 20:5 22:17 23:15 23:19 30:2 19:17 22:13 23:19 30:2 6:27,74 8:1,4 48:10,16 49:6 48:10,16 49:6 48:10,16 49:6 49:7,9,10,11 transgress 3:8 transgress 3:8 transmitting 49:12,15,20,24 transmitting 49:12,15,20,24 transmitting 49:12,15,20,24 transmitting 49:24 50:2,5,8 68:7 68:7 45:8 47:24 de:16 57:5,6 62:9,10 63:21 45:8 47:24 de:16 57:5,6 de:13 de:17:2 sis 39:4 44:7,23 sis 40:16:5 sis | | | trade 9:23 28:5 | | | | |
| 6:13,14,16,19 6:22 7:4 8:1,4 8:10,16 49:6 8:6,812,16 9:10,10,17,23 11:3,11,15,19 49:12,15,20,24 11:3,11,15,19 49:24 50:16,20 51:3 11:20,21,23,24 11:3,17,124,24 51:25,37,10,20 13:55,17,24,24 51:25,17,14,15 15:18,25,25 15:7,11,14,18 15:18,25,25 16:3,7,7,10,20 17:7,9,17,17 17:20 18:4,7 18:10,17 19:6 18:10,17 19:6 18:10,17 19:6 18:10,17 19:6 18:10,17 19:6 19:6,9,10,10 18:10,17 19:6 19:10,10,17,25 19:11,11,11,11 18 18:10,17 19:6 18:11,17 19:1 18:10,17 19:6 18:11,17 19:1 18:10,17 19:6 18:11,17 19:1 18:10,17 | | | | | | | |
| 6:22 7:4 8:1,4 8:10,16 49:6 49:7,9,10,11 9:10,10,17,23 49:12,15,20,24 11:3,11,15,19 49:24 50:2,5,8 11:20,21,23,24 50:16,20 51:3 15:7,7,14,15 15:6 52:10,14,19,22 15:7,11,14,18 52:23 53:6,16 15:18,25,25 53:17,21 54:5 51:5,25,25 16:20,21 17:4 17:7,9,17,17 55:18,20,22,22 17:20,21,11,11 17:20,21,25,5,6 12,125 19:11,11,11,13 58:9,59;3,3,3,8 19:20 12:19,11,11,11,13 58:9,59;3,3,3,8 19:20 20:5,5 59:9,11,11 58:29:21 52:25 23:12,25 60:24 61:6,7 truby 11:18 12:19 22:25 23:12,25 60:24 61:6,7 truby 11:18 12:19 22:25 23:14,15,15 63:10,12,19,22 22:25 23:12,25 60:24 63:2,6 43:2,3 truby 11:18 12:19 22:25 23:4,5,9,11,15 63:10,12,19,22 23:25 23:4,5,9,11,15 63:10,12,19,22 23:23:20,25 24:5 63:24 64:2,3,7 truby 63:17 23:24 13:13,13,12,13 13:23:4,5 23:20,25 24:5 63:24 64:2,3,7 truby 36:17 23:24 13:13,13,12,12 13:23:4,13 13:23:4,5 23:20,25 24:5 63:24 64:2,3,7 truby 36:17 23:14 31:15,17 13:13,13,12,13 13:23:4,5 23:14 31:15,17 13:13,13,12,13 13:23:4,5 23:14 31:15,17 13:13,13,12,2 44:23 44:20,20,22 24:25 23:14,25,5 13:16 65:10 17:13,14,15,15 17:13,14,15 | , , | , , | | | | | |
| 8:6,8,12,16 49:7,9,10,11 translated 29:19 understands 43:1 47:8 46:16 57:5,6 45:8 47:24 9:10,10,17,23 49:12,15,20,24 68:7 understood 16:5 67:16 62:9,10 63:21 49:17,22 57:4 11:20,21,23,24 50:16,20 51:3 transpired 42:12 transpired 42:12 transpires 20:8 undertake 25:24 valid 16:22 17:1 64:13 warted 13:17 wasy 25:14 14:15,18 15:6 52:10,14,19,22 53:37,21 54:5 33:9,15,22,24 sas,915,22,24 sas,915,22,24 sas,915,22,24 valuable 27:18 warrant 69:5,7 61:17 (6:16) 61:2 19 10:16 12:19 | , , , | | | | | | |
| 9:10,10,17,23 | | , | | | | | |
| 11:3,11,15,19 | | , , , | | | | | |
| 11:20,21,23,24 12:3,3,7,10,20 51:5,7,14,15 51:5,7,14,15 51:24 52:47,8 14:15,18 15:6 52:10,14,19,22 15:7,11,14,18 52:23 53:6,16 15:18,25,25 53:17,21 54:5 38:9,15,22,24 38:9,15,22,24 16:03,7,7,19,20 54:17,23 55:2 39:2 41:5,13 41:18 43:24 17:4 46:7 57:1 64:16 42:23 43:7 46:7 57:1 64:17 57:9 9:18 46:7 57:1 64:16 46:1 | 9:10,10,17,23 | 49:12,15,20,24 | transmitting | 16:5 | 67:16 | 62:9,10 63:21 | 49:17,22 57:4 |
| 11:20,21,23,24 12:3,3,7,10,20 51:5,7,14,15 51:5,7,14,15 51:24 52:47,8 14:15,18 15:6 52:10,14,19,22 15:7,11,14,18 52:23 53:6,16 15:18,25,25 53:17,21 54:5 38:9,15,22,24 38:9,15,22,24 16:03,7,7,19,20 54:17,23 55:2 39:2 41:5,13 41:18 43:24 17:4 46:7 57:1 64:16 42:23 43:7 46:7 57:1 64:17 57:9 9:18 46:7 57:1 64:16 46:1 | 11:3,11,15,19 | 49:24 50:2,5,8 | 68:7 | understood | | 64:13 | 57:21 |
| 12:3,3,7,10,20 | 11:20,21,23,24 | 50:16,20 51:3 | transpired 42:12 | | V | | ways 25:14 |
