

<p>1 Monday, 5 December 2011 2 (10.00 am) 3 LORD JUSTICE LEVESON: Yes, Mr Jay. 4 MR JAY: May it please you, sir, I'm going to recall 5 Mr Owens. What has been organised is that the core 6 participants will have relevant evidence on their 7 screens, which was provided to them under usual 8 conditions of confidentiality on Friday. However, 9 members of the public will not be able to see what are 10 on our screens, and indeed the room has been cleared of 11 all members of public and the press -- they're in the 12 marquee -- save for Mr Owens and Mr Aldhouse, because 13 we've taken the view that -- 14 LORD JUSTICE LEVESON: Entirely. Could I just say that 15 I intend to promulgate in writing the judgment that 16 I gave on Friday. Revising it over the weekend, it 17 occurred to me that I had not made it clear that copying 18 details would not be appropriate and that the idea at 19 the end of the Inquiry is that everything should be 20 returned to the Inquiry. 21 MR JAY: Yes. 22 LORD JUSTICE LEVESON: But I will promulgate that revised 23 ruling during the course, I hope, of today. 24 MR JAY: So may I therefore recall Mr Alec Owens, please. 25 LORD JUSTICE LEVESON: Thank you.</p> <p style="text-align: center;">Page 1</p>	<p>1 A. No, sir. 2 MR JAY: Success? 3 A. Nothing. 4 LORD JUSTICE LEVESON: Let's get somebody with technical 5 expertise to sort it out. I'll rise for a moment while 6 that happens. Sitting here probably doesn't help 7 anybody. So let's just get out and get somebody to sort 8 it out. Thank you. 9 (10.06 am) 10 (A short break) 11 (10.11 am) 12 LORD JUSTICE LEVESON: Very good. 13 MR JAY: Mr Owens -- 14 LORD JUSTICE LEVESON: Can Mr Aldhouse see a screen? 15 Well ... 16 MR JAY: Mr Owens, when you gave evidence on Wednesday, you 17 explained that original data in hard copy form seized 18 following a search on 8 March 2003 was, over the course 19 of time, put by you and your team onto various Excel 20 spreadsheets. 21 A. Yes. 22 Q. Are we looking now at about 12 icons which constitute 23 those spreadsheets and similar materials? 24 A. Yes. 25 Q. Can we just identify the nature of the material we are</p> <p style="text-align: center;">Page 3</p>
<p>1 MR ALEXANDER OWENS (on former oath) 2 Questions from MR JAY 3 MR JAY: You gave an affirmation or oath on Friday. You're 4 still under that. 5 A. Yes. 6 Q. I'm going to ask for the various files by way of icons, 7 if they could be put up on the screen, please. 8 TECHNICIAN: You should have them, Mr Jay. 9 MR JAY: They're not on mine. Is there a button we need to 10 press? 11 LORD JUSTICE LEVESON: Have you turned the screen on? 12 MR JAY: Have they come up on your screen? 13 A. No. 14 MR JAY: Are they on anybody's screens? 15 MULTIPLE SPEAKERS: Yes. 16 LORD JUSTICE LEVESON: And mine. Have you turned it on? 17 MR JAY: Yes. 18 LORD JUSTICE LEVESON: The possibility is that you are 19 governed by the same ... 20 MR JAY: Ah, thank you. 21 LORD JUSTICE LEVESON: I'm very grateful. Thank you. 22 MR JAY: The next thing is whether I can operate it from my 23 mouse, which I think I can. 24 A. I'm still blank, sir. 25 MR JAY: We're not okay.</p> <p style="text-align: center;">Page 2</p>	<p>1 looking at? The icons entitled Green Book, Red Book, 2 Blue Book and Yellow Book, are they the Excel 3 spreadsheets of data extracted from different coloured 4 notebooks which were seized? 5 A. Yes. 6 Q. And these are the notebooks which I now have in front of 7 me? 8 A. Yes. 9 Q. If you look then at the files described compendiously as 10 RP9, RP15, et cetera, are those the invoices sent by 11 Mr Whittamore, trading as JJ Services, to various 12 newspapers? 13 A. Part of those are, yes. 14 Q. And then the JJ Services invoices 1 and 2 spreadsheets, 15 are they the invoices or remittances paid by the 16 newspapers to Mr Whittamore, trading as JJ Services? 17 A. They are, sir, yes. 18 Q. Then to open one of the books at random -- maybe the 19 Blue Book. Let's hope that -- 20 A. Just double click on it. 21 Q. What I'm going to do is just identify the columns 22 without asking you to comment further. I'm not going to 23 ask you to name any newspapers since I'm just doing this 24 for illustrative purposes. Column A is the newspaper 25 group?</p> <p style="text-align: center;">Page 4</p>

