1 1 evidence to the Inquiry, would say, "Well, if you do (2.00 pm)2 that, it will all dry up and our ability to hold the 3 LORD JUSTICE LEVESON: Yes, Mr Jay. 3 police to account, which is one of the things we're 4 4 supposed to do, will be lost because we won't get MR JAY: I think we left it at paragraph 3.1.6, which is 5 unregulated conduct or other unregulated conduct. What 5 whistle-blowers." I mean, there's a different side --6 specifically are you referring to here, Mrs Filkin? A. It is the dilemma, and what I am not saying is that if 6 7 7 A. I wanted to make sure that I had recorded that numbers you have a proper process and you are required to keep 8 8 of people within the Met and indeed some journalists a brief note of contact, that that will stop all 9 told me about perfectly healthy contact that they didn't 9 unregulated contact. I don't think it will. But 10 10 at this moment believe to be regulated, where they had I think it will go some way to regularising those 11 trusted relationships and that those were handled 11 arrangements in a more professional fashion, and if the 12 12 professionally and sensibly, but they were relationships Met does, at the same time, improve its internal 13 which other people didn't know anything about or 13 procedures for people to bring matters which need 14 didn't -- not many other people knew about them. 14 scrutiny to the attention of people internally, and indeed if the Met increases the amount of information 15 Q. Would this cover, then, off-the-record briefings or just 15 16 informal exchanges which might never find their way into 16 that they provide to the media, I hope it goes some way 17 a newspaper piece? 17 to deal with that. 18 A. Off-the-record briefings -- if you like, formal 18 But I also say that I don't -- I'm not in any way 19 off-the-record briefings which have been agreed by both 19 saying that there won't occasionally be proper 20 sides will be off the record, with it being agreed that 20 whistle-blowers who are acting in the public interest, 21 21 the journalists won't print anything at the moment who do feel, rightly or wrongly, that they haven't been 22 because it might do harm or jeopardise some 22 heard and are giving proper information out, and I say 23 investigation. 23 in relation to those that when the Met becomes aware of 24 24 No, I don't think they would be referring to those. them, they should deal with that proportionately too. 25 They would be referring to informal contact or people 25 LORD JUSTICE LEVESON: Yes, that's another problem, Page 1 Page 3 1 that they knew when there was something that they wanted 1 according, again, to evidence that I've heard. Yes? 2 to have reported correctly that they would ring up and 2 MR JAY: Relationships themselves, section 3.2. The first 3 give information to, which they weren't -- neither side 3 issue is inequality of access. I think you are 4 was describing as unhealthy, not as information which 4 referring here to certain journalists, wherever they are 5 was going to harm anybody, and so I was trying to record 5 from, getting too close to certain senior police 6 that there was lots of perfectly ordinary relationships 6 officers; is that correct? 7 which were about both sides doing their jobs. 7 A. Yes, and as we heard this morning, that some journalists 8 LORD JUSTICE LEVESON: But it's rather in the eye of the 8 felt very much cut out of the club, as it were. Some 9 beholder, isn't it? What one reporter and policeman 9 crime journalists feel that they haven't been allowed 10 will say is healthy and worthwhile, albeit informal, 10 into the Crime Reporters Association, and other 11 somebody else may say, "Well, actually, that looks 11 journalists feel that because they're seen as 12 12 rather dangerously like the provision of information to difficult -- I would say in many instances good at 13 the journalist which we don't think is healthy." 13 scrutinising -- that they were in the past given short 14 A. I quite agree, and that is why I say that one of my 14 15 15 recommendations is that all contacts should be recorded, Q. The quid pro quo here is that the journalist brought 16 that there should be -- people might be given a general 16 into the club would be less likely to write a critical 17 17 piece of the particular police officer or perhaps the authority to be responsible for talking to the press 18 about areas that they're responsible for, but that they 18 force as a whole; is that right? 19 should record that they've had that contact, and I think 19 A. That would be the implication. How often that occurred, 20 20 that's very important because I think corporately the I don't know. 21 organisation has to be able to do some review of that. 21 Q. Excessive hospitality, section 3.2.2. You say: 22 22 I also think it protects people, that they have properly "A culture had developed at some senior levels in 23 recorded it. 23 the organisation which made it normal, and in some cases 24 LORD JUSTICE LEVESON: But Nick Davies, the journalist whom 24 expected, that contact with the media would be close. 25 25 you were speaking to and who, of course, has given In addition, hospitality, which is now widely considered

Page 2

1 inappropriate, was accepted."

- 2 That probably speaks for itself, but in terms of the
- 3 hospitality you're referring to being inappropriate,
- 4 you're referring both to it in terms of quantity and
- 5 quality, presumably?
- A. Yes, and -- quantity, quality and being skewed towards
   certain publications.
- 8 Q. Are you able to identify those certain publications?
- 9 A. Well, they're only identifiable through the published
- 10 registers and I think you identified it very clearly in
- 11 the list you were giving today. There was certainly
- 12 a lot of hospitality given by News International
- 13 newspapers.
- Q. And then the next subsection, "Different rules forsome". This is an important point:
- "... one rule for senior contact with the media andanother for the rest of the organisation."
- 18 The importance of this point, presumably, is if the
- culture of the organisation is set by those at the top,
- 20 it's particularly invidious, if not unfortunate, if
- 21 those at the top are not setting the right standards.
- 22 It's self-explanatory.
- 23 A. And as I say, I think that that sullied other
- 24 relationships of the top through the organisation, or
- 25 some parts of the top. I think it's very important that

Page 5

- 1 people who had their pets or who were frightened of
- 2 certain journalists, and so all of those things were
- 3 said to me.
- 4 LORD JUSTICE LEVESON: Does this mean that really what the
- 5 DPA are doing is acting as a sort of extended newsroom,
- 6 this time giving out information rather than receiving
- 7 it, but its members acting in the same way as if they
- 8 were reporters, rather than as if they were providing
- 9 a neutral, impartial service?
- 10 A. Certainly -- and I do underline that, of course, my
- 11 interviews and my report is very much looking back on
- 12 how things were.
- 13 LORD JUSTICE LEVESON: Yes, I understand that.
- 14 A. I don't wish to -- and I know efforts have been made
- 15 recently to improve things considerably in the DPA.
- 16 But certainly what had happened, it appeared, in the
- past was, as you suggest, that instead of seeing
- 18 themselves as a public information, public affairs
- 19 operation, which collected and provided information, and
- 20 provided access for journalists to people who were
- 21 responsible for pieces of work, were in some instances,
- because they had been led to believe that is how they
- 23 should proceed, were involved in that sort of trading.
- 24 MR JAY: Friends and family. I think that section is
- 25 probably self-explanatory. May I move on to

Page 7

### 1 I underline "some parts".

- 2 Q. The next page, six lines down. You say many have told
- 3 you they would not give confidential information to the
- 4 DPA because leaks regularly occurred and such leaks have
- 5 harmed work. Can you give us some sense of the quantity
- 6 of evidence here? "Many" have told you?
- 7 A. Yes, it was a very constant refrain from a lot of people
- 8 at very different levels within the organisation that
- 9 they were concerned about some of the relationships --
- and I underline "some" of the relationships -- within
- the DPA and the media, and that the DPA favoured some
- journalists and indeed would trade and would indeed, on
- occasions, because of that, cause harm.
- I gave an example where harm was obviously caused, but that was, of course, not the only example that I was
- 16 given.
- 17 Q. The trade that you are referring to here is the trade of
- information from the DPA out to the journalists, and
- whatever comes back in consideration for all that?
- A. Well, often this -- the trading that I was referring to
- $21 \qquad \hbox{earlier, which is: ''I'll give you this story if you'll}$
- 22 keep this story out." That seemed to be the main
- 23 consideration, but there were quite a number of people
- $\label{eq:continuous} \mbox{ who said to me that they thought that it didn't }$
- 25 necessarily have to be like that, that it was about
  - Page 6

- 1 organisational context. You have obviously considered
- 2 the policies and standard operation or operating
- 3 procedures which we have in the bundles prepared for the
- 4 purposes of the Inquiry. It's your view that:
- 5 "None of these documents provides clear and
- 6 straightforward guidance on what is acceptable in
- 7 dealing with the media."
- 8 A. None of them did when I began my work. Some of these
  - have been improved since then.
- 10 Q. Your plea is in terms of providing over-arching
- principles which help police officers and staff apply
- sound professional judgment. What would those
- principles be?

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- 14 A. Well, they're the sorts of principles that I have tried
- 15 to set out as being core, that people should be very
- 16 careful in their dealings with the media, that they
- should think about what they are going to say before
- they say it, that they should record briefly what it is
- $19 \qquad \hbox{they have said, that they shouldn't respond to pressure.}$
- 20 There's a whole sort of list of things which I would say
- people who are dealing with the media need to be aware of so that they can operate sound judgment in terms of
- of so that they can operate sound judgment in terms of what they do provide and what they don't provide, and of
- course they need to be absolutely clear that they don't
- 25 provide anything that's confidential.

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- 1 Q. Thank you.
- 2 LORD JUSTICE LEVESON: Presumably there should be a good
- 3 reason for them providing what they do provide?
- 4 A. Absolutely.
- 5 LORD JUSTICE LEVESON: Not just because this will be a good
- 6 story.
- 7 A. Absolutely. But there's lots of information that the
- 8 Metropolitan Police collects which would be of great
- 9 interest to the public which isn't confidential and
- which is statistical, which is information about their
- 11 neighbourhoods and so forth, which I think the
- 12 Metropolitan Police ought to do more to disseminate.
- 13 LORD JUSTICE LEVESON: Yes, I readily accept that. I'm much
- 14 more concerned, though, not about, if you like, the
- general flow of detail, but how one really stops the
- telephone calls saying, "Celebrity X has just been
- burgled and will be coming into the police station to
- make a statement if you're here at 5 o'clock."
- 19 A. I agree with you, it's difficult, and that -- as I've
- said earlier, it seems to me that it is about creating
- 21 a culture within the organisation and within small parts
- of the organisation that this is not what we do here.
- 23 MR JAY: Thank you. Section 3.3.2, relationship between
- 24 corporate and local communications management, is
- 25 probably one we can take as read. It speaks for itself.

#### Page 9

- a quasi-judicial approach, with criminal avenues pursued
- 2 where ordinary discipline and appeal arrangements may be
  - more effective. Is it not the case that the difficulty
- 4 in proving leaks, and particularly investigating them,
- 5 applies whether you're looking at criminal contexts,
- 6 where admittedly there's a higher standard of proof, and
- 7 in the disciplinary context as well?
- 8 A. Yes, and I don't belittle the difficulty of doing those
- 9 leak investigations, but I think there are some things
- 10 that the Met could do more speedily on though things.
- $11 \qquad \hbox{ If, for example, you know that the information was only} \\$
- 12 held by three people, you haul the three people in and
- you say you're going to take action against all three
- 14 until the person tells you who it is.
- 15 LORD JUSTICE LEVESON: That's a bit tricky, isn't it? That
- rather reminds me of school. Somebody threw the rubber,
  - and unless the person owns up --
- 18 A. No, but I think that there are -- of course you're
- 19 right, and of course, any of these methods to deal more
  - quickly with leaking has those problems and may not lead
- 21 to anything sensible, but I think that it's possible
- 22 that ordinary discipline arrangements that would operate
- in any other business could be more effectively used by
- 24 the Met than very lengthy procedures which move towards
- 25 criminal outcomes.