| 13:5,17,24,24 | | | | | valid 16:22 17:1 | | |
| 14:15,18 15:6 52:10,14,19,22 treated 52:15 36:23 validity 50:7 warrant 69:5,7 6:12 7:5,9 9:18 15:7,11,14,18 52:23 53:6,16 52:10,14,19,22 strue 7:13 31:4 sas9,15,22,24 undertook 59:14 valuable 27:18 was 1:11,12 2:24 10:16 12:19 16:3,7,7,19,20 54:17,23 55:2 39:2 41:5,13 42:23 43:7 Vancouver 10:11 11:24,25 17:8,8,10,13 17:7,9,17,17 55:18,20,22,22 64:25 65:16 66:12,24 unfit 65:11 variouse 6:24 13:8,17 14:18 28:11 32:4,13 18:10,17 19:6 56:21,24 57:1 trumps 23:15 Trust 22:11 unique 44:7 various 1:17 19:1 20:12,24 33:17,19 34:2 19:11,11,11,11 58:9 59:3,3,3,8 59:9,11,11 41:9,17 67:11 41:9,17 67:11 41:9,17 67:11 41:9,17 67:11 41:9,17 67:11 41:9,17 67:11 41:9,17 67:11 6:20,21 41:11 41:20 35:23 33:8 33:8 33:8 10:12 11:2,24 35:17,21,54 35:17,21,54 35:17,21 35:23 32:1,22 35:17,21 35:23 32:1,22 35:17,21 41:22 15:3 32:23,24 33 | | | - | | | | |
| 15:7,11,14,18 52:23 53:6,16 15:18,25,25 16:3,7,7,19,20 54:17,23 55:2 39:2 41:5,13 41:18 43:24 16:20,21 17:4 17:7,9,17,17 17:20 18:4,7 18:10,17 19:6 56:5,14,18,19 19:6,9,10,10 19:10,11,11,11,13 19:20 20:5,5 20:14,17,22,25 20:25 21:2,5,6 20:14,17,22,25 20:25 21:2,5,6 20:14,17,22,25 20:25 21:2,5,6 20:14,17,22,25 20:25 21:2,5,6 20:14,17,22,25 20:25 21:2,5,6 20:14,17,22,25 20:25 23:1,2,2 20:25 23:1,2,2 20:25 23:1,2,2 20:25 23:1,2,2 20:25 23:1,2,2 20:25 23:1,2,2 20:25 24:5 60:10,12,19,22 20:25 23:20,25 24:5 60:24 64:2,3,7 10:16 12:19 30:16 16:2 30:11 11:24,25 17:18,19,12 10:11 11:24,25 17:18,19,12 10:11 11:24,25 17:18,19,12 10:11 11:24,25 17:18,19,12 10:11 11:24,25 17:18,19,12 10:11 11:24,25 17:18,19,12 10:11 11:24,25 17:18,19,12 10:11 11:24,25 17:18,19,12 10:11 11:24,25 17:18,19,12 10:11 11:24,25 17:18,19,12 10:11 11:24,25 17:18,19,12 10:11 11:24,25 17:18,19,12 10:11 11:24,25 17:18,19,12 10:11 11:24,25 17:18,19,13 10:11 11:24,25 17:18,19,13 10:11 11:24,25 17:18,10,13 17:13,14,15,15 17:13,14, | | | _ | | | | |
| 15:18,25,25 53:17,21 54:5 38:9,15,22,24 unethical 28:4,6 values 1:19 3:5 3:12 10:4,5,5,6 13:16 16:2 16:3,7,7,19,20 54:17,23 55:2 39:2 41:5,13 42:23 43:7 van 68:8 70:3 10:11 11:24,25 17:8,8,10,13 16:20,21 17:4 55:4,5,7,7,10 41:18 43:24 unfit 65:11 Vancouver 12:17,18,21 19:21 27:6 17:20 18:4,7 56:5,14,18,19 66:12,24 56:5,14,18,19 56:21,24 57:1 trumps 23:15 variance 6:24 13:8,17 14:18 28:11 32:4,13 19:6,9,10,10 57:2,5,6,12,15 59:9,11,11 58:9 59:3,3,3,8 59:9,11,11 truth 16:7 26:12 University 13:8 8:20 44:6 21:8,23 24:22 34:20,20,22 19:20 20:5,5 59:9,11,11 41:9,17 67:11 67:15 70:5 unlimited 47:22 vehicle 43:12 26:14 27:9,10 35:5,25 36:4 21:7,9,12,25 60:24 61:6,7 60:24 63:2,6 44:5 51:5 until 71:16 venue 66:2 40:14 41:22 38:22 39:1,5,8 22:17,18,19,22 62:24 63:2,6 44:5 51:5 up 11:18 12:19 verifed 65:16 46:8,22,25,25 41:20 42:9 | | | | | | | |
| 16:3,7,7,19,20 54:17,23:55:2 39:2:41:5,13 42:23:43:7 van 68:8 70:3 10:11:11:24,25 17:8,8,10,13 16:20,21:17:4 55:4,5,7,7,10 55:4,5,7,7,10 41:18:43:24 unfit 65:11 van 68:8 70:3 12:1,2,15,16 17:13,14,15,15 17:7,9,17,17 55:18,20,22,22 64:25:65:16 66:12,24 55:15 57:15 12:17,18,21 19:21:27:6 18:10,17:19:6 56:21,24:57:1 trumps 23:15 trumps 23:15 trumps 23:15 trumps 23:15 trumps 23:15 United 65:8 various 1:17 19:1:20:12,24 33:17,19:34:2 19:11,11,11,13 58:9:59,3,3,8 truth 6:7 26:12 University 13:8 8:20:44:6 21:8,23:24:22 34:20,20,22 19:20:20:5,5 59:9,11,11 41:9,17:67:11 60:7,8,8,10,12 60:7,8,8,10,12 60:7,8,8,10,12 60:13,17,23,23 60:13,17,23,23 60:15,70:5 truthfulness until 71:16 vehicle 43:12 31:3,17,18,21 36:11,24 37:1 22:9,12,15,15 61:11,21,25 33:8 unwarranted venue 66:2 40:14:41:22 38:23:23:13 22:17,18,19,22 62:24 | | | | | | | |