<p>1 A. It is.  2 Q. B is the newspaper within the group. C and D are the  3 journalist's name, first name and last name.  4 A. Yes.  5 Q. Column E is the service requested. You told us quite  6 a lot about this last time, Mr Owens, but we can see  7 there various types of service. There's the area  8 search, where you're identifying where someone lives  9 within a particular area --  10 A. That's correct, yes.  11 Q. Then the occupancy search. You're identifying who lives  12 at a particular address; is that right?  13 A. Like a voter search, yes.  14 Q. The vehicle registration -- well, that one is  15 self-explanatory. The "XD", of course, is ex-directory.  16 Mobile conversion is deriving an address from a mobile  17 number?  18 A. Yes.  19 Q. Conversion, or "conv", is an address from a landline?  20 A. That's correct.  21 Q. "F and F" is friends and family and "DIR" -- we don't  22 see any of those on this screen but I've seen some -- is  23 a directors search?  24 A. That's correct, sir, yes.  25 Q. If we scroll further to the right, you see the</p> <p style="text-align: center;">Page 5</p>	<p>1 Q. You get the fruits of the search f that is the right way  2 of describing it, under O to Q.  3 A. Yes, that would be the VRM, the colour and the make.  4 Q. I'm having difficulty getting this to work. I think  5 it's fallen to sleep. Just hold on.  6 A. If I can suggest, sir, if you just click onto one of the  7 names and then use the arrows at the bottom to go up and  8 down and across, it makes it a lot easier.  9 Q. It's working now. You can see the details: the  10 registration mark and the colour of the vehicle. It's  11 probably all the information you can obtain.  12 There are also various comments, in particular AA.  13 A. You've gone past that.  14 Q. I know I have.  15 A. Yes.  16 Q. Where are these comments derived from?  17 A. They were from the original books.  18 Q. From the original books?  19 A. Yes.  20 Q. Thank you. I'm going to alight on three entries in the  21 Blue Book. First of all, row 693. Just bear with me,  22 Mr Owens. If I use the right-hand scrolling function,  23 I will lose control. This is just for purposes of  24 illustration. You can see there this was a particular  25 search. 693 is a vehicle registration search?</p> <p style="text-align: center;">Page 7</p>
<p>1 information getter's name, which is H and I.  2 A. Yes.  3 Q. I think we can name the first of these because I don't  4 think it's his real name. Taff Jones. Do you see that?  5 A. Yes.  6 Q. You mentioned him on Wednesday. Is he the blagger that  7 Mr Whittamore used in relation to British  8 Telecommunications?  9 A. He was very professional obtaining their telephone  10 numbers from the various telephone companies.  11 Q. Was that limited to BT?  12 A. No, it was across the board, many companies.  13 Q. Okay. I'll ask you a bit more about him later on?  14 A. If it assists you, sir, that next name is actually Data  15 Research Limited, which has been named.  16 Q. Okay. Now, the subject names -- I'm going to be very  17 careful with these because some or all of these are  18 confidential. The subject, of course, is the target,  19 isn't it?  20 A. It is, yes, sir.  21 Q. And to see how these play through -- I'm having  22 difficulty getting it to scroll to the right, but  23 I think I'm going to manage. If you look at row 15,  24 that's a vehicle registration search?  25 A. It is, yes.</p> <p style="text-align: center;">Page 6</p>	<p>1 A. It is, yes.  2 Q. There's also a phone number there. If one goes to the  3 book itself -- it's not so clear, really, from the  4 document, but the corresponding entry in the book  5 relates to a telephone number in Glasgow and then it  6 says:  7 "Specific calls from another phone number."  8 The area code is 01382. I'm not going to read out  9 the whole number. The request was for specific calls  10 from that phone number between 6 and 7 in the evening,  11 the date requested is not clear and the price was £300  12 to £400. Do you know how you would obtain that sort of  13 information?  14 A. I can only guess -- and I think it's an educated  15 guess -- they've actually got the whole of the  16 subscriber's telephone bill, the subscriber's list, what  17 calls they've made during that evening or during those  18 times, and that would only be possible from the phone  19 company.  20 Q. That's the inference --  21 A. Yes, that's the way I would look at it.  22 Q. I'm looking now at row 711. We can see the surname  23 under --  24 A. 71 -- oh, yes.  25 Q. I'm not going to ask you to tell us what it is unless</p> <p style="text-align: center;">Page 8</p>