#### Page 11

- 1 Internal perceptions. This is page 25 of 56, 3.3.3.
- 2 This is dealing with the question of leaks. You make
- 3 the point that everybody has an opinion as to where
- 4 leaks are most likely to occur but there's no consensus.
- 5 A. It's always somewhere else.
- 6 LORD JUSTICE LEVESON: Mm.
- 7 MR JAY: Did you get a sense at all of scale of this
- 8 problem, its quantity?
- 9 A. Well, it was a big enough scale for a lot of people
- 10 with -- inside the Met to be worried about it, but in
- terms of numbers, no, I couldn't say anything solid
- 12 about that, I don't think, other than almost everybody
- 13 I spoke to felt it did the Metropolitan Police Service
- 14 harm, that it was thought, sometimes wrongly, to leak.
- I make the point that in some instances -- and I saw instances of other people in other organisations leaking
- 17 information about the Metropolitan Police Service. So
- that obviously happened too, but certainly people within
- 19 the Metropolitan Police Service felt that it did them
- 20 harm that that was a reputation or a perception, however
- 21 accurate it turned out to be.
- 22 Q. You point out, in the middle of page 26, a certain
- amount of leaking is inevitable. Investigations of
- leaks tend to be futile and resource intensive. Then
- you say that in your view there's an overreliance on

# Page 10

- 1 LORD JUSTICE LEVESON: I understand that, and I'm sure
- 2 that's right, but the problem isn't just confined to the
- 3 Metropolitan Police.
- 4 A. No, of course not.
- 5 LORD JUSTICE LEVESON: It's throughout government.
- 6 **A. Yes.**
- 7 LORD JUSTICE LEVESON: And once you have the culture that
- 8 it's all right to do it, then it happens, and trying to
- 9 get to the bottom of it, if only to acquit the innocent
- as well as convict the guilty, is extremely difficulty.
- But the real difficulty is how you address the
- 12 culture of preparedness to do it in the first place.
- 13 That's, to my mind, verging on the holiday grail, but
- which nobody yet seems finally to have solved.
- 15 A. I'm sure you're right, I have no doubt, and I have no
- doubt that this it difficult, but I think there are
- other things the Met could do. For example, they're
- very loath to tell their staff that they're carrying out
- 19 some of these enquiries and even more loath to tell them
- what the outcome was.
- 21 I give an example not in relation to a leak but in
- 22 relation to another matter, in which people across the
- 23 Met had to get their information from the tabloids about
- 24 what had happened to somebody. The information that was
  - given internally was -- I'm sure somebody tried to be

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- 1 absolutely proper and not in any way undermine an 2 individual more than they were undermined already
- 3 because they were being sacked, but I think it doesn't
- 4 help to create a culture that we don't approve of this
- 5 and we do take it seriously and we do take action on it
- 6 if you don't tell people that you're taking action on
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- 8 LORD JUSTICE LEVESON: How much of it would be addressed by
- 9 being much more open, by recognising that, of course, if
- 10 you say, "We're looking at this", then whoever is doing
- 11 it will close down -- now that's, of course, a risk and
- 12 number inevitable, but how much do you improve if you
- 13 are much, much more open? "This is what went out.
- 14 There are 15 people who could have done it. Now we're
- 15 looking to see, we're not sure what we're going to find,
- 16 but the more this happens, the more we're going to have
- 17 to perhaps rejig the team, perhaps do this, that and the
- 18 other, and let's have some ideas, please." Engage with
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- 20 A. Yes, I think you're absolutely right, and: "We'd like
- 21 some information, please, and it's your duty to protect 22 this organisation through giving us that information."
- 23 So I think there's a number of those sorts of
- 24 approaches which would help somewhat, but I share your
- 25 view that it won't solve the problem totally, I'm sure.

# Page 13

2 political statements in sort of the media because 3 I don't think, in my view, that that's their role, but

careful about trying to respond with their own views to

- 4 I understand if they feel that they have this hard
- 5 operational information, that they might feel that they
  - want to get that out in the public domain. I'm not arguing against that.

But I think that the fact that six management board members have left the Metropolitan Police in recent years, where the media coverage of what was happening to them or the arguments that they were having with other people, does make their situation even more difficult than in some -- many other organisations.

So I was trying to acknowledge those sorts of things that they have to contend with, but they do also have to contend with the fact that there are several other organisations who have an absolutely legitimate role in relation to the police and who may have very different views about what it is proper to provide to the public.

- 20 Q. Yes. In section 3.4.2, you refer to sort of an inherent 21 conflict of interest. A journalist may, on occasion,
- 22 need to consider breaking the law in the public interest
- 23 and then the police may have a correlative obligation to
- 24 investigate that subsequently.
- 25 A. Yes.

# Page 15

- MR JAY: Thank you. I move on to the section, page 28 of 1
- 2 56, 3.3.5, "Scrutiny and monitoring of propriety issues
- 3 and corporate culture". We're back to the point here
- 4 which you developed at an earlier stage, namely the
- 5 culture emanating from the top and the lack of
- 6 consistency in how some of the senior team conduct their
- 7 relationships with the media and how they view gifts and
- 8 hospitality. I think you said earlier in some areas,
- 9 amongst some people, there are -- or at least there
- 10 were -- inappropriate relationships.

"External environment", section 3.4. In a nutshell, what is the issue you are addressing here, Mrs Filkin?

- A. I hope I'm giving due regard to the very difficult and complex job that the Metropolitan Police have to provide, and the way in which they are often the eye of a media frenzy, which I think does make all the things that it's easy for somebody like me to say often very difficult to carry out. So I'm trying to acknowledge
  - I'm also trying to say that they're in a -- the Met are in a particularly difficult situation because there is politicisation. Some of that, there's nothing wrong with it. It's politicians saying what their views are and different politicians from different parties saying what their views are. I think the Met should be very

Page 14

- Q. May I address the issue of the term "police source", 1
- 2 which is page 32 of 56. Its use, as you say, tends to
- 3 imply a leak, but it may be used properly to indicate
- 4 that the source is an institution or someone which is
- 5 different but related, such as the MPA, or indeed it may
- 6 be as a mask to try and protect the real provenance of
- 7 a source.
- 8 A. Absolutely.
- 9 Q. Were those differences explained to you by journalists 10 or by police officers or are those inferences you've
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- 12 A. I was in one other organisation when a person who had
- 13 a relationship, a proper relationship, towards policing
- 14 gave information to a journalist, so I saw that
- 15 happening, and I was in another organisation where
- 16 a person said they had given information in the past and
- 17 had described themselves as a police source. So I saw
- 18 those sort of things happening. I don't know that
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- anybody explained those things to me, other than seeing
- 20 what was actually occurring. 21 Q. Thank you. Section 3.4.3, former employees. This is
- 22 the revolving door point and it's a concern which you're
  - expressing in line with the Home Affairs Select
- 24 Committee.
- 25 A. Yes. There are two bits to it. There's the bit of Page 16

4 (Pages 13 to 16)

1 1 former employees very quickly taking up jobs in the Chapter 4 was your findings and recommendations, 2 media, but perhaps even more concerning than that is 2 page 38 of 56. Your first point, the way the MPS 3 former employees who become investigators and who either 3 communicated with the public, second paragraph there: 4 have favours to call in from colleagues that they used 4 "The way that relationships with the media have 5 to have, or indeed they haven't got favours to call in 5 developed has resulted in the perception that some have 6 but they have good contacts inside, and those people 6 better access to MPS information than others. I am 7 7 trust them and give them information because they think convinced that some information has been given they're all trying to do the same thing. So I think 8 8 inappropriately." 9 there need to be very clear guidelines for people within 9 And you say towards the bottom of the page: 10 10 the Met about how they relate to former employees. "For these reasons, I consider that more, not less, 11 And the Met, as you will have seen from my report, 11 contact with the media as a whole is essential, 12 also employs quite a lot of former employees in 12 providing it is open and recorded. However, it is 13 a variety of roles, and all I'm advising is that the 13 important that the public are informed through all media 14 rules that should apply to the staff ought to apply to 14 outlets, not just the national print press, because 15 anybody who is working for them temporarily or on 15 different sections of the public use media in different 16 short-term contracts, having left the Met. 16 wavs." 17 LORD JUSTICE LEVESON: Or, indeed, on any contract. 17 So in order to address this access problem, there 18 A. Of course. 18 are two sort of competing -- well, not competing but 19 LORD JUSTICE LEVESON: It's not a question of the basis upon 19 complementary strands. One, more access, but the 20 which they're employed. 20 access -- this is the second point -- should be open and 21 21 A. Absolutely. recorded, rather than subterranean. 22 LORD JUSTICE LEVESON: So that's three roles for retired 22 A. Mm. 23 police officers: in the media, or commenting about the 23 Q. That's your key finding one and recommendation one in 24 media; within the area of investigation where they might 24 the middle of the next page, and the supporting advice 25 exploit their contacts with the press; or back in the 25 which locks in with recommendation one is at page 49 of Page 17 Page 19 1 police, where they might continue practices which might 1 56. 2 have been acceptable once but which are no longer 2 A. Mm-hm. 3 acceptable. 3 Q. It probably speaks for itself, so I'm not going to take 4 A. Yes, and then the other bit, which is going to work for 4 you to that unless there are any particular points you 5 security firms, which I think sometimes leads to, again, 5 wish to highlight. 6 people coming back to their colleagues for information 6 A. No, I hope that's clear. 7 and --7 Q. Then the next point is 4.2, "Leadership and trust within 8 LORD JUSTICE LEVESON: Yes, I'm putting that into the second 8 the MPS". This is the senior officers not following the 9 9 rules, a wide variation in how the senior team 10 10 A. Yes, I think you're right. interpreted policy, et cetera. 11 MR JAY: Section 3.4.4, shared responsibilities and the 11 Maybe I should pick up a point most of the way down 12 importance of collaboration. There you're dealing with 12 page 40, where you say: 13 possible confusions which might arise between the IPCC 13 "Many police officers and staff would welcome a less 14 and the MPS, and you provide a case study, the shooting 14 defensive stance and greater willingness to inform the 15 of Mark Duggan. 15 public about the difficulties and challenges faced by 16 A. Yes, and I understand that a new protocol between them 16 those working in policing." 17 17 has now been agreed. That, again, is a point we've already discussed, and 18 Q. You summarise these problems, section 3.5, page 37 and 18 I think your turn of phrase was "a challenging 19 56. You pick up on the themes we've been discussing: 19 environment" as opposed to a defensive one, and the 20 the issue of perception, how damaging it is, the 20 recommendation you make at page 41 of 56 -- the 21 difficulty of proving it, the close relationship that's 21 supporting advice is at page 50: 22 22 developed between parts of the MPS and the media has "The MPS senior team must signal a change in culture 23 caused harm, lack of hard evidence about improper 23 and set a consistent example for all staff on the 24 disclosure but boundaries need to be established and 24 ethical standards they expect." 25 25 perceptions corrected. Then 4.3, corporate management of ethical issues: Page 18 Page 20

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"In the past, the MPS did not identify as a risk the close relationship of some senior officers and staff to certain sections of its media. During my inquiry, members of the senior team acknowledged that there were significant differences of opinion about the need to develop close relationships with the media and the appropriateness of receiving extensive hospitality as part of it." And your recommendation there, page 42 of 56, says:

"The Commissioner delegates responsibility and resources to a member of his senior team to initiate change in the way the MPS approaches integrity and ethics issues at all levels."