| 16:20,21 17:4 55:4,5,7,7,10 41:18 43:24 unfit 65:11 variouver 12:1,2,15,16 17:13,14,15,15 17:7,9,17,17 55:18,20,22,22 64:25 65:16 66:12,24 trumfortunately 57:15 12:17,18,21 19:21 27:6 18:10,17 19:6 56:21,24 57:1 trumps 23:15 trumps 23:15 unique 44:7 variety 37:16 14:22 15:3 32:23,24 33:14 19:10,11,11,11,13 58:9 59:3,3,3,8 59:9,11,11 58:9 59:3,3,3,8 10:10 41:9,17 67:11 10:10 41:9,17 67:11 10:20,21 10:20 20:5,5 10:20,21 10:20 20:5,5 10:20,21 10:20,21 10:20,21 10:20 20:2,24 20:25,23,24 20:25,23,24 20:25,23,24 20:25,25 20:21,25,6 10:11,21,25 10:20,21 10:20,2 | | | | | values 1:19 3:5 | | |
| 17:7,9,17,17 55:18,20,22,22 64:25 65:16 unfortunately 57:15 12:17,18,21 19:21 27:6 17:20 18:4,7 56:5,14,18,19 66:12,24 2:21 32:17 variance 6:24 13:8,17 14:18 28:11 32:4,13 18:10,17 19:6 56:21,24 57:1 trumps 23:15 unique 44:7 variety 37:16 14:22 15:3 32:23,24 33:14 19:11,11,11,13 58:9 59:3,3,3,8 truth 16:7 26:12 University 13:8 8:20 44:6 21:8,23 24:22 34:20,20,22 19:20 20:5,5 59:9,11,11 28:9 38:16 unlikely 5:21 vast 1:20 26:14 27:9,10 35:5,25 36:4 20:14,17,22,25 60:7,8,8,10,12 67:15 70:5 unlimited 47:22 vehicle 43:12 31:3,17,18,21 36:11,24 37:1 21:7,9,12,25 60:24 61:6,7 61:11,21,25 33:8 until 71:16 venue 66:2 40:14 41:22 38:22 39:1,5,8 22:9,12,15,15 61:11,21,25 33:8 unwarranted verified 65:16 46:8,22,25,25 41:20 42:9 22:25 23:1,2,2 62:24 63:2,6 44:5 51:5 13:13 23:4,5 verified 65:16 46:8,22,25,25 | | | , | 42:23 43:7 | van 68:8 70:3 | 10:11 11:24,25 | |
| 17:7,9,17,17 55:18,20,22,22 64:25 65:16 unfortunately 57:15 12:17,18,21 19:21 27:6 17:20 18:4,7 56:5,14,18,19 66:12,24 2:21 32:17 variance 6:24 13:8,17 14:18 28:11 32:4,13 18:10,17 19:6 56:21,24 57:1 trumps 23:15 unique 44:7 variety 37:16 14:22 15:3 32:23,24 33:14 19:11,11,11,13 58:9 59:3,3,3,8 truth 16:7 26:12 University 13:8 8:20 44:6 21:8,23 24:22 34:20,20,22 19:20 20:5,5 59:9,11,11 28:9 38:16 unlikely 5:21 vast 1:20 26:14 27:9,10 35:5,25 36:4 20:14,17,22,25 60:7,8,8,10,12 67:15 70:5 unlimited 47:22 vehicle 43:12 31:3,17,18,21 36:11,24 37:1 21:7,9,12,25 60:24 61:6,7 61:11,21,25 33:8 until 71:16 venue 66:2 40:14 41:22 38:22 39:1,5,8 22:9,12,15,15 61:11,21,25 33:8 unwarranted verified 65:16 46:8,22,25,25 41:20 42:9 22:25 23:1,2,2 62:24 63:2,6 44:5 51:5 13:13 23:4,5 verified 65:16 46:8,22,25,25 | 16:20,21 17:4 | 55:4,5,7,7,10 | 41:18 43:24 | unfit 65:11 | Vancouver | 12:1,2,15,16 | 17:13,14,15,15 |
| 17:20 18:4,7 56:5,14,18,19 66:12,24 2:21 32:17 variance 6:24 13:8,17 14:18 28:11 32:4,13 18:10,17 19:6 56:21,24 57:1 trumps 23:15 Trust 22:11 unique 44:7 variety 37:16 14:22 15:3 32:23,24 33:14 19:6,9,10,10 57:2,5,6,12,15 Trust 22:11 United 65:8 various 1:17 19:1 20:12,24 33:17,19 34:2 19:20 20:5,5 59:9,11,11 28:9 38:16 University 13:8 8:20 44:6 21:8,23 24:22 34:20,20,22 20:25 21:2,5,6 60:7,8,8,10,12 41:9,17 67:11 6:20,21 vehicle 43:12 31:3,17,18,21 36:11,24 37:1 21:7,9,12,25 60:24 61:6,7 truthfulness 33:8 truthfulness 33:8 venue 66:2 40:14 41:22 38:22 39:1,5,8 22:9,12,15,15 61:11,21,25 33:8 try 9:10 27:7 39:3 verified 65:16 46:8,22,25,25 41:20 42:9 22:25 23:1,2,2 62:24 63:2,6 44:5 51:5 39:3 verified 65:16 46:8,22,25,25 41:20 42:9 23:20,25 24:5 63:24 64:2,3,7 trying 36:17 23:14 31:15,17 <td></td> <td></td> <td>64:25 65:16</td> <td></td> <td></td> <td></td> <td></td> | | | 64:25 65:16 | | | | |