<p>1 I'm told that I can refer to it.  2 A. Yes, that's fine.  3 Q. It's for Mr Sherborne to tell me whether he as an  4 objection. No? Okay, I'm not going to refer to the  5 name. You can see the first name is under L. Do you  6 see that?  7 A. Yes.  8 Q. No need to read them out. Can you help us a little bit  9 more about the request. What was being sought here?  10 A. Right. Certainly the orange-coloured one would be an  11 earlier search trying to find out where that named  12 person or those named people -- which area they lived  13 in.  14 Q. Yes.  15 A. The blue ones underneath, they would relate to the  16 actual address, voter's check of the same people.  17 Q. Thank you. So that's the coding you're using on this --  18 A. That's the colour-coding as the -- it was done.  19 Q. Okay.  20 A. If we go down, I think, just below that, you'll see  21 ex-directory numbers for the two of those.  22 Q. There are two ex-directory numbers as well, are there?  23 A. Just underneath them, the blue coding.  24 Q. Let's see if we can find those.  25 A. There they are. They're the yellow ones. That's the  Page 9</p>	<p>1 Q. We will see that in the narrative. I saw that, of  2 course, over the weekend. We can see that in column E.  3 And the targets --  4 A. Are named, first names and surname.  5 Q. Yes, and it cost £500?  6 A. On that particular line, it's got "successful", £500.  7 Q. Yes. I'm going to close this file and go to the Green  8 Book. The methodology is exactly the same, isn't it,  9 Mr Owens?  10 A. Yes.  11 Q. I want to find row 880. I'll be told whether there's  12 a difficulty with the name here. There may not be on  13 this occasion. Maybe it would be quicker if the  14 technician were to do this for me. I want to scroll to  15 the left. Exactly, thank you very much. Back to the  16 left, please. That's lovely. Right, if you stop there.  17 It's one of the witnesses who gave evidence.  18 Mr Sherborne will tell us whether there's a problem, but  19 what this shows is an occupancy search and two  20 ex-directory searches.  21 A. Can I just ask, whatever the technician's done, he's  22 altered the colour so I can only see the first entry.  23 Q. It should be a light blue.  24 A. Yes, that's an occupancy search.  25 Q. Also I think there are two ex-directory searches in the  Page 11</p>
<p>1 ex-directory numbers for the addresses as listed above.  2 Q. We're looking at --  3 A. There's -- yeah.  4 Q. It's the yellow, is it?  5 A. Yes, if you just go further along, you'll see a name  6 there at the beginning. That's the -- no, the other  7 way.  8 Q. Okay, my apologies.  9 A. That's the name of another private detective that  10 actually obtained them, and they are the two  11 ex-directory numbers for those addresses.  12 Q. Thank you very much. If we go finally in this book to  13 row 1014, we will see that it's a criminal record check.  14 I'm not going to spend further time on it.  15 LORD JUSTICE LEVESON: Just try once more, Mr Jay.  16 MR JAY: I'm getting slightly frustrated with it.  17 LORD JUSTICE LEVESON: I understand that. Try and move up  18 the bar.  19 MR JAY: All right.  20 LORD JUSTICE LEVESON: There you are. You've done it.  21 MR JAY: Right.  22 A. Yes.  23 Q. We'll have to scroll further along, won't we? What is  24 the green code?  25 A. The green code is CRO, criminal records check.  Page 10</p>	<p>1 yellow?  2 A. Yes.  3 Q. At 881 and 882.  4 A. Yes.  5 Q. Then there's an associated individual --  6 A. Yes.  7 Q. -- at 803.  8 A. That's an occupancy search followed by ex-directory  9 search, telephone number.  10 Q. Thank you. That cross-references with some evidence  11 that we heard. But to be clear, the ex-directory  12 searches were for landlines, not mobile phones?  13 A. You'd have to go back and let me have a look.  14 Q. We saw there ex-directory --  15 A. That's all ex-directory (inaudible), but if you go back  16 to --  17 Q. So we have to go all the way to the left to see the  18 phone numbers?  19 A. I'll tell you whether it's a landline or a mobile. Yes,  20 they're landlines.  21 Q. We can see the part of the country.  22 Okay, now the Yellow Book. Towards the end of the  23 book, we have members of our national team. Not  24 necessary to say which but it will be fairly obvious.  25 2002, a whole load of ex-directory searches. There's  Page 12</p>

3 (Pages 9 to 12)