And the supporting advice is at page 51.

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Transparency. This is the back-door briefings point through informal and unofficial channels, which you've already covered in the body of your report.

What about the strength of the fear you recognise halfway down page 43, that acquiring a greater degree of transparency -- I think this is probably Mr Davies' point -- may stifle good investigative journalism in the public interest? I mean, how much weight do you give to that fear?

A. Well, it's a real fear, and certainly journalists have expressed it very forcefully to me. So they're anxious Page 21

1 earlier. You're not in favour of creating another set 2 of SOPs or media policy. You've pointed out already 3

that the guidance has, in your view, changed and

4 improved. It's the identification of core principles.

5 Perhaps the key principle is the one you've

6 italicised in recommendation 5:

"Permissible but not unconditional. This should be the over-arching principle."

So in your own words, what are you seeking to convey by that?

A. Well, I'm seeking to convey that there will be some information -- and the Met must make it absolutely clear what that is -- that everybody who works for the Met can and should pass on to members of the public, to local media outlets and to anybody else who talks to them, and that there should be a general view that this 54,000 people who are working for London and working for the public are responsible people and that they can -- as long as they stick to what it's being said can be given out, they can give it out, and that people with particular responsibilities at certain levels -- and I've set out the levels -- will tell their line manager that they're going to be investigating X or doing Y, and the assumption will be that part of that job is that their job is to keep the media informed and not

about it. I think if all the things that I'm saying are adopted by the Met, particularly the openness and more contact with the media, this should not happen. Yes, it will be more controlled, I hope, and less harmful, I hope, but I'm not in any way wishing to undermine proper scrutiny. The opposite. I mean, I think there's quite a lot more scrutiny that needs to happen. So I'm trying to encourage more scrutiny, and I think the Met should be about encouraging more scrutiny.

So, yes, there may be problems which people may have to work through. If they find that everything's dried up, this is a very proper thing to discuss and set right. So I -- but I don't at the moment see that that will be a problem or a particular problem.

15 Q. So is this right: the general rule should be maximum 16 transparency but if you can find public interest 17 exceptions, which are narrowly defined and properly 18 applied, then fair enough.

19 A. And deal with those properly and proportionately.

20 Q. Yes. Your recommendation, page 44 of 56 -- the evidence 21 in support of it is page 52:

22 "All police officers and staff who provide 23 information to the media should make a brief personal 24 record of the information they provide." 25

Then 4.5, these are the core principles you spoke of Page 22

1 informed, as is appropriate, and that it will be their 2 responsibility. 3

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So I'm saying that numbers of those things will be, if you like, agreed -- they might be agreed now -- and it will be in six months' time that a chief inspector doing something will be -- because that's his or her

area of work and they'll be able to provide information 7

8 on it. 9

Q. Yes. 10 A. So I'm saying there should be clarity about who is providing what, but the assumption should be that a lot 11 12 more people will be providing information, and I hope 13 that will go some way to do what so many people within 14 the Met wished, that the public was better informed 15 about the difficult job they have to do.

16 Q. Thank you. Then item 6, "Communications 17 infrastructure". This, of course, is the directorate of 18

public affairs point: "There are two perceptions which are in play here.

First, the DPA is unwilling, in some instances, to provide information to the public. Secondly, that

22 information is sometimes misused."

23 Then you say:

24 "I am also concerned by the perception that the 25 access provided to the media by the DPA has not been

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1 impartial, a view that's been expressed internally and 1 money, because what I was told was that some people 2 2 externally." accepted money for giving information to the press such 3 3 You've told us about that. as "Celebrity X is going to be at the police station 4 4 "This perception appears to have grown as a result today", felt that they were just being treated like any 5 of a particular style of leadership." 5 member of the public would be who rang up the tabloid. 6 May I ask you, please, to develop that sentence? 6 So I think there were a few people who thought like 7 7 A. Well, I can only develop it by saying that the person that. But the point I was trying to make was that most 8 8 who was the senior person in that department was said by people didn't think like that. 9 LORD JUSTICE LEVESON: Yes, well, I'm gratified to hear it, a considerable number of people who spoke to me to have 10 set that tone and that style within that department, and 10 but I'm rather concerned that anybody should think that 11 11 that -- made it clear that certain newspapers were phoning up the press to give them some information, such 12 12 favoured over others. So all I was doing with that was as the presence of celebrity X or the fact that famous 13 13 recording what really a very large number of people had person Y has been burgled, or has called the police, all 14 14 said to me. of which examples we've seen --15 LORD JUSTICE LEVESON: That, of course, is a fertile 15 A. Yes. 16 breeding ground for people to try and get information 16 LORD JUSTICE LEVESON: -- (a) is ever acceptable, a fortiori 17 17 around the back door. that it should justify the receipt of money. 18 A. Of course, and that was said to me by numbers of 18 A. I couldn't agree with you more. 19 19 journalists. MR JAY: Maybe some felt because certain tabloids offer 20 MR JAY: So we're clear, the "certain newspapers" are those 20 money if you phone a particular number with a tip --21 21 in the News International stable; is that what you were A. That's right. 22 being told? 22 Q. -- that if they're phoning in --23 23 A. Yes, I think mainly, but it may have been wider than A. Off duty. 24 24 Q. -- at one minute past 5 in the afternoon, then it's 25 Q. Thank you. Recommendation six, which flows from that, 25 okay. Page 25 Page 27 LORD JUSTICE LEVESON: They're off duty! 1 is clear. 1 2 Finally, prevention. This is the leaking issue. 2 MR JAY: I think that's the possible argument which you have 3 3 You say: been treated to. 4 "Until recently, leaking has not been recognised as 4 A. Yes, I think you're right. 5 an organisational risk, nor have clear messages of Q. In relation to leaks and prevention strategy, it's the 6 deterrence been sent. The MPS should publicise 6 creation of the right environment, clear messages of 7 misconduct findings or prosecutions in enough detail to 7 deterrence, and -- I think you made this clear 8 inform staff and provide more management information." 8 earlier -- not pursuing overlong technical 9 Then at the bottom of page 47: 9 investigations which might lead to a criminal 10 "Agreeing a set of core principles which leave staff 10 prosecution but being more pragmatic within 11 a disciplinary context. Have I correctly understood it? 11 in no doubt about what is appropriate will enable the 12 organisation to identify breaches more readily." 12 A. Yes. 13 13 And your recommendations --Q. Thank you. Now, the ideas for practical guidance, which 14 LORD JUSTICE LEVESON: Just before you do, you say on 14 is after the first 56 pages, these are helpful and 15 15 page 47: probably self-explanatory. You apply, obviously, some 16 16 "Most agree that whether money is involved or not, common sense here, that the offer of a pint of beer may 17 17 providing information for personal reward of any kind not be objectionable. It's a question of fact and 18 amounts to corrupt conduct." 18 degree, but there comes a point when -- maybe it's 19 19 a bottle of champagne or whatever -- you're on Does that mean that some people did not consider it 20 20 inappropriate to accept money or other consideration? impermissible terrain. 21 A. I assume that some people, who -- I, by this time, knew 21 Just one issue, because we may be picking it up with 22 22 that there was some evidence that some people had the next witness. Perhaps it's one of terminology, 23 23 accepted excessive hospitality, for example -- did not because there can be confusion about it: the on or off 24 regard that as improper, and I made the assumption that 24 the record point, which is page 510. 25 25 that must also be true of some people who accepted A. Yes.

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- 1 Q. What's your feeling here? "On the record" obviously is 2 self-explanatory, but "on the record" can mean different
- 3 things to different people in different contexts.
- 4 A. Yes.
- 5 Q. It might mean "Don't use it at all", which is its rare
- 6 meaning, in fact, in the United Kingdom, or it might
- 7 mean, more frequently: "You can use it but don't quote
- 8 me." What is your practical advice in this domain?
- 9 A. I think the practical advice -- and with all this, my --
- 10 what I hope was little bits of practical help were not
- $11 \qquad \text{making an assumption that many police officers didn't} \\$
- 12 know these things. Of course they do. But I was trying
- 13 to provide them with what they asked for, particularly
- 14 for new recruits and more junior ranks particularly.
- But in relation to on or off the record, my key
- recommendation to people would be: talk to the journalist and find out what this actually means before
- you start. To exercise some judgment about it. Many
- journalists are absolutely proper about it, tell you
- exactly what they will do or won't do with an
- off-the-record briefing, and if you explain to them that
- you can give them information but they can't use it at
- 22 you can give them mornation but they can t use it at
- the moment, will respect that. There's no issue. Some won't. Some are untrustworthy, and like any other walk
- of life, one has to weigh up people very carefully in
  - Page 29
  - terms of what they're saying.
- 2 I have no doubt that the police will have to
- 3 occasionally do off-the-record briefing, because
- 4 otherwise they would jeopardise an investigation, and
- a reporter may have got a bit of a story which, if they
- 6 ran it, would be very harmful, and the only way to
- 7 prevent that being run, in a sensible fashion, would be
- 8 to give them an off-the-record briefing and to tell them
- 9 that you would inform them as soon as you could when it
- was possible to let that get out onto the public
- 11 airwaves.

- 12 Q. Then you list ten tactics to watch out for, which I'm
- sure is salutary advice not just to police officers but
- 14 more generally.
- 15 A. I hope so.
- 16 MR JAY: Whether or not they're often deployed is obviously
- 17 a matter for debate.
- Well, those are all the questions I have for you,
- 19 Mrs Filkin. It's possible there may be some more.
- 20 LORD JUSTICE LEVESON: I repeat what I've said before: I'm
- very grateful to you for this, which makes a great part
- of what I'm doing much easier, if not redundant.
- 23 A. Thank you.
- 24 LORD JUSTICE LEVESON: But how it's been taken forward will
- doubtless be the subject of some questions of the

Page 30

- 1 present Commissioner and how it's going to be monitored
- will doubtless be the subject of the evidence of the
- 3 next witness.
- 4 Thank you very much indeed.
- 5 A. Thank you.
- 6 MR JAY: Shall we move straight on to Mr Baker? Mr Baker,
- 7 please.

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- MR ROGER BAKER (sworn)
  - Questions by MR JAY
- 10 MR JAY: Your full name, please?
- 11 A. It's Roger Baker.
- 12 Q. You provided the Inquiry with a witness statement which
- bears the number 8252. The date of the statement is
- 14 21 February 2012. You've signed and dated it under
- a standard statement of truth, so is this your formal
- 16 evidence to the Inquiry?
- 17 A. It is, sir, yes.
- 18 Q. There are various annexes to the statement and there is
- also, of course, the report of HMIC published
  - in December 2011, "Without fear or favour: a review of
- 21 police relationships", which is the fourth tab in the
- 22 MPS master bundle section on reports.
  - First of all, Mr Baker, could you tell us, please,
- about yourself? You had a 32-year career in the Police
- 25 Service; is that correct?