| 18:10,17 19:6 56:21,24 57:1 trumps 23:15 unique 44:7 variety 37:16 14:22 15:3 32:23,24 33:14 19:6,9,10,10 57:2,5,6,12,15 Trust 22:11 United 65:8 various 1:17 19:1 20:12,24 33:17,19 34:2 19:11,11,11,13 58:9 59:3,3,3,8 truth 16:7 26:12 University 13:8 8:20 44:6 21:8,23 24:22 34:20,20,22 19:20 20:5,5 59:9,11,11 28:9 38:16 41:9,17 67:11 6:20,21 vehicle 43:12 31:3,17,18,21 36:11,24 37:1 20:25 21:2,5,6 60:13,17,23,23 60:24 61:6,7 truthfulness unlimited 47:22 vehicle 36:20 35:21 39:7 37:2,5 38:12 21:7,9,12,25 60:24 61:6,7 truthfulness 33:8 unwarranted venue 66:2 40:14 41:22 38:22 39:1,5,8 22:9,12,15,15 61:11,21,25 33:8 try 9:10 27:7 39:3 verified 65:16 46:8,22,25,25 41:20 42:9 22:25 23:1,2,2 62:24 63:2,6 44:5 51:5 39:3 verified 65:16 46:8,22,25,25 41:20 42:9 23:24,5,9,11,15 63:10,12,19,22 55:22 1 | | , , , | | | | | |
| 19:6,9,10,10 57:2,5,6,12,15 Trust 22:11 United 65:8 various 1:17 19:1 20:12,24 33:17,19 34:2 19:11,11,1,11,13 58:9 59:3,3,3,8 59:9,11,11 28:9 38:16 University 13:8 8:20 44:6 21:8,23 24:22 34:20,20,22 19:20 20:5,5 59:9,11,11 28:9 38:16 41:9,17 67:11 6:20,21 vehicle 43:12 26:14 27:9,10 35:5,25 36:4 20:25 21:2,5,6 60:13,17,23,23 67:15 70:5 truthfulness unlimited 47:22 vehicle 43:12 35:21 39:7 37:2,5 38:12 21:7,9,12,25 60:24 61:6,7 33:8 truthfulness until 71:16 venue 66:2 40:14 41:22 38:22 39:1,5,8 22:9,12,15,15 61:11,21,25 33:8 unwarranted 39:3 verified 65:16 46:8,22,25,25 41:20 42:9 22:25 23:1,2,2 62:24 63:2,6 44:5 51:5 39:3 verified 65:16 46:8,22,25,25 43:18,22,24,25 23:4,5,9,11,15 63:10,12,19,22 55:22 13:13 23:4,5 version 31:1 37:2 48:24,24 49:1 44:7,8,8,10,22 23:20,25 24:5 63:24 64:2,3,7 | | | | | | | |
| 19:11,11,11,13 58:9 59:3,3,3,8 truth 16:7 26:12 University 13:8 8:20 44:6 21:8,23 24:22 34:20,20,22 19:20 20:5,5 59:9,11,11 28:9 38:16 41:9,17 67:11 6:20,21 vehicle 43:12 31:3,17,18,21 36:11,24 37:1 20:25 21:2,5,6 60:13,17,23,23 60:24 61:6,7 truthfulness unlimited 47:22 vehicle 36:20 35:21 39:7 37:2,5 38:12 21:7,9,12,25 60:24 61:6,7 truthfulness 33:8 unwarranted venue 66:2 40:14 41:22 38:22 39:1,5,8 22:17,18,19,22 62:9,10,18,20 try 9:10 27:7 39:3 verified 65:16 46:8,22,25,25 41:20 42:9 22:25 23:1,2,2 62:24 63:2,6 44:5 51:5 13:13 23:4,5 version 31:1 37:2 48:24,24 49:1 44:7,8,8,10,22 23:20,25 24:5 63:24 64:2,3,7 trying 36:17 23:14 31:15,17 37:5 49:2,2,3,24,25 44:23 46:16,17 | | | | | | | |
| 19:20 20:5,5 59:9,11,11 28:9 38:16 unlikely 5:21 vast 1:20 26:14 27:9,10 35:5,25 36:4 20:14,17,22,25 60:7,8,8,10,12 60:13,17,23,23 67:15 70:5 unlimited 47:22 vehicle 43:12 31:3,17,18,21 36:11,24 37:1 21:7,9,12,25 60:24 61:6,7 60:24 61:6,7 truthfulness until 71:16 venue 66:2 40:14 41:22 38:22 39:1,5,8 22:9,12,15,15 61:11,21,25 33:8 try 9:10 27:7 39:3 venues 66:1 42:5,11,13,14 39:20 40:12 22:25 23:1,2,2 62:24 63:2,6 44:5 51:5 39:3 verified 65:16 46:8,22,25,25 41:20 42:9 23:4,5,9,11,15 63:10,12,19,22 55:22 13:13 23:4,5 version 31:1 37:2 48:24,24 49:1 44:7,8,8,10,22 23:20,25 24:5 63:24 64:2,3,7 trying 36:17 23:14 31:15,17 37:5 49:2,2,3,24,25 44:23 46:16,17 | | | | | | | |
| 20:14,17,22,25 60:7,8,8,10,12 41:9,17 67:11 6:20,21 vehicle 43:12 31:3,17,18,21 36:11,24 37:1 20:25 21:2,5,6 60:13,17,23,23 60:24 61:6,7 truthfulness until 71:16 venue 66:2 40:14 41:22 38:22 39:1,5,8 22:9,12,15,15 61:11,21,25 33:8 unwarranted venues 66:1 42:5,11,13,14 39:20 40:12 22:25 23:1,2,2 62:24 63:2,6 44:5 51:5 39:3 verified 65:16 46:8,22,25,25 41:20 42:9 23:4,5,9,11,15 63:10,12,19,22 55:22 13:13 23:4,5 version 31:1 37:2 48:24,24 49:1 44:7,8,8,10,22 23:20,25 24:5 63:24 64:2,3,7 trying 36:17 23:14 31:15,17 37:5 49:2,2,3,24,25 44:23 46:16,17 | | | | | | | |