<p>1 one interesting line at 5798, again, without identifying 2 the paper. I don't know whether you can help me to get 3 to row 5798. 4 A. That's it. 5 Q. If we go to the far right, column AA -- hold on. 5798. 6 The request is: 7 "Phone bill for June 2001." 8 And the price was £800? 9 A. That's what it's got on there, yes. 10 Q. But without knowing more about what the purpose was 11 behind this request, we can't take it further, can we? 12 A. The only thing I can say about that one is Whittamore 13 did that himself, because that is a blag, as we put it, 14 wherever it's white. I think -- could I ask you to go 15 to the far end? There might be some reference where 16 Whittamore's actually phoned up the telephone company 17 himself and got it. If you could go right to the end. 18 LORD JUSTICE LEVESON: The far right or far left? 19 A. The far right as you're looking at the screen and just 20 go back a bit. Little bit more. 21 MR JAY: There's the information-getter column, isn't there, 22 which we saw. I think it's a bit further to the left. 23 A. If it's white, Whittamore's done it himself, but he 24 hasn't -- he normally puts down "such-and-such a blag" 25 along the line, but he hasn't on that one.</p> <p style="text-align: center;">Page 13</p>	<p>1 Q. If we can go a little bit further down, however, to row 2 6603, where we have a number of -- 3 A. Family and friends. 4 Q. Is that the magenta or a violet? 5 A. Yeah. That's the colour-coding for family and friends. 6 Q. It's clear from the original book that there was 7 a landline number. It then says: 8 "F &amp; F on T-P." 9 Presumably that's telephone? 10 A. Telephone, yes. 11 Q. Then you can see ten family and friends' numbers -- 12 A. Can you scroll up a bit, please? 13 Q. -- which we with see under column G. 14 A. I can only see four. You'll have to scroll up a little 15 bit more. No, scroll up, please. That's it. Keep 16 going. That's it. 17 Q. We can see them all there. The mobile number under F is 18 the mobile number which had already been obtained? 19 A. In fact, you can still see it above there, where it's 20 been obtained, and then it's obviously appeared on the 21 list of family and friends of whoever that number would 22 be, the main number belongs to. 23 Q. That's correct, and there's also a 0041 number, which 24 may be Switzerland. It doesn't really matter. 25 To the right, it says:</p> <p style="text-align: center;">Page 15</p>
<p>1 Q. Okay. As I said, we can't begin to take that further -- 2 A. No. 3 Q. -- without knowing more about what the purpose was 4 behind it. 5 Can we look, please, at row 6593. Thank you. This 6 starts off as being a mobile conversion search and an 7 occupancy search. 8 A. Can you go right over to the left, because you go up to 9 row F here. I need to go to row C. 10 Q. Okay, so we can scroll ... 11 A. That's it. 12 Q. We take 6593 and 65949 together. 6593 is the mobile 13 conversion? 14 A. Yes. 15 Q. And 6594 is the occupancy, but there's a mobile number 16 there? 17 A. Yes. 18 Q. If one looks at the entry in the Yellow Book itself, it 19 reads "Mob Conv", then a telephone number, then 20 underneath that "Occ". Then it says: 21 "Cancelled by charged." 22 An address is given in brackets. Do you know what 23 "cancelled but charged" means or why it might have been 24 included here? 25 A. No.</p> <p style="text-align: center;">Page 14</p>	<p>1 "Charge £500." 2 And then: 3 "£100 for Taff agreed." 4 It's unclear for that whether the £500 is for all 5 ten numbers or for each number, but it may well be for 6 all ten numbers. 7 A. It could be. We can't be -- 8 LORD JUSTICE LEVESON: A name and then a price? 9 MR JAY: That's right. 10 You can't help us under column AB, above the -- 11 because the inference you drew at the time, if you look 12 at columns AA and AB, is that it was £500 for each 13 family and friend. 14 A. That's what it looked like when it came out on this 15 disk, but actually it's just one entry, £500, and it's 16 "£100 agreed for Taff", so we can't say whether it's 17 £500 or £5,000. 10 at £500, I mean. 18 Q. Although we do know that British telecommunications 19 allow you 10 family and friends' numbers. It's been 20 their policy for as long as I can remember. 21 A. Yes. 22 Q. Under column AB, we see a 20 and a 22. We don't know 23 what those are. They might or might not be the ages of 24 the individuals concerned. As it happens, if they are, 25 the ages are not quite right, according to my research.</p> <p style="text-align: center;">Page 16</p>

4 (Pages 13 to 16)