# Page 31

- A. That's correct.
- 2 Q. Starting in Derbyshire, moving to Staffordshire and then
- North Yorkshire, but you were appointed Chief Constable
- 4 of Essex police in July 2005; is that correct?
- 5 A. That's right, yes.
- 6 Q. You retired from the Police Service in July 2009 and
- 7 in September of that year, you were appointed one of Her
- 8 Majesty's Inspectors of Constabulary; is that correct?
- 9 A. That's correct.
- 10 Q. Can you tell us a little bit about HMIC. It is
- 11 a statutory regulatory body set up under the Police Act
- 12 1996; is that correct?
- 13 A. That's correct, yes.
- 14 Q. Very briefly, what are its functions?
- 15 A. I think it's a police watchdog, in that it assesses
- 16 policing and police forces in the public interest. So
- 17 that can range from looking at local efficiency and
- 18 effectiveness of a police force to broader policing
- issues such as the riots of last summer. And we do that in -- hopefully in a way that the -- we ask questions
- in -- hopefully in a way that the -- we ask questions that the public would want us to ask and we report it
- 22 back to the public in hopefully straightforward terms.
- 23 LORD JUSTICE LEVESON: So the whole point about HMIC is that
- in the main you are ex-chief constables. So you've all
- 25 held senior police rank?

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- Day 45 PM 1 A. No, it's a broad church, sir. There should be four 2 inspectors and one chief inspector. Of the four, two of 3 us are ex-chief constables. One is now the Commissioner 4 of the Metropolitan Police. Bernard went across. He 5 was an inspector. He's now the Commissioner of the 6 Metropolitan, and the other two inspectors currently 7 don't have a police background. One was a chief crown 8 prosecutor in London and one worked for the Audit 9 Commission. So there's a mixed range of skills. 10 LORD JUSTICE LEVESON: And are you looking at operational 11 issues? 12 A. The whole breadth of -- through operational, strategic. 13 That includes police authorities. That's the governing 14 body for policing at the moment as well. 15 MR JAY: In July of 2011, you were asked by the chief 16 inspector, who is Sir Dennis O'Connor, to conduct 17 a review of police integrity, which included police 18 relationships with the media, and having conducted that 19 review over a five-month period, the report I referred 20 to was published in December of last year; is that 21 right? 22 A. That's correct. The Home Secretary asked Sir Dennis on 23 24 but into broader issues of integrity and policing and 25 Sir Dennis asked me then to carry out that review, Page 33 1 2 of September, in truth, so it was a matter of, yeah, 3 eight to 12 weeks we took. 4 Q. We'll address that in due course, but your witness 5 statement also deals with your interactions with the 6 media in your capacity as Chief Constable of Essex. 7
- 20 July on carry out a review into not just media issues which -- we'd completed most of the work by the end It might be said that there are two schools of 8 thought here, or certainly a spectrum. There's the 9 austere wing and there's the more expansive wing when it 10 comes to relations with the media, and if I may say so, 11 you're certainly firmly to be found in the austere wing, 12 not that that's a criticism, or indeed praise; it's just 13 an observation that's going to be borne out when we see 14 the evidence --15 A. Thanks for the observation. I see where you're coming 16 from. I think you did oscillate, depending on the 17 circumstances, between the two, but I've never objected 18 between to being called austere, not in these times. 19 Q. We'll see to what extent there have been oscillations. 20 You deal with the media and public relations departments 21 which all chief constables have, and the electronic 22 diary. The diary is no longer available, but we've had 23 a picture looking at other people's diaries. What would 24 it show in your case, if it were available? 25 A. It would show, in relation to the national media, every Page 34
- on either my national work or the bigger issues within the county of Essex. More locally, that would be based primarily around either initiatives that the force were launching or the meeting structure of the police authority, in truth, drove a lot of this, so if there was a police authority meeting, there would always be a discussion with the press after it because these things were in the public domain and I thought that was quite proper. Like any of these jobs, there was a honeymoon period when you first start, where you would have slightly more interaction with the media because they wanted to know what your plan would be as the incoming Chief Constable. Q. Thank you. In terms of what the media were seeking from you in your personal dealings with them, you deal with what you were seeking to gain for the police through your personal contacts with the media in paragraph 3. You say that the media was seeking information and/or your views on high profile events or issues affecting the force and the communities of Essex. Did you ever get the feeling that they were hoping, if not expecting, you to be indiscreet? A. Not in the main, no. I think they wanted a view from

few months I would have some interaction with them based

1 I'm pretty sure that would be played back to me, so I'm 2 not that naive. 3 In fairness to them, I had a balanced press, 4 I thought -- not all of it great, but a fairly balanced 5 press over the time I was Chief Constable in Essex. 6 They would publish criticisms when we'd got it wrong, 7 but also when we did things right, there was a balance 8 of reporting, I thought, from most of the media. There 9 was one occasion which I've covered in this statement 10 where there was a slight issue. 11 LORD JUSTICE LEVESON: Do you distinguish there between the 12 local press, the Essex press, and the national press, or 13 do you just say generally? 14 A. I'd include all of it, in truth. So national, regional 15 and local was a balanced coverage, in the main, and it 16 would change from one minute that you were quite popular

the leader of the organisation. If I were indiscreet,

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- some of the social media sites, certainly in 2006, were
- fairly vitriolic about some of the change of management
- that I was employing in Essex.
- LORD JUSTICE LEVESON: But all that's probably fair enough,

on what you may be saying or doing to other times you

the media for what they perceived you'd got it wrong.

But that was across the whole. That included as well

would be held to account quite properly and robustly by

25 isn't it? That's holding power to account and providing

- 1 an alternative view for you to think about.
- 2 A. Absolutely, sir, yes. Hurtful at times, but
- 3 appropriate.
- 4 MR JAY: Off-the-record conversations, page 8254. You say
- 5 you didn't have any with the media whilst you were
- 6 Chief Constable. To be clear, what do you mean by
- 7 off-the-record conversations?
- 8 A. It's more to the extreme of what you described to
- 9 Elizabeth Filkin, that this was going to go no further
- 10 any stage. I think a lot of it is in definition
- 11 actually. Some of it is if -- "not yet for publication"
- 12 would be more to the point, and in my -- previous to
- 13 being the Chief Constable -- because the question the
- 14 Inquiry asked me was "as a chief constable" -- there
- 15 have been times when I've been leading major inquiries
- 16 where I've had "not vet for publication" conversations.
- I'm not a huge fan of what people term "off the record", 17
- 18 although they do mean different things by it, I've
- 19 found, but there is a place for it. If that is in
- 20 extremis, if life is going to be endangered, as you put
- 21 to the previous witness, if an inquiry is going to be
- 22 prejudiced, then there is a place for it, but it should
- 23 be limited, in my view.
- 24 Q. So by the term "off-the-record conversation", are you
- 25 intending to cover conversations which are not going to

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- - Page 37

- 1 hospitality from the media other than a drink of tea,
- 2 coffee or water. So no meals, no alcohol. This is it?
- 3 A. Makes me sound extremely dull, but that was the case in
- 4 my time as Chief Constable. And in truth, there was
- 5 never occasion to do that. We were polite with each
- 6 other, and courteous, but I always found tea and coffee
- 7 or water -- a bit like here -- suffices.
- 8 LORD JUSTICE LEVESON: I'm not sure how the Inquiry would go
- 9 if there was --
- 10 A. A bottle of fine champagne.
- 11 MR JAY: It might go more quickly.
- 12 But this was in line with the gifts and hospitality
- 13 policy in place in Essex?
- 14 A. That's right.
- 15 Q. But apart from perhaps you feeling that this was the
- 16 right thing for you to do, do you have a view more
- 17 widely as to whether hospitality only in this very
- 18 limited sense -- namely you were going to accept tea,
- 19 coffee or water but nothing more -- that that is a good
- 20 idea or maybe it's a bad idea. What do you feel about
- 21
- 22 A. I think the thrust, so when we get to the report, is
  - there needs to be clarity on what the thresholds are for
- 24 all people. Not only chief officers, but for those
- 25 people that leaked, because most of them want to do
  - Page 39

- 1 be used by the media or are you covering conversations
- 2 which are going to be used by the media but not
- 3 attributed to a particular individual?
- 4 A. In the -- from my statement, every conversation I had in
- 5 the four years, there was none of it that I wouldn't
- 6 attribute with the media. None of it, as I can
- 7 recollect, during that period of time.
- 8 Q. So the media, if they were going to use what you said,
- 9 would always attribute it to you as Chief Constable, but
- 10 there were occasions when it wasn't yet for publication,
- 11 so they would be expected to wait until the appropriate
- 12 time. Have I correctly understood it?
- 13 A. That would be the price of me being a chief constable.
- 14 Certainly when I was a deputy chief constable, as an
- 15 example, I led a manhunt where a man had killed a number
- 16 of people, murdered them, and was going to murder
- 17 others, and the media were about to get in the way. So
- 18 I told them things that I didn't want them to publish
- 19 for a couple of days whilst we could get on and catch
- 20 this man and that, for me, was off the record. But they
- 21 could publish it later down the line.
- 22 Q. I understand. The issue of hospitality -- this is
- 23 perhaps why, amongst other reasons, I said you were at
- 24 the austere school, because apart from the Sun bravery
- 25 award, you say that you don't accept or didn't accept

- 1 a good job but there needs to clarity and if you don't 2 have clarity, then you can't govern or control or have
- 3 oversight on these things because it's too loose.
- 4 I personally have a view -- I do drink alcohol, by
- 5 the way; I don't abstain -- that there is an issue,
- 6 I think, with whether you're on duty or off, as a police
- 7 officer, should you be drinking alcohol? My view --
- 8 it's a personal view -- is not on the public purse,
  - should you be doing that. But that's not police policy;
- 10 that's my own view.
- 11 Q. If you're accepting alcohol from a media organisation,
  - it wouldn't be on the public purse, of course, would it?
- 13 A. No, but if I'm seeing a media organisation, I am
- 14 working. It wouldn't be my -- I was not offered alcohol
- 15 by the media, by the way, certainly in the terms of this
- 16 statement, for the four years. But if I had have been,
- 17 I wouldn't have taken it anyway because why would I be
- 18 having that conversation? This is not something I'd do
- 19 in my spare time. In my private life, would I be
- 20 meeting with the media? No, I wouldn't. That would, by
- 21 my definition, be work.
- 22 LORD JUSTICE LEVESON: But you did have some meetings with
- 23 the national media?
- 24 A. I did, yes.
- 25 LORD JUSTICE LEVESON: And you didn't find that those Page 40

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1 meetings were more preferably conducted over dinner?

- 2 A. No. There was never an invitation, whether it was just
- 3 me --
- LORD JUSTICE LEVESON: Or vice versa. 4
- 5 A. -- my veritable character. There was never a slip to
- the Ivy and we'll treat you --
- 7 LORD JUSTICE LEVESON: No, no, forget the Ivy. There was
- 8 never a suggestion that actually your relationship would
- 9 be easier to maintain and develop in a more social
- 10 setting, whether it's because they take you or because
- 11 you invite them to the headquarters of the Essex police?
- 12 A. It was never an issue for me that we -- we had contact 13
- that included the national media. We did speak to each 14
- other, we didn't always agree with each other, but that
- 15 was always for me business time and I never had any
- 16 feedback from them that they wanted to do it any other
- 17 way. So I didn't need to be in a more convivial
- 18 environment or atmosphere. We got on and we did
- 19 business. I stress we didn't all see eye to eye on
- 20 matters, but that was always done in what I saw as work
- 21 time.
- 22 I think in some places it may be a bit more intense,
- 23 particularly in the City of London here, but I was only
- 24 just down the road in Essex anyway. It's not a billion 25 miles.