| 20:25 21:2,5,6 21:7,9,12,25 60:13,17,23,23 60:24 61:6,7 60:24 61:6,7 60:24 61:6,7 61:11,21,25 72:17,18,19,22 62:9,10,18,20 72:25 23:1,2,2 63:4,5,9,11,15 63:10,12,19,22 73:20,25 24:5 60:13,17,23,23 67:15 70:5 truthfulness 40:11 71:16 70:11 71:16 | | , , | | | | | |
| 20:25 21:2,5,6 21:7,9,12,25 60:13,17,23,23 60:24 61:6,7 truthfulness 67:15 70:5 truthfulness unlimited 47:22 until 71:16 venue 66:2 venue 66:2 venues 66:1 42:5,11,13,14 39:20 40:12 42:9 venues 66:1 verified 65:16 verified 65:16 verify 33:7 version 31:1 37:2 33:4,5,9,11,15 63:10,12,19,22 23:20,25 24:5 60:24 61:6,7 67:15 70:5 truthfulness 33:20 venue 66:2 venue 66:2 venues 66:1 verified 65:16 verify 33:7 version 31:1 37:2 48:24,24 49:1 44:7,8,8,10,22 23:14 31:15,17 37:5 37:2,5 38:12 39:7 40:14 41:22 38:22 39:1,5,8 40:14 41:22 38:22 39:1,5,8 40:14 41:22 42:5,11,13,14 40:14 41:22 42:14 40:14 41:22 42:14 40:14 41:22 42:14 40:14 41:22 42:14 40:14 41:22 42:14 40:14 41:22 42:14 40:14 41:22 42:14 40:14 41:22 42:14 40:14 41:22 42:14 40:14 41:22 42:14 40:14 41:22 42:14 40:14 41:22 42:14 40:14 41:22 42:14 40:14 41:22 42:14 40:14 41:22 42:14 40:14 41:22 42:14 40:14 41:22 41:14 41:22 41:14 41:22 41:14 41:22 41:14 41:14 41:14 41:14 41:14 41:14 41:14 41:14 41:14 41:14 41:14 41:14 | | | | | vehicle 43:12 | 31:3,17,18,21 | |
| 21:7,9,12,25 60:24 61:6,7 truthfulness until 71:16 venue 66:2 40:14 41:22 38:22 39:1,5,8 22:9,12,15,15 61:11,21,25 33:8 try 9:10 27:7 39:3 venues 66:1 42:5,11,13,14 39:20 40:12 22:25 23:1,2,2 62:24 63:2,6 44:5 51:5 44:5 51:5 up 11:18 12:19 verified 65:16 46:8,22,25,25 43:18,22,24,25 23:4,5,9,11,15 63:10,12,19,22 55:22 13:13 23:4,5 version 31:1 37:2 48:24,24 49:1 44:7,8,8,10,22 23:20,25 24:5 63:24 64:2,3,7 trying 36:17 23:14 31:15,17 37:5 49:2,2,3,24,25 44:23 46:16,17 | 20:25 21:2,5,6 | 60:13,17,23,23 | | unlimited 47:22 | | | 37:2,5 38:12 |
| 22:9,12,15,15 61:11,21,25 33:8 unwarranted venues 66:1 42:5,11,13,14 39:20 40:12 22:17,18,19,22 62:9,10,18,20 try 9:10 27:7 39:3 verified 65:16 46:8,22,25,25 41:20 42:9 22:25 23:1,2,2 62:24 63:2,6 44:5 51:5 up 11:18 12:19 verify 33:7 47:2,3,23 43:18,22,24,25 23:4,5,9,11,15 63:10,12,19,22 55:22 13:13 23:4,5 version 31:1 37:2 48:24,24 49:1 44:7,8,8,10,22 23:20,25 24:5 63:24 64:2,3,7 trying 36:17 23:14 31:15,17 37:5 49:2,2,3,24,25 44:23 46:16,17 | | 60:24 61:6,7 | truthfulness | | | | |
| 22:17,18,19,22 62:9,10,18,20 try 9:10 27:7 39:3 verified 65:16 46:8,22,25,25 41:20 42:9 22:25 23:1,2,2 62:24 63:2,6 44:5 51:5 up 11:18 12:19 verified 65:16 47:2,3,23 43:18,22,24,25 23:45,9,11,15 63:10,12,19,22 55:22 13:13 23:4,5 version 31:1 37:2 48:24,24 49:1 44:7,8,8,10,22 23:20,25 24:5 63:24 64:2,3,7 trying 36:17 23:14 31:15,17 37:5 49:2,2,3,24,25 44:23 46:16,17 | | | | | | | |
| 22:25 23:1,2,2 62:24 63:2,6 44:5 51:5 up 11:18 12:19 verify 33:7 47:2,3,23 43:18,22,24,25 23:4,5,9,11,15 63:10,12,19,22 55:22 13:13 23:4,5 version 31:1 37:2 48:24,24 49:1 44:7,8,8,10,22 23:20,25 24:5 63:24 64:2,3,7 trying 36:17 23:14 31:15,17 37:5 49:2,2,3,24,25 44:23 46:16,17 | | | | | | | |
| 23:4,5,9,11,15 63:10,12,19,22 55:22 13:13 23:4,5 version 31:1 37:2 48:24,24 49:1 44:7,8,8,10,22 23:20,25 24:5 63:24 64:2,3,7 trying 36:17 23:14 31:15,17 37:5 49:2,2,3,24,25 44:23 46:16,17 | | | | | | | |
| 23:20,25 24:5 63:24 64:2,3,7 trying 36:17 23:14 31:15,17 37:5 49:2,2,3,24,25 44:23 46:16,17 | 22:23 23:1.2.2 | , | | | | | |
| , , , , , , , , , , , , , , , , , , , | | i 63+10.12.10.22 | 55:22 | 13:13 23:4,5 | version 31:1 37:2 | 48:24,24 49:1 | |
| 24:9,14,18,19 64:8,9,9,13,14 43:14 55:7 38:12 39:22 versus 11:6 50:1 51:22,23 46:21 48:22 | 23:4,5,9,11,15 | | | | | | |
| | 23:4,5,9,11,15 23:20,25 24:5 | 63:24 64:2,3,7 | | 23:14 31:15,17 | 37:5 | 49:2,2,3,24,25 | |
| | 23:4,5,9,11,15 23:20,25 24:5 | 63:24 64:2,3,7 | | | | | · · |
| | 23:4,5,9,11,15 23:20,25 24:5 | 63:24 64:2,3,7 | | | | | · · |

| | | | | | | Page 85 |
|-------------------------------|-----------------------------|--------------------------------|---------------------------------|--------------------------------|-------------------------------|----------------------------------|
| | I | | | 1 | 1 | |
| 49:7,9 50:4,20 | 17:12 27:6 | 36:13 41:10,19 | whole 4:25 14:25 | 33:17,23 37:8 | 50:20 51:4 | 56:11 57:17 |
| 51:6,8,13,17 | 30:4 33:8,10 | 42:16,20 48:9 | 26:19 58:8 | 46:4 48:19 | 52:7,14,17,17 | 58:11,13,22,24 |
| 53:7 54:3 55:5 | 37:9 40:10 | 53:15 56:18,19 | wholly 27:4 | 51:12 56:14 | 52:20 53:21 | 59:13,18,23 |
| 55:6,12,24 | 41:21 43:25 | 58:4 60:15 | whom 46:4 70:11 | 59:20 68:16 | 54:17,18 56:5 | 63:8 65:7 70:6 |
| 56:18 57:4,25 | 44:7,10,21 | 61:7 66:2 | whose 19:5 | witness 2:23 | 58:16,19,20 | 71:10 |
| 58:3 59:4,19 | 49:3 54:8 66:8 | 67:11 68:20 | who's 10:18 | 18:25 30:16,24 | 59:2,8 61:22 | yet 7:5 12:12 |
| 60:12,17,18,22 | 66:8 68:11 | whereas 13:18 | 54:14 | witnesses 2:5 | 62:1,2 64:5 | 14:25 39:2 |
| 61:19,23 64:2 | 69:9,24 70:4 | 27:24 | why 4:3 5:7,22 | women 59:22 | 66:13,16 67:21 | 47:7 |
| 64:8,22,24 | we've 2:20 5:12 | wherever 68:8 | 9:13,16 14:21 | wonderful 23:13 | 67:22 68:3 | you 1:11 2:10,17 |
| 65:24 66:1,15 | 8:15 16:8 | whether 16:1 | 21:11 22:22 | won't 1:15 19:5 | wouldn't 3:23 | 3:10,16,22 4:1 |
| 66:16,23 67:21 | 26:25 34:18 | 17:4 23:20 | 24:17 29:19 | 19:21 21:14 | 24:7 25:13 | 4:6,15,21,24 |
| 67:25 68:10 | 39:19 47:10 | 24:18,25 28:4 | 46:17 52:3,7 | 22:24 32:14 | 26:9 34:23 | 5:1,7,17 7:1,3 |
| 69:11,19,23 | 50:23 51:21 | 38:9,15,18,25 | 53:2 | wording 13:15 | 36:7 39:10 | 7:24 8:12,19 |
| 70:16 | 55:7,15,16 | 41:1,1,4,13,14 | wider 1:3 38:17 | 49:2 53:6,7 | 40:23 42:23 | 8:23,24 9:10 |
| weaknesses 7:25 | 60:20 61:20 | 41:18 43:8,23 | widespread | 54:25 | 47:9 49:10,21 | 9:11,21 10:2,4 |
| website 45:21,22 | 67:20 68:6,20 | 43:24 52:19,20 | 44:25 | words 23:7 46:2 | 49:21 52:18 | 10:15,21 11:2 |
| 47:23 48:6,23 | 68:21 69:1,2,3 | 53:24 57:22 | wife 65:15,16 | 47:7 | 53:13 56:3 | 11:6,7,14,15 |
| 48:24 49:1,1,4 | what 1:6 2:2,7 | 60:8 64:25 | Wiley 65:10,14 | work 17:8,9 | 57:22 59:4 | 11:19 12:8,8 |
| 49:4,11,16 | 2:24 4:19 5:24 | 65:24 66:24 | Wiley's 65:22 | 27:17 28:4 | 69:20 | 12:16 14:2,3,7 |
| 52:9,24 53:20 | 6:25 7:13 8:10 | 67:9 which 1:11,12,15 | will 1:21 4:18 | 32:5,11,11,13 32:19 33:3,13 | writing 25:14 | 14:11,14,21 15:5,8,9,20 |
| 54:10,20,24 | 8:19,19 9:3,9 | 1:19,20 2:10 | 9:11,11 15:5 | | written 22:21 | |
| 55:1,1,2,5,6,6 55:10 13 15 | 9:11,15 10:4 11:20 12:20 | | 18:5 20:21 | 35:5 36:22 37:23 43:2 25 | 33:14,19 42:6 46:5 48:17 | 17:7,19,20,22 |
| 55:10,13,15 57:10 | | 3:14,18,19 4:18 5:19 7:22 | 23:11,12,17 | 37:23 43:2,25 | 46:5 48:17 wrong 5:13 | 18:13,21,25 19:15 21:10,10 |
| well 2:4,20 3:14 | 13:4,5 14:20 15:12,17,20 | 4:18 5:19 7:22 8:1,11,19,20 | 25:5,12 27:21 28:22 33:6,7 | 44:8,9,11,20 44:23 49:6,22 | wrong 5:13 wrongdoing 16:6 | 21:11,12 22:12 |
| 4:11 7:12 | 17:7,12,16,16 | 9:7,13,18,19 | 35:20 46:22 | 55:16 57:4 | 19:10 | 22:15,17 24:7 |