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- for here." I don't accept that bit. I think it's
- 2 a problem for the whole of England and Wales, but
  - I think there is a different level of intensity on some
- 4 of those relationships, and I know I'm generalising,
- 5 here in London.
- MR JAY: So you felt that the problem went outside the 6
- 7 Metropolitan area but are you saying that the problem
- 8 was, in quantitative terms, greater in the London area
- 9 or do you think it was prevalent in an equal way
- 10 throughout the United Kingdom?
  - A. Well, there's a scale issue, forgive me, on the size of
- 12 the Metropolitan Police and the nature of policing in
- 13 the Metropolitan Police, that they do some top-end
- 14 business which is going to be interesting to the public
- 15 and therefore very interesting to the media. They have
- 16 responsibility for counter-terrorism and things like.
- 17 And to be blunt, crime and everything that goes with it,
- 18 policing, is of an interest. It will sell newspapers or
- 19 cover space. But that is not to suggest that the media
- 20 will not be interested in other parts of the country,
- 21 and the point for me was: a lot of this you can still
- 22 cover it by not leaving London if you wanted to, if you
- 23 took social networking. If I were a journalist, which
- 24 I'm not, you could cover most of these things virtually,
- 25 if you so wished. And when we go on to the report,

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#### 1 I don't seem to have answered your question, I see.

- 2 LORD JUSTICE LEVESON: No, you have answered my question,
- 3 but it might lead to a follow-up question, which is
- 4 whether, in the course of your work for this Inquiry
- 5 that you've just conducted, you saw or understood any
- 6 reason why it might be different for the Metropolitan
- 7 Police than it had been for you in Essex.
- 8 A. I have some observations. I mean, to be clear, my
- 9 review was not about the Metropolitan Police; it was
- 10 more broadly.
- 11 LORD JUSTICE LEVESON: I know, I know, but you did look at
- 12 the Metropolitan Police.
- 13 A. We did look at the Metropolitan Police and I got a sense
- 14 that there was an intensity about the environment, that
- 15 you have a lot of people physically located here, so
- 16 having those relationships -- and there can be something
- 17 seductive, I guess, about the environment whereby you
- 18 are working here so it's -- you know, let's pop into
- 19 a -- let's socialise, almost, together, and do business
- 20 at the same time.
- 21 That doesn't always apply outside of London, would
- 22 be my take on it -- this wasn't a particular strand of 23
- the Inquiry, I have to stress -- but I did make the 24 point -- because lots of chief officers and the police
- 25 were saying to me: "This is a London problem, Roger, not
  - Page 42

- a lot of the gaps and the lack of threshold and what's appropriate and what isn't applies equally outside of
- 3 London than it does within the Metropolitan Police. 4 Q. Thank you. I may move on to paragraph 27, if I can take
- the intervening paragraphs as read. That's at the 5 6
- bottom of page 8257. You're still dealing with Essex 7
  - here. You say:
- 8 "A record of all my meetings and contacts with the 9 media was recorded in my electronic diary. I was always 10 accompanied by a member of the media and public relations department who would have recorded the contact
- 12 and key aspects of the interview discussion." 13 So those are two important safeguards, which you 14
  - underline:
- 15 "The Essex Police media policy, talking to the 16 media, reflected the ACPO guidance and required a record
- 17 to be made of all information provided to the media by 18 any member of staff. This policy also stated that
- 19 off-the-record contact with the media should not be
- 20 undertaken. All media releases by the media and public 21 relations department and divisional media co-ordinators
- 22 were recorded. The Essex media policy is an
- 23 intranet-based system."
- 24 And we've had a look at that.
  - I've been asked to put to you this point in relation

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- 1 to off-the-record briefings by another core participant,
- that page 29 of the report "Without fear or favour"
- 3 recorded that different forces had different approaches
- 4 to off-the-record briefings. So far so good?
- 5 A. Yes.
- 6 Q. Would you therefore accept that in some circumstances,
- 7 with appropriate safeguards, it can be appropriate for
- 8 a police officer or member of police staff to engage in
- 9 off-the-record contact, for example about an operation
- or to correct inaccuracies in previous reporting?
- 11 A. I would accept there will be circumstances where -- once 12 there's clarity of definition, I think, is important for
- the future of what "off the record" means and what it
- doesn't mean. There will be circumstances at the top
- end of the business where lives are at threat, there's
- a national security issue or an inquiry is about to be
- completely scuppered by certain behaviour, then that
- ${\bf 18} \qquad {\bf would\ be\ appropriate\ to\ have\ a\ conversation\ that\ was\ not}$
- 19 yet at that moment to be published. I think there is
- 20 a difference.
- I think a more broad-brush approach, where people are making up their own rules and definitions of what
- 23 this looks like, for the best intentions, is what I've
- found is a major gap in this -- when we carried out this
- piece of work, ie there's no clarity about the rules,
  - Page 45

- of clarity of what is meant, otherwise people start
- 2 making up their own rules of engagement, and what there
  - isn't in the police-media strategies and policies at the
- 4 moment is anything around relationships other than in
- 5 one case. So that does, in my view -- and the
- 6 Association of Chief Police Officers are going to come
- back to me in the next few weeks with a response to the
- 8 recommendations on how do you close some of these gaps.
  - Q. If the purpose in the mind of the journalist is to hold
- 10 the police to account and questions are therefore asked
- by the journalist, for which, by definition, I suppose,
- it would be appropriate for the police to answer, if
- they are to be held to account, why is there anything
- inherently undesirable in the answer coming back from
- the police officer: "X, Y and Z, but it's off the
- record; in other words, you can't quote me, but you can
- 17 report what I've said"? Is that objectionable in
- 18 itself?
- 19 A. No, I think if it's a case of, let's say,
- 20 whistle-blowing, where you want to bring something to
- 21 attention but you don't want your name on it, that, for
- 22 me, is a different issue. Where you need to flag:
- there's a problem here for the public, nobody is doing
- 24 anything about it, I want to draw it to your attention,
- 25 there are many ways you can do that, including speaking
  - Page 47

- the policies are very different, albeit well intended,
- and so that leaves lots of the staff with nowhere to go,
  in my view.
- 4 Q. The person who gave me the question might say: well,
- 5 "off the record" means, in this context, you can quote
- 6 it but you can't attribute the source. Why is that
- 7 objectionable, it might be said, if the purpose is to
- 8 correct inaccuracies in previous reporting?
  - A. Well, on the latter bit, if you're going to put some
- inaccuracies right, then why not say so? I could make
- my own scenarios of where you think, in very extreme
- cases, you might want to keep that out of the public
- view, but if your purpose is simply to say, "You've got
- that wrong, here's what it looks like", then say so.

are ways of doing that by asking questions.

- 15 For me, that is more on the record than off the record.
- 16 I don't mean to be pedantic, but that it is more on the
- 17 record.

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- Nor do I wish imply by this that there isn't a major role for investigative journalism because I think it's very healthy in holding the police to account, but there
- Now, it should be in extremis. I know not many people agree with this, by the way, but you've asked me for a view. My view is this should be used in extremis,
  - but when you are using it, there has to be a good deal Page 46

to the media.

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- 2 So on that bit of it, I have no objection. Where we
- did the public survey work for the "Without fear or
- 4 favour' report, they raised the issue, in my view quite
- 5 properly, around transparency. Now, I think you need
- both ends. You can have these on and off-the-record
- 7 conversations as long as, for the public, there is
- conversations as long as, for the public, there is
- 8 a degree of transparencies which -- like Elizabeth
- 9 Filkin, one of the recommendations in this piece of work
- is there should be a record of what the contact was,
- 11 what was discussed, and it's logged so there can be some
- 12 governance arrangements put around it to safeguard the
- 13 **public.**
- 14 Q. But if it's going to be logged, then in due course it
- 15 might enter the public domain and it is therefore --
- although it was originally off the record, the public,
- in due course, will see which police officer it was who
- spoke to the press on a particular occasion, even if the
- 19 newspaper piece had not identified the officer. Isn't
- that the problem, that the officer then would be less
- willing, perhaps, to give the information to the
- journalist which it might be in the public interest to
- give? Would you agree with that?
- 24 A. The thrust of it, yes. The detail of it, not entirely.
  - So, for example, the police already have systems

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1 A. I do apologise. where they deal with very sensitive information. Covert 2 2 MR JAY: You mentioned that part of the difficulty in human intelligence sources, for example, where that 3 3 really would be dangerous for people's identities to be certain instances, at least, surround a lack of clarity 4 4 in the rules themselves. Are you including Essex within leaked into the public domain. So the police are 5 accustomed to dealing with information and intelligence, 5 that criticism or not? 6 and I don't see why -- the fallback for me on this is 6 A. Oh absolutely, yes. This wasn't -- these issues 7 7 where do the public sit, including all of those within contained within the report were not top of my agenda 8 this? And the feedback has been loud and clear, that 8 when I was a chief constable. So for example, secondary 9 9 employment, you know, what your cops and your staff may whilst their confidence in the police is high, they want 10 10 do outside of work. It was actually the Sun newspaper it to be a transparent relationship wherever possible, 11 that exposed me with a -- that actually superimposed 11 and I think you can do both things. You can, in 12 12 extremis, have these off-the-record conversations, once a wizard's hat on my head with a rabbit sat on my desk, 13 13 you've defined them, and you can have a system which that we'd got two magicians and a wizard -- I'm not sure 14 14 what the differential is -- employed in second jobs. So allows governance and oversight. If you can't do the 15 latter, you're left with making your own rules up again. 15 was it the top of my agenda? No, it wasn't. I don't 16 O. Paragraph 31, Mr Baker, deals with your experience of 16 say that with any pride but it wasn't. Most of these 17 17 leak inquiries. Five investigations in all during your issues, I have to say, weren't. 18 four-year tenure. None of the investigations resulted 18 Was the relationship with the media and all the 19 19 nuances of it top of my agenda as Chief Constable? No. in disciplinary action being taken, which I suppose is 20 20 an indication of how difficult it is to prove this sort LORD JUSTICE LEVESON: Is it convenient to take a break, 21 21 of disciplinary infraction; is that correct? Mr Jay? 22 A. Well, they are difficult to deal with, but it's been 22 MR JAY: Yes. 23 LORD JUSTICE LEVESON: We'll give the shorthand writer a few 23 made more difficult by the fact that there is 24 24 a sloppiness of rules around what is permissible and minutes. Thank you. 25 25 (3.22 pm) what isn't, if that makes sense. Page 49 Page 51 Now, on these five cases -- I wouldn't have been 1 1 (A short break) 2 told about these five cases while I was Chief Constable 2 (3.28 pm)3 because I was the discipline authority, if that makes 3 MR JAY: Mr Baker, paragraph 55 of your statement, 8263. 4 sense. So if these had come to fruition from a 4 You're asked for your impression of the culture within 5 misconduct point of view, I would have been the person 5 the Essex police in relation it its dealings with the 6 in judgment ultimately. So it was only after I got the 6 press and you say you believe that "Essex police, as an 7 request to provide a statement that I found out there 7 organisation, tried to be as open as possible with the 8 had been these five cases. That's perfectly normal. 8 press to provide the best information to ensure the 9 LORD JUSTICE LEVESON: I understand that, because if you're 9 public were well-informed and confident in our service". 10 the judge, you can't have been part of the prosecution 10 Then you say: 11 11 "As individuals, my impression was that many of my 12 12 A. Exactly, sir. staff, particularly the more junior staff, were 13 LORD JUSTICE LEVESON: And it's a rather interesting 13 apprehensive of dealing with the media and deferred that 14 14 role to those more senior and/or with the relevant position that chief constables hold. But have you found 15 15 out now the detail about these five operations or do you training." 16 We heard the adjective "defensive" used in relation 16 just know there were five? 17 A. I just know there were five. 17 to the Metropolitan Police this morning. Is that an 18 LORD JUSTICE LEVESON: So you don't know, for example, 18 adjective which could be fairly applied to Essex police 19 whether the investigators knew who had done it, but 19 between 2005 and 2009 in your opinion? 20 because of the looseness of the rules, didn't feel it 20 A. No, not defensive. There were times, I guess, we'd be

it?