| 11:18 16:10,24 | 18:4,13,16 | 10:16 15:11 | 48:8 53:14 | 60:13 61:1,6 | wrongly 45:19 | 24:11,14,21 |
| 17:15 20:23,25 | 19:25 22:3 | 17:1,7 19:23 | 68:15 | 63:2,2,24 | wrongly 43.19 | 25:2,3,7,10,14 |
| 23:1 24:16 | 23:15,16 27:10 | 24:4,10 29:1 | window 36:15 | 64:24 66:9,16 | X | 26:14,15,16,19 |
| 25:20 26:7 | 27:12 29:2 | 30:4 33:2,12 | wishes 19:20 | 67:9,9 | X 51:12 | 26:20 28:3,4,6 |
| 39:5 47:5 53:7 | 33:9,15,22 | 33:16 34:2,4 | with 4:4 6:18,23 | worked 31:11,19 | A 31.12 | 28:11,14,21 |
| 53:23 54:16 | 34:1 40:20 | 36:1 37:2 38:3 | 6:23 10:9,18 | 31:20 37:18,20 | Y | 29:5,6,6,10,11 |
| 58:15 59:2,19 | 41:5 42:10,17 | 38:7,11 41:12 | 12:19 13:11 | 57:11 60:1,20 | Yard 47:12 | 29:13,16,17,24 |
| 61:1 62:15 | 42:18 43:15,22 | 41:13 42:8 | 16:17 18:24 | 68:20 | 59:25 | 29:24 30:14,15 |
| 67:21 68:10 | 44:3 45:20 | 43:7,9,12,18 | 19:15 20:14 | worker 48:18 | yards 34:8 47:11 | 31:1,2,2,7,7,8 |
| well-known | 46:12,16 48:10 | 44:20 45:16,18 | 21:1,14,17 | 49:14 54:3 | yeah 10:3 39:23 | 31:10,14 32:9 |
| 10:17 12:4 | 49:20,24 51:14 | 46:22 51:3,16 | 22:8 23:9,17 | 63:25 | 46:20 49:19 | 32:21,25 33:3 |
| went 31:19 39:15 | 53:15 56:12,15 | 52:4 54:21 | 24:23 25:4,25 | workers 54:12 | 51:21 54:7 | 33:3,12 34:1,7 |
| 42:18 49:1 | 56:18 58:14,18 | 55:14 56:5 | 28:9 29:2 | working 38:23 | 59:18 63:11 | 34:13,13,16,24 |
| 50:8 52:19 | 59:12,14 60:24 | 58:2,7 59:7 | 30:24 33:8 | 44:10 58:2 | 66:3 70:19 | 34:25 35:1,12 |
| 60:10 61:6,9 | 61:11 66:9,10 | 60:4,13 61:22 | 36:22 37:14 | 62:15,16 63:14 | year 31:15 54:21 | 35:15 36:9,10 |
| 61:14 67:24 | 67:5,7,13 | 62:1,11,20 | 38:5,8,11 40:6 | 63:25 66:15 | years 10:12 13:6 | 36:12,19 37:14 |
| 68:25 | 70:22,25 71:1 | 63:10,12 67:18 | 40:20 42:5 | 70:20 | 17:19 30:9 | 37:19,20,25 |
| were 13:12,16 | whatever 20:21 | 68:12 | 43:3,10 44:9 | works 1:25 | 31:12 36:17 | 38:1,5,7,19,20 |
| 16:20 32:25 | 26:15 41:6 | while 27:3 | 44:10,14,23 | work's 55:9 | 53:19 63:14 | 39:4,12,13,18 |
| 35:16 38:22 | 58:10 | whistle-blowing | 45:3 50:3,14 | world 1:22 23:17 | yes 1:8 2:4,8 4:3 | 39:24 40:8,18 |
| 39:1,7,14,18 | whatsoever | 3:2,2 | 50:19,24,24 | 37:12 | 7:15,17,21 | 40:19 41:1,3,3 |
| 46:12,16 47:2 | 56:17 | WHITE 19:2 | 51:6,10,13 | would 4:3 6:13 | 9:20 11:1 14:6 | 41:5,5,10,13 |
| 47:8 48:22 | what's 11:15 | who 2:24 3:4 5:8 | 52:10 53:17,25 | 7:3 8:8 15:18 | 17:15 19:15,18 | 41:19,25 42:3 |
| 51:25,25 52:9 | 14:2 17:20 | 5:18 7:17,18 | 55:24 56:2,7,7 | 18:4 21:6,7,12 | 20:19 22:20 | 42:3,20 43:10 |
| 52:15,16 53:1 | 34:6 35:9 37:3 | 9:22 10:19,21 | 56:22 57:1,9 | 22:9 23:2 24:8 | 23:10,18 26:8 | 43:17,20,20 |
| 55:3,5,6,19,20 | 46:11 | 11:4,9 12:5 | 57:12,14,23,23 | 24:9,19 25:23 | 26:24,24 30:8 | 44:1,2,3,3,13 |
| 56:13,20 57:11 | when 5:1,8 6:25 | 15:1,16 16:10 | 58:1,2 59:16 50:22 60:1 16 | 27:13,14 28:17 | 30:23 31:6,13 | 44:14,15,25 |
| 57:15,18,19 58:1 60:17 | 8:6,23,24 11:14 12:19 | 17:10,12 18:6 18:6 19:1 | 59:22 60:1,16 61:10,23 62:11 | 29:4 30:7 34:20 35:4,11 | 31:17 32:23 | 45:10,16,17,20 |
| | | | , | , | 33:25 34:12 | 45:22 46:10,12 |
| 61:16 63:4,13 64:2,8 65:18 | 17:20 22:3,7 27:13 28:11 | 25:23 30:7 32:5 35:1,8,21 | 63:2,2,24 65:6 65:21 66:10 | 36:4,6 37:16 37:21 38:4,9 | 35:19 36:2,16 | 46:16,16,19,20 47:6,6,8,11,12 |
| 65:24 66:15,18 | 29:6 31:2,18 | 37:19,21 41:3 | 67:5,7 69:9 | 38:10,22 39:5 | 36:21 37:13 | 47:19,19,21 |
| 69:11,12 | 32:6 34:16 | 44:21 47:25 | 70:3 | 39:6,8,9,14 | 38:2,6 39:14 | 48:4,5,7,8,9,11 |