A. That's correct.

questions I wanted to ask you.

was disciplinary, or just never found out who had done

LORD JUSTICE LEVESON: That actually ruins a whole series of

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annoyed, where we thought the coverage was inaccurate,

defensive because of how we had structurally approached

everybody within Essex police would deal with the media,

and it may have appeared to the media we were being

our dealings with the media. That is to say that not

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so we'd rely on training and what the issue is and whether it was divisionally based or corporate. So there were a range of options which didn't include all members of staff.

Now, that may have come across, if you worked for the media, as being defensive, but it certainly wasn't the intention to be defensive. Put it that way.

Q. Thank you. Question 56. On reflection, that was a bit of a wide-ranging question, to set out the most important findings to emerge from your report. You might have just said, "Please read the report", rather than expect you to summarise them.

One point you make -- it's an important one, on the next page four lines down:

"From the public's perspective, the Police Service needs not only to act fairly, but be seen to be acting fairly."

So you place perception almost on the same level as importance as reality; is that right?

A. Absolutely, yes. I think it was particularly important that -- not only as a regulator but all of us, that we take the public's view, particularly if you're talking about the public interest, and that's what, on this occasion, 3,500-plus members of the public who were surveyed said, "That's what we think."

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- work ought to be considered in the context of mine, or
- 2 vice versa, because if I also report in or
  - about October, there is a risk that we will be ships
- 4 that pass in the night, and I don't know whether you
- 5 will have a time, after you the receive the responses
- 6 but before you do a reinspection, where you publish
- 7 anything on what I'm going to call emerging findings, so
- 8 that I can take into account your views before I make
- 9 any recommendations which might impact upon the
- 10 relationship between the press and the police, which are
- 11 certainly within my terms of reference. Do you
- 12 understand?
- 13 A. Exactly, sir, yes. I don't believe for a moment we'll
- 14 be ships that pass in the night, and why I say that is
- 15 we have met -- and I know you've met with Sir Dennis, to
- 16 ensure that there's not duplication and that we don't
- 17 interfere in any way, shape or form with the Inquiry,
- 18 and we intend to do that for the next phase. And also
- 19 forces have said to me that clearly you have primacy
- 20 around this, so when you talk about the new media
- 21 policies that will come out, they will all reflect what
- 22 this Inquiry's findings are, which is understandable.
- 23 LORD JUSTICE LEVESON: I wasn't thinking about primacy or
- 24 you treading on my toes. I wanted to make sure that
- 25 I could use the expertise that you bring to bear from

Page 55

- Q. In terms of what's happening with your report, published 1
- 2 in December 2011, I think you've given the end of this
- 3 month as the cut-off date for the police services to
- 4 respond to it; is that right?

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- 5 A. That's right. For the Police Service, which is the
  - Association of Chief Police Officers and currently the
- 7 Association of Police Authorities, to come back to me
- 8 with their views on the report. I have to say, they
- 9 seem to have received it very well. The proof of the
- 10 pudding will be in the eating, but having done a number
- 11 of these reports before, there's been a difference with 12
- this one, that they were very open to engage the service
- 13 across the piece, responded to quite a burdensome
- 14 request from the inspectorate to provide lots of
- 15 information in a very short period of time, which they 16
- 17 naysayers to this point. But I will know at the end of
- 18 the month what the initial thrust is.
  - I then intend to reinspect this piece of work prior

did, in my view, the best to do, and there have been no

- 20 to the Police and Crime Commissioner's taking up post in
- 21 November of this year. So by October of this year not
- 22 only will we have what the solutions are to this -- this
- 23 piece of work, that is -- but how they're progressing,
- 24 how they're being implemented.
- 25 LORD JUSTICE LEVESON: I'm very keen to understand how your 25

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- 1 your experience as a police officer and as an
- 2 inspectorate so that whatever I recommend fits with what
- 3 you think will work. You may have heard that I've said
- 4 to editors throughout that I am very keen that what
- 5 I suggest, whatever it might be, doesn't immediately get
- 6 the riposte: "Well, that shows how little clue he has",
- 7 and so it just sits on a shelf gathering dust. And in
- 8 the same way I say about the regulation, if that's what
- 9 there is to be, of the press, so I say it in relation to
- 10 the police, where there isn't likely to be a statutory
- 11 solution to anything. It is much more going to be
- 12 around the culture and the positioning of the Police
- 13 Service so as it to be able to address the issues that
- 14 have emerged both through the report commissioned by the
- 15 Commissioner and by the report commissioned by the Home
- Secretary have spoken about. 16
- 17 I see the bits of work as complementary. You've
- 18 come at it from the inspectorate's perspective,
- 19 Elizabeth Filkin's come at it from the internal police
- 20 perspective, albeit only the Metropolitan Police.
- 21 I have to sort of try and grip the whole piece, and so
- 22 it's not that you will tread on my toes; it's that
- 23 I will want to make sure that what I can do, what
- 24 I recommend, if that's where I go, fits with what you
  - think will work. Do you follow me?

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media?

- A. I follow you entirely, sir. I think I'm confident, as
- 2 you describe, that the work will be complementary, and
- 3 clearly we will be talking to your Inquiry team as this
- 4 work progresses, and where we have been very clear with
- 5 the Police Service is they are best placed for the
- 6 police bit to come up with their recommendations for
- 7 this, but we, as a regulator, will be testing that, as
- 8 the public would expect us to, because it's --
- 9 LORD JUSTICE LEVESON: That's exactly what I want to happen,
- 10 and I hope that ACPO are doing just that, and if my hope
- 11 and expression of hope is passed to the relevant people
- 12 in ACPO, that will not disappoint me.
- 13 A. I'm sure they're watching this as we speak, sir.
- 14 MR JAY: In relation to evidence-gathering for your report,
- 15 first of all, your witness statement makes it clear that
- 16 you gathered evidence from members of the public. You
  - refer to qualitative and quantitative research which was
- 18 conducted by an independent organisation.
- 19 A. Yes.

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- 20 Q. Obviously the quantitative research was going to be much
- 21 greater. Presumably that was providing multiple choice
- 22 questions, as it were, was it?
- 23 A. That's right.
- 24 Q. And ticking boxes. Can I ask you, though, how you
- 25 obtained evidence from within the Police Service itself?

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from the Crime Reporters Association to representatives

Q. I appreciate that the media weren't the centre of your

report, that they were just one aspect of it, but were

you able to gather evidence from any organs of the

- 7 issues. So we spoke to lots of people from the media,

A. Yes, quite a few. They were seen as being very key to

this because part of the genesis was the phone hacking

- 9 of Hacked Off, to people who have written academic
- 10 pieces on the media and the police, to try and get
- 11 a view on what were the most suitable recommendations
- 12 and where the evidence was around this.
- LORD JUSTICE LEVESON: But you've not been to Scotland? 13
- A. Not Scotland, sir, no. We don't -- just to be clear, 14
- 15 there is a separate --
- 16 LORD JUSTICE LEVESON: No, I'm sure. I mean, you explained
- 17 that you went to Northern Ireland, and that's separate
- 18 as well, isn't it?
- 19 A. But it's covered by us as an inspectorate.
- 20 LORD JUSTICE LEVESON: Oh, I see.
- 21 A. Scotland has a separate inspectorate. That's not
- 22 a reason for not going there, but that --
- 23 LORD JUSTICE LEVESON: Do you know whether they've conducted
- 24 any parallel exercise?
- 25 A. We have been talking to them. I don't think they have

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- A. We carried out -- having developed the methodology which
- 2 was agreed with the Home Secretary, the terms of
- 3 reference, we did share that with other people who were
- 4 carrying out reviews at the time, including this
- 5 Inquiry.
  - Having developed that methodology in terms of
  - reference, one of the things we did was we checked all
- 8 of the databases to try and find out what the scale of 9
- the problem was, what -- the quantum of the issues we
- 10 were dealing with. We then carried out a two-day
- 11 inspection, if you like, a review in each force and 12
- 13 working for HMIC at the time went along and spoke to

authority, where members of staff and secondees who were

- 14 stakeholders and gathered evidence from all forces in
- 15 England and Wales, including the police authorities.
- 16 Beyond that, we included the National Policing
- 17 Improvement Agency, the British Transport Police and the 18 Police Service of Northern Ireland that weren't part of
- 19 the Home Secretary's terms of reference. They contacted
- 20 us and asked if they could be included.
- 21 So we went to every force and authority, interviewed
- 22 the stakeholders, got the policy documents, got the
- 23 evidence, if you like, from them, which we were sharing
- 24 with them as we went through it, and then started
- 25 forming a view that is now captured within this report.

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- 1 at this moment in time, but that's an assumption on my 2
- 3 MR JAY: The one message which came through your
- 4 questionnaires of the public -- this is 8265, still part
- 5 of your answer to question 58:
- 6 "The public associate integrity with being treated
- 7 fairly by the police. The public association of
- 8 integrity with fairness suggests that they see
- 9 inappropriate relationships and the conflicts of
- 10 interest that might arise as a consequence to be one
- 11 dimension of police integrity, but not the only one, and
- 12 this has implications for the police if they're seeking
- 13 to tackle corruption and inappropriate relationships
- 14 from the perception of the service users or the public
  - more generally."
    - That's an important point. It's a point which came
- 17 through Elizabeth Filkin's evidence as well. 18
- Can I ask you about the point you make at the bottom 19 of the page about governance, oversight and control? In
- 20 a nutshell, what is the point that you are making there? 21 I appreciate it's developed in the report.
- 22 A. My view is that what the report is trying to say, or 23
- hopefully communicates, is that you need to be very 24 clear on what your values and standards are as an
- 25 organisation. Some of that is in place through officers

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being attested, new members of staff joining the
organisation. Underpinning those values needs to be
a clarity of what is appropriate and not appropriate
within the component parts of this report. So we
discussed hospitality earlier. There needs to be a real
clarity on what is appropriate behaviour and what isn't,
and if there's something that falls between, what course

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of action do you take.

It's only then, in my view, can you apply proper governance and oversight to this. Otherwise you're putting the cart before the horse. If you've not got clarity of rules on what a good job looks like, you can't come along and regulate it. So whether I'm a new Police and Crime Commissioner, whether I'm the Inspectorate, whether I'm the Chief Constable, then I'm operating almost in a vacuum.

The point also in the report is I do not believe there should be geographic differences to this. There are 40-odd different ways of doing this at this moment in time that I find odd, I think the police find odd, in truth, and certainly the public think that is unusual.

Q. So there has to be one nation-wide policy, the policy has to be clearly expressed, it's understood that there may be grey areas in the middle, but subject to that, the need for clear rules and clear guidance is well

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1 cases that could be classified as leaks to the police.

- 2 I'm sure there were far more that hadn't been recorded
  - in this way, but 314, which broke down to relationship
- 4 issues, which had to be fairly specific within this,
- 5 which there were 12 of across England and Wales, and 302
- 6 which were around information disclosure to the media,
- 7 most of which couldn't be traced through sources. So
- 8 there could have been a relationship but it wasn't
  - clear.

Beyond that, there's clearly a lot more going on, is my view, and part of that is because this is not the top -- or hasn't been the top of people's agendas. Your systems and processes have not been focused on finding these things out. They've had to be fairly major issues for them to become recorded at that moment in time.

- Q. So is this right: the recorded or recordable leaks are perhaps the tip of an iceberg, or is that putting it too high?
- A. It's an assumption on my part, but it would be an
   assumption there are -- on inappropriate disclosure of
- $21 \qquad \hbox{information to the media and others, my sense is there} \\$
- 22 would be -- from my experience, there would be more than
- this around -- if you make organisational changes,
   you're quite likely to be reading about it in the media
- 25 quite quickly. Most of those will not be recorded as
  - Page 63

- 1 established, and it's only then that governance, as it
- were, can take over, because one knows what one is
- 3 governing, a set of rules which are clear?
- 4 A. Exactly. It's only then that governance can work.
- 5 I think it's particularly important in relation to the
- 6 question you've pointed out, because the governance of
- 7 policing is changing quite seismically at the end of
- 8 this year -- ie. police authorities go, with the Act,
  - and one individual, ie a Police and Crime Commissioner,
- 10 comes along -- it's very important that these matters
- start to be nailed down.
- 12 Q. Can I ask you three general questions before we start to
- look at parts of the report. Did you get any sense,
- Mr Baker, as to how extensive a problem leaks are within not just the Metropolitan Police but more generally
- within the Police Service, in quantitative terms?
- 17 A. Well, on the -- on those that were reported -- we
- checked, as I said, the databases to find out what was
- being reported, not just within the police, but we took
- 20 the Police Complaints Commission, the various
- commissioners who keep data on the police. So we
- searched the databases to find out what was the scale of
- 23 the ill that everyone seemed to want to cure.
- What we did find out, over a five-year period -- we went back to April 2006 in the main -- we found 314
  - Page 62

- leaks to the media historically. They may be now, but
- 2 they wouldn't have been in the past, would be my
- 3 **submission.**
- 4 LORD JUSTICE LEVESON: So those are the things that you know
- 5 about that you don't know the number of them. There is
- 6 also stuff that appears in the press which you don't
- 7 know has come about by a leak, but if you really did the
- 8 work on it, you would find it would have to be a leak.
- 9 A. It would certainly have to be a leak, sir. One of the
- $10\,$   $\,$  other dimensions to that is: where did the leak come
- 11 from? Because within this, quite a few people assume
- 12 it's the police, and I'm sure in part they'd be right,
- but because of the nature of the way the police do
- business, ie lots of growth and partnership work, lots
- of other people have access to that information and
- intelligence in very real time. I'm not saying that, by
- 17 the way, to deflect it from the Police Service, but lots
- of people will have their hands on that information.
- 19 But you're right; this is only what is recorded and that
- we found during this research.
- 21 MR JAY: I turn now to the specific issue of social media.
- To what extent is that becoming an issue or a problem
- and in what way?
- 24 A. Well, there's clearly been a communications revolution
- 25 around how not only the media but the public communicate

1 with each other, and not unlike other organisations, the 2 police in my view have been struggling to keep in front 3 of that or apace with it. So very few have what I would 4 call robust policies around what you can and cannot do 5 on social media sites such as Facebook, Twitter, 6 et cetera. Please don't misunderstand that, I'm not 7 against any of these sites, there are lots of positive 8 aspects from the Police Service communicating with the 9 public on these social networking sites to inform the 10 public of issues in their areas that they would want 11 legitimately to know about. 12 But the controls around it and, again, what a good 13 14

job looks like has become very blurred and the blurring I found, doing this piece of work, was the differential between what is public in your professional life, what should be in the public domain. There will be bits of your private life, I guess, which it's okay to expose in the public domain anyway, because it has some relevance, but there will also be other bits about you that are, in my view, best kept private, because it's nothing to do with anyone else and it can taint people's judgment on the professionalism of, in this case, the Police Service.

So we found examples of people -- we got an organisation that knows far better than I do in these Page 65

1 guess, and it is a guess, is that these people weren't

2 doing it from malice aforethought, it was just an act of 3

stupidity, but the impact on public confidence can be

4 quite high, if you're following this on the network.

5 LORD JUSTICE LEVESON: Is this a question of education?

6 A. It's -- as what's, I think, written through the report,

7 sir, is a clarity on what you can do and what you can't

8 do that doesn't impact on your rights as an individual,

9 and says, "Look, whilst you work for us, this is okay,

10 this isn't okay", so exposing your genitalia, having

11 identified yourself as a member of X-shire police might

12 not be the corporate image that you're trying to get

13 across.

14 MR JAY: Yes.

15 LORD JUSTICE LEVESON: How carefully phrased.

16 MR JAY: (inaudible) the vices of lavish or overlavish

17 hospitality, and you explain the principal objections to

18 that, but in the course of your work, did you find any

19 examples of, sort of, frank corruption, or was it always

20 the quid pro quo for hospitality was either an

21 expectation that a story might not be written in

22 a certain way, was more diffuse rather than blatant?

23 Can you assist us on that?

24 A. Well, hopefully. In relation to broader hospitality, so 25 that would be not just hospitality with the media, there

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1 cases to do as a piece of research with eight forces to

2 find out the people who were using a social networking

3 site, Facebook in this case, to find out whether they

4 were engaged in any inappropriate behaviour, and whilst

5 the numbers were small, ie on the inappropriate

behaviour, it was clear there are no great checks and

7 balances around how people should be using this media.

8 LORD JUSTICE LEVESON: Could you give me an example, just so

that I can understand?

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A. An extreme is somebody who had identified themselves as working for a police force, were exposing themselves on -- taking photographs of themselves minus appropriate clothing, and it had appeared on Facebook.

Lots of this seemed to be silliness, in truth, not organised criminality, and it was generally holiday snaps that had probably been taken many years previously when you were far younger, that in some bizarre moment, generally under the influence of alcohol, I suspect, that you've decided to share with the rest of the world in the tweetosphere or whatever it's called, so that would be an extreme case, to other cases of "I don't really like working for X police because they don't know what they're doing", so that would again impact on

public confidence. To stress, these cases were small in nature and my Page 66

1 were some isolated cases which are alleged to be

2 corrupt, which are being investigated, and part of that 3 was the genesis of the Home Secretary's commission to

4 Sir Dennis and then to me to carry out this review, ie

5 it wasn't just about media relationships. Some of that

6 was relationships with contractors who wanted to do

7 business with police. So some of that, it is alleged,

8 is corrupt in criminal terms, ie that it's being

investigated.

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10 In relation to the entries we found relating to the 11 media, hospitality entries -- and there is an amendment,

12 if I may refer to it in a moment -- none of those

13 overtly you could say were corrupt or otherwise because

14 our piece of work wasn't an investigation to that

15 degree. All I can tell you is there were a number of

16 entries, and on page 41 of the report --

17 Q. Yes?

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18 A. -- it does give a figure on the number of entries that

19 excludes the bulk of the entries from the Metropolitan

Police, I was told today, which there are an additional

22 LORD JUSTICE LEVESON: Sorry, page 41 of the report?

23 A. Page 41, sir, fifth paragraph, which says:

24 "Over the last five years we found 9,600 entries, of 25 which less than 1 per cent, ie 68, related to gifts and

1 hospitalities or gratuities and hospitality received 1 interests which may conflict or be perceived to conflict 2 2 from the media. That involved 23 forces." with the integrity of the police force." 3 3 The 23 forces bit is right. What I found out this The review methodology -- you've covered this quite 4 4 lunchtime was that it had only included a certain amount generally in answer to earlier questions, but here we 5 of time from the Metropolitan Police and not the whole 5 have the detail -- around 500 interviews with 6 of the five years. The whole of the five years for the 6 stakeholders within the Police Service, as well as 7 7 Metropolitan Police includes another 230 of those. approximately 100 focus groups. Did you conduct any 8 That's not a reflection on the Metropolitan Police, by 8 interviews with stakeholders on the basis that what they 9 the way. It's our error, not theirs. 9 said wouldn't be attributed to them in your report? 10 LORD JUSTICE LEVESON: So, to get the picture, if you 10 A. There were, I understand, a couple of senior 11 include all Metropolitan Police, that number of 68 --11 stakeholders that we'd call the external reference group 12 12 A. Goes to 298. of clear opinion formers who didn't want the comments LORD JUSTICE LEVESON: We have to be a bit careful about 13 13 attributing within the report. I think there were two that figure as well, because although it's four times 14 14 of those, by recollection. 15 the size, the Met is by far and away the largest 15 O. Yes. 16 employer --16 A. The focus group mentioned at the first bullet point was 17 17 A. Exactly, sir. within each force and authority that we visited, we held 18 LORD JUSTICE LEVESON: -- of staff and by far and away the 18 a couple of meetings with staff, because a lot of this 19 19 most likely to have any of these sorts of contacts. is focused on very senior people, but we wanted to get 20 A. Exactly that. I think it's back to the earlier 20 a view from the workforce on how they saw these issues, 21 21 discussion around -and I think it's right to say here that their moral 22 LORD JUSTICE LEVESON: Yes. I just wanted to make the point 22 compass was very strong on these things. They were very 23 23 before it was described in some other way. clear that lots of these things, in their view, were not 24 A. Thank you. 24 acceptable. 2.5 MR JAY: Mr Baker, we're going to go through the detail of 25 LORD JUSTICE LEVESON: So the staff were tougher on their Page 69 Page 71 the report with Sir Dennis O'Connor next week, but may 1 forces than the public? 1 2 I go through the overview with you and pick up some 2 A. The staff were clear in two parts, sir. One, where 3 3 highlight points and the methodology insofar as we there was clear leadership from the top, they understood 4 haven't covered it? On the internal numbering of the 4 what the rules were and were happy to go along with 5 report, it's page 7, the "Overview". That, in our 5 that. And secondly, where it was less clear and when 6 bundle, is going to be about 4383. I say "about" 6 they were talking about what gratuities and 7 hospitalities it was right to receive, in my words their 7 because my bundle doesn't contain the URN numbers, but 8 I know what the front page number is. 8 moral compass was very strong. There was a clarity of, 9 LORD JUSTICE LEVESON: What's the internal number? 9 you know, most things were not acceptable. Teas and 10 coffees were; beyond that then the Police Service 10 MR JAY: 7. 11 11 A. Right, "Overview". shouldn't be engaging in it. 12 MR JAY: And the essence of the issue -- you really strike 12 MR JAY: Can you explain the benchmarking exercise, which is 13 13 the fourth bullet point, just elaborate on that? What at the heart of the matter here five lines down: 14 14 "A conflict of interest arises where police officers 15 15 or staff give or appear to give preferential treatment A. We did another two. One was we contacted not only 16 to one interest over others. At best, this behaviour 16 police forces, nationally and internationally, but other 17 17 may be regarded as inappropriate; at worst, as corrupt. organisations to take a view on all of the component 18 Potential conflict of interest include the access and 18 parts of this report. So what were their relationships 19 19 with the media and how did they manage it, some of which influence accorded to individuals and organisations; 20 20 inappropriate disclosure of information to the media and is cited in the report. So the New South Wales Police 21 others, whether for financial gain or otherwise; 21 media policy, how New York Police Department dealt with 22 22 excessive or inappropriate hospitality, especially when integrity testing, because they have a 650-strong team 23 23 offered to senior officers and other decision-makers; on internal affairs that are separate from the police, 24 question marks over contractual arrangements and 24 if you like. I don't necessarily advocate that model. 25 25 But also other organisations such as banks, charity police/supplier relationships; and secondary business Page 70 Page 72

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- 1 organisations -- so third sector -- on how they were 2 dealing with inappropriate disclosures of information 3 and relationships. So not just about policing, but 4 added the Police Service benchmark, and we didn't find 5 the cure for this in any other organisation. In fact, 6 in many parts, the Police Service in England and Wales 7 was a lot stronger than many much the organisations, 8 nationally and internationally, that we spoke to. So if 9 you took in appropriate disclosure of information 10 recorded by the Information Commissioner, there are far 11 more complaints about other organisations than there are 12 about policing, for example.
  - So the police came out of that strongly. I know it's easy to put them in the spotlight with this, but whilst they have a way to go, whilst you'd find on policies and procedures 70 or 80 per cent of forces would have some sort of policy, if you applied that to most of the sectors, you were down to 20 and 30 per cent had got policies around it.