| weren't 57:16,19 | 36:19 39:16,19 | 48:2,12 50:2,6 | withdraw 6:14 | 40:6,22 41:17 | 39:14 40:7 | 48:11,12,17 |
| 57:25 69:12 | 40:22 48:22,24 | 51:6,10 54:5 | within 2:14 | 42:23,25 43:3 | 41:11,17,18,24 | 50:12,14,16 |
| Westminster | 48:25 53:20 | 55:3 56:7 57:5 | 22:13 27:22 | 43:10,11 46:24 | 42:2,20,22 43:11,16 45:5 | 51:2,3,10,11 |
| 47:4 | 54:24 55:20 | 59:21 60:1,9 | 32:14 45:9 | 47:10,16,21,24 | 46:6,15 47:5,9 | 51:12,18 52:3 |
| We'd 64:7 | where 3:7 4:6 | 60:20 63:1,2,5 | 49:13 50:4 | 49:7,16,22,22 | 47:13 48:4 | 52:4,8,9,10,23 |
| we'll 37:8 | 5:16 9:5 22:11 | 63:24 66:6 | 70:18 | 49:24,24 50:1 | 50:15 54:2 | 53:1,1,3,9,12 |
| we're 5:8 7:4 | 29:20 30:12 | 67:1 69:1 | without 20:15,17 | 50:2,6,9,15,16 | 55:23 56:9,11 | 53:14 54:9,9 |
| | | | • | | | |
| I | | | | | | |

| | | | | | | Page 86 |
|--------------------------------|------------------------------------|------------------|---|----------|---|---------|
| | I | I | 1 | | I | |
| 55:19 56:7,7 | 10 71:13,16 | 700 47:11 | | | | |
| 56:17 57:3,15 | 10,000 62:6 | | | | | |
| 58:1,12,15,15 | 12 14:5 31:3 | 8 | | | | |
| 58:23 59:8,10 | 53:19 | 80 65:3 | | | | |
| 59:11,14,15 | 13 39:20 | | | | | |
| 60:21 61:20,21 | 14 14:24 15:9,13 | | | | | |
| 61:22 62:4,8,9 | 55:9 | | | | | |
| 62:10,21 63:4 | 15 61:8 | | | | | |
| 63:5 64:25 | 17,000 45:13 | | | | | |
| 65:6 66:9,10 | 1984 31:10 | | | | | |
| 66:13 67:5,6,7 | 1989 31:9 | | | | | |
| 67:24 68:2,16 | 1990 31:14 | | | | | |
| 68:18,19 69:11 | | | | | | |
| 69:14 70:8,11 | 2 | | | | | |
| 70:25 71:5,10 | 2.00 1:2 | | | | | |
| 71:12,14 | 200 34:2 56:5 | | | | | |
| YouGov 10:5,7,8 | 2000 10:5 31:14 | | | | | |
| young 10:18 12:5 | 48:25 | | | | | |
| your 3:25 7:23 | 2001 31:18,22 | | | | | |
| 9:21 10:4,16 | 48:25 | | | | | |
| 13:2 14:3 16:3 | 2003 31:16,18,22 | | 1 | | | |
| 19:14,21,22 | 2007 59:14 | | 1 | | | |
| 25:4 26:11 | 2008 49:2 55:21 | | 1 | | | |
| 28:4,10 30:19 | 2010 36:24 41:21 | | 1 | | | |
| 31:4,15 32:21 | 46:10 55:3 | | | | | |
| 33:23 34:24 | 2011 39:20 | | | | | |
| 36:10 40:17,20 | 2012 14:3 36:24 | | | | | |
| 40:21 41:9 | 71:17 | | | | | |
| 43:14 45:14,21 46:3,8,11,18 | 23 41:20 71:17 | | | | | |
| 47:5,23 48:6 | 24-hour 5:5 25 11:23 | | | | | |
| 48:23 49:4,11 | 26 46:10 | | | | | |
| 49:15 52:8,24 | 27 46:10 | | | | | |
| 54:9,23 55:24 | 27 40.10 | | | | | |
| 56:4,12 63:10 | 3 | | | | | |
| 67:15 | 3 1:15 33:1 | | | | | |
| yourself 18:12 | 3.43 71:15 | | | | | |
| 25:4 31:7 32:2 | 30 10:21 11:23 | | | | | |
| 39:12 48:12 | 12:12 17:19 | | | | | |
| you'd 8:4 | 35:1 | | | | | |
| you'll 25:6 | 300 34:4,6 35:10 | | | | | |
| you're 4:19 5:20 | 47:12 56:4 | | | | | |
| 20:25 21:18 | 35 32:8 | | | | | |
| 24:25 25:1,6 | 35-odd 35:1 | | | | | |
| 26:17 28:6 | | | | | | |
| 29:11,18,22,23 | 4 | | 1 | | | |
| 30:3,21 32:2 | 4 54:21 | | 1 | | | |
| 35:5 40:2,3 | 40 30:9 | | 1 | | | |
| 43:13,14 59:12 67:7,12,13 | 400 35:4,8,9 | | 1 | | | |
| 70:12 | 46:24 47:9,10 | | | | | |
| you've 10:15,19 | | | | | | |
| 18:12 23:18 | | | 1 | | | |
| 24:24,24 25:4 | 5 10:16 | | | | | |
| 28:24,25 29:14 | 5,000 68:21 | | | | | |
| 30:24 36:22 | 50 11:11 | | | | | |
| 37:18 46:10 | 500 34:8 47:12 | | | | | |
| 47:7 54:9 | 58 14:7 | | | | | |
| 63:10 70:8 | 6 | | | | | |
| | 6 10:19 68:24 | | | | | |
| 0 | 60 14:7 | | | | | |
| 01569 10:17 | 600 47:11 | | | | | |
| 02065 33:1 | VVV 77.11 | | | | | |
| | 7 | | | | | |
| 11 | 70 34:2 56:5 | | | | | |
| 1,658 10:6 | | | | | | |
| | I | l | 1 | <u> </u> | l | I |