In some cases, the Police Service were outshone by other organisations, but generally in just one component part of what we looked at.

- 23 Q. And the review findings, on the internal numbering 24 page 9, the first bullet:
- 25 "We did not find evidence to support any contention Page 73

1 saying it isn't correct, but how do we know it's

- 2
- 3 A. The cases where we went into forces and found that,
- particularly from the very top, where the chief officer 4
- 5 and the chief officer team were very clear on what was
- 6 right and what was wrong and that was being articulated
- 7 in not only bits of paper but the way they behaved, you
- 8 would get that feedback from the staff, but you'd also
- 9 see it when you tested some of those areas of business.
- 10 Where they would bring in that clarity to it, we found 11

a difference.

Q. Thank you. On the next page, a point you've already touched on:

14 "A hugely inconsistent approach [second bullet 15 point] across the service and a lack of clarity about 16 where the boundaries lie."

And you're contending for a country-wide approach, on my understanding, and a clear approach?

- 18 19 A. That's the recommendation, or one of the recommendations
- 20 is there needs to be an agreement of what the thresholds
- 21 are and a framework that's to a nationally agreed
- 22 standard, is my view, because I don't see, when it comes
- 23 to integrity, how you could argue geographical
- 24 differences on some of these things.
- 25 Q. Then the sixth point:

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of endemic corruption in Police Service relationships, 1

2 either in relation to the media or more generally, with 3 the majority of police officers and staff striving to

4 act with integrity."

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By definition, you weren't intending to duplicate the work of Operation Elveden there, were you?

7 A. No, to be very clear, in relation to Weeting, Elveden 8 and the Surrey inquiry around Milly Dowler, we did speak 9 to those inquiries, but at that time, bearing in mind 10 this was September when we closed the data gathering,

they had no data recorded because their inquiries were ongoing. Similar to a point made earlier, it was not

our intention to get in the way of those inquiries. So it wasn't an investigation into the Metropolitan Police

15 Service, the Milly Dowler inquiry or any of that. This 16 was around the terms of reference as shown in the

inquiry and what we found with the 43 forces and others

18 in England and Wales. 19

Q. The fourth point: 20 "Visible consistent leadership is a key contributor 21 to promoting integrity and raising awareness of or focus 22 on these issues."

23 If I were to ask you to substantiate that with 24 evidence, how would you do that? Obviously this is 25 a very important point, if it's correct. I am not

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1 "Governance and oversight is generally weak and

2 limited proactive checks and balances take place."

3 Clearly the strength of governance and oversight 4 would be indicated by a more proactive approach; is that

5 correct?

6 A. Exactly more proactive, but you need to put the first 7 component parts in place first. You need to be very 8 clear what you're actually governing.

9 Q. Understood.

10 Then page 11, information disclosure. That probably 11 speaks for itself. These are leak investigations.

12 Hospitalities and gratuities -- this is the lack of

13 consistent approach point, and also a lack of

14 proactivity, page 12. Procurement and contracts, 15 page 13.

16

Can I just ask you to develop the point on secondary 17 business interests and risks? Again, there is an

18 inconsistent approach countrywide.

19 A. Yes.

20 Q. You're referring here to what, more specifically,

21

22 A. There is an ACPO policy on what second occupations 23 police offers -- because there is a differential between 24 police officers and police staff, although some have

25

tried to renegotiate contracts with police staff.

6

- 1 Police officers are guided by regulations where they 2 need a chief officer authority to take up a secondary 3 employment. The current guidance are there are four 4 areas whereby that shouldn't take place. Two are around 5 driving, ie being a taxi driver or giving driving 6 instruction. One is about giving financial advice, 7 being a financial adviser, and the other one is giving 8 professional training around things like taser or 9 self-defence. 10 We found examples in a good number of forces that 11 people were employed -- ie police officers and staff 12
  - were employed in those functions, so the existing policy wasn't being adhered to. But we also found examples of things that need clarity, in my view. So there weren't legions of them, but you'd find examples of cage fighters, door security, those types of occupations, whereby what I'm saying here the Police Service needs to be clear with what you can and cannot do, what is compatible and isn't.

To balance that, when we ask the public, they seem to be more relaxed about some of these other things because people do understand the age of austerity, and their view was, in a general term, as long as there were no conflicts of interest, they thought that most secondary employments were okay, as long as there wasn't Page 77

2 which I can't now recall, that didn't prove possible.

were going to have you on the same day but for reasons

3 So that's why you're here one day and Sir Dennis next

4 week, but specific matters on the detail we will take up

5 with him as we go through the report.

I think those are all the matters I was going to

7 raise with you.

8 LORD JUSTICE LEVESON: There's one thing I would like to

9 raise with you. I readily understand the difference

10 that there might be between Essex and the Met, but do

11 I gather from what you're saying that although they had

12 vet another set of rules and approaches, there was

13 a similar difference between a large force like Greater

14 Manchester and the Met as well?

15 A. That's correct, but there are also large differences

16 between --

LORD JUSTICE LEVESON: Essex and Greater Manchester? 17

18 A. Exactly. If you're trying to find a commonality of the

19 differences, I don't think you will, sir, or good luck

20 to you.

21 LORD JUSTICE LEVESON: I'm not necessarily going to look,

22 because actually all that's a run-in to what I am going

23 to ask about, which is Northern Ireland, because

24 Northern Ireland is a separate Police Service where they

25 have their own issues with the press and their national

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1 an obvious conflict of interest.

2 So again, a lack of cooperacy, if you like, within 3 the Police Service I think would benefit from being

4 tightened.

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5 Q. Thank you. The governance and oversight issue and the

lack of consistency across the country we see again at

7 pages 15 and 18. You're developing there points you've

8 already made orally. Your recommendations -- and there 9

are seven of them, I think --

10 A. Six.

11 Q. Pardon me. Six core recommendations, pages 19 and 20.

12 Those are recommendations which have been generally well

received amongst your 40-plus police services throughout

14 the country; is that right?

15 A. That's right. I mean I was, I have to say, having done 16 a number of other pieces of work, extremely impressed

17 with the energy that the Police Service put around.

18 They took it very seriously. They appeared to be taking

19 the recommendations very seriously. We will know at the

end of this month what some of those products will look

21

22 MR JAY: Well, the main narrative section of the report I'm

23 going to take up with Sir Dennis O'Connor next Monday.

24 The original intention, for the avoidance of doubt -- it

25 might appear to be a bit bitty to the public -- is we

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1 press, the Northern Irish press, is based in Northern

2 Ireland along with them. I just wanted to know whether

3 you found that the Northern Ireland Police Service was

4 nearer to the Met or to one of our other regional

5 forces. Do you see the point I'm trying to get to?

6 A. Yes, I see the point entirely, which of that information

7 I don't have with me to give you, but the sense I got

8 from looking at the Police Service of Northern Ireland

response was, yeah, there are some scale similarities,

10 but the intensity that one experienced with the

11 Metropolitan Police and the media around London wasn't

the same as what we experienced on this piece of work

13 with the Police Service of Northern Ireland.

14 LORD JUSTICE LEVESON: That's interesting, because the

police may say, "Actually, you can't compare us to

16 anywhere else in England and Wales. We are the centre,

17 we are doing the highest profile operations that the

18 national press are going to be the most interested in.

19 Therefore we have to be considered a special case."

20 Nobody's quite articulated it in that way, but the

21 argument is there.

22 But a similar argument might be deployed in Northern

23 Ireland, where the Police Service in Northern Ireland

24 are responsible for the core Northern Irish policing

25 issues, and there's a national press, if you like, in

Page 80

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1	Northern Ireland, which would be focused on what the	1	(4.15 pm)
2	Police Service in Northern Ireland are doing. So one	2	(The hearing adjourned until 10 o'clock the following day)
3	might expect the same sort of issues.	3	
4	I don't know whether you've done the comparison	4	
5	A. I see the point entirely, sir. I think the difference	5	
6	for me is, because those similarities may exist, a lot	6	
7	of the turning the stone over in relation to the	7	
8	Metropolitan Police Service in this case wasn't the HMIC	8	
9	piece of work. The phone hacking with the Home Affairs	9	
10	Select Committee and all of that was pre-existing, and	10	
11	so Operation Weeting and Elveden and all these things	11	
12	were ongoing prior to HMIC being commissioned.	12	
13	So the bit that's missing from the point you're	13	
14	making, from my perspective, is we didn't have that	14	
15	richness of data with the Police Service of Northern	15	
16	Ireland, ie they got a two-day light touch, along with	16	
17	other police forces in England and Wales. So it may	17	
18	exist and we may be able to do some further work on it	18	
19	to come back to you on what that looks like.	19	
20	The bit that's missing from the Police Service of	20	
21	Northern Ireland is a level of exposure and scrutiny	21	
22	that the Metropolitan Police have enjoyed since the	22	
23	summer of last year.	23	
24	LORD JUSTICE LEVESON: Yes. I'm not sure they would agree	1	
25	with the verb you used, but if there is something in	25	
23	Page 81	23	Page 83
	1 1150 01		1 1100 00
1	relation to Northern Ireland which you think would be of	1	
2	value from what you've learnt, I'd be quite interested	2	
3	to learn about it, because that's the nearest I'm going	3	
4	to get, I think. I appreciate they've not received the	4	
5	exposure that the Met have received, and therefore the	5	
6	comparison may not be helpful, but if there is anything	6	
7	there, I'd be very interested to see it.	7	
8	A. I understand.	8	
9	LORD JUSTICE LEVESON: Thank you very much indeed.	9	
10	Mr Baker, thank you very much.	10	
11	I said in relation to Elizabeth Filkin's work, and	11	
12	I say equally in relation to the HMIC's work, that	12	
13	I appreciate that you did this for the Home Secretary	13	
14	and that's what you do, but it is tremendously valuable	14	
15	to have got this report and to be able to fit it in to	15	
16	the parameters within which I'm working, and I'm very	16	
17	grateful to you and to Sir Dennis for ensuring that the	17	
18	way in which you did the job and its structure would fit	18	
19	with what I am doing rather than create a conflict with	19	
20	it. So thank you very much indeed.	20	
21	A. Yes, sir. Thank you.	21	
22	LORD JUSTICE LEVESON: Right. So?	22	
23	MR JAY: That concludes the evidence for today.	23	
24	LORD JUSTICE LEVESON: I thought you were going to say that.	24	
25	Thank you very much. 10 o'clock tomorrow.	25	
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