<p>1 That's probably as far as we could take that one.  2 Sorry, I've missed out one point. If we could go  3 back to the yellow and row 146 to 156. 146, sorry. Go  4 right up.  5 Thank you. 146 concerns a newspaper which isn't in  6 this jurisdiction. There's certainly one CRO search  7 there, isn't there?  8 A. Yes.  9 Q. Then there's an area search and occupancy search?  10 A. Yes.  11 Q. But if you look further down at 152 to 153, there's  12 a mobile conversion?  13 A. Yes.  14 Q. And then between 156 and 165 there are a series of  15 searches?  16 A. Yes.  17 Q. Ex-directories, occupancies?  18 A. All in the same name, yes.  19 Q. And all in the same name. Okay.  20 We'll move now to the Red Book. Go straight to row  21 1281. The reason why I'm doing this is it  22 cross-references with evidence we have heard. Nearly  23 there. Right. Can we scroll to the right, please? We  24 see some names under N.  25 A. Yes.</p> <p style="text-align: center;">Page 17</p>	<p>1 are the invoices out to the newspapers?  2 A. Yes, yes.  3 Q. They're put together in a fairly similar way, if not  4 quite the same way, as --  5 A. If you could scroll to the left so I can -- thank you.  6 Q. -- the books themselves.  7 A. Right, yes.  8 Q. We can see the methodology. The newspapers, the person  9 who is to be invoiced within the newspaper, the service  10 requested -- well, H is the date of the work, which we  11 haven't covered before. The service requested is I.  12 "Confidential enquiries", we see. Could you help us  13 a bit about those?  14 A. Not really. They were -- that's what they were,  15 confidential enquiries. That's all we -- we got some  16 hints off the comments mark in some of them. But no, in  17 the main it was just "confidential enquiries".  18 LORD JUSTICE LEVESON: That's the words written in the book?  19 "Confidential enquiries"?  20 A. Yes. Obviously we'd -- he wouldn't tell us and we never  21 got an opportunity to ask any members of the press what  22 they might have been.  23 MR JAY: If one goes to column AE, the "Additional  24 comments", one can see this in relation to some  25 confidential enquiries quite a lot further down.</p> <p style="text-align: center;">Page 19</p>
<p>1 Q. Is there a problem mentioning these? I'm told there is  2 no problem mentioning these. The surnames or last names  3 are Grant and Hurley.  4 A. Correct.  5 Q. I have the original open in front of me. There was an  6 area search for both Grant and Hurley?  7 A. Yes.  8 Q. South of the river, if I can put it in those terms.  9 Then there's a vehicle registration search. Could you  10 tell us a little bit about that because I know you  11 investigated that?  12 A. Yes. Basically we went to see Mr Grant at his offices  13 because a number -- a VRM, vehicle registration mark,  14 comes up against his name. As it turned out, he  15 couldn't recall it and possibly thought he may have been  16 seen in -- it may be a friend's car he's been seen in or  17 was talking to somebody standing by that car, but he  18 personally couldn't remember the car itself.  19 Q. Yes, fair enough. Were there any telephone numbers,  20 including mobile numbers, relating to Mr Grant?  21 A. I -- I'd have to check the books but I don't think so.  22 There may have been.  23 Q. There are none I've been able to see.  24 A. Okay.  25 Q. To close this file and move now to RP9 and RP15. These</p> <p style="text-align: center;">Page 18</p>	<p>1 A. I think you've gone past it.  2 Q. I thought it was 1813. We see a series of  3 confidential -- those are the 49 --  4 A. I think if you go back to where you were, sir, the  5 confidential enquiries.  6 Q. I think my note may be incorrect. It was quite a lot  7 higher up, wasn't it, Mr Owens? Let me keep column AE  8 in sight.  9 A. Okay.  10 Q. Right. And just scroll up.  11 A. Where you are at the moment is actually referring to all  12 the ex-directory numbers that were obtained. There we  13 go. That's it.  14 Q. These are some annotations. We see reference to some  15 blags.  16 A. Yes, where his company (inaudible) individuals. But  17 most of the comments are contained in invoices, too.  18 There's an awful lot of references to comments there  19 which you could possibly associate with a story that was  20 in the press.  21 Q. We get some idea of the costs of each service from  22 column AG.  23 A. Yes.  24 Q. See if we can summarise this, since I've looked at this  25 carefully. The price for an occupancy search appears to</p> <p style="text-align: center;">Page 20</p>

<p>1 be £17.50 --</p> <p>2 A. That's correct, yes.</p> <p>3 Q. -- in general. The price of an area search is £30?</p> <p>4 A. Yes.</p> <p>5 Q. The price for an ex-directory search varies a bit, but</p> <p>6 it's around £75?</p> <p>7 A. That's correct.</p> <p>8 Q. Confidential enquiries usually have a special price?</p> <p>9 A. They can be anything.</p> <p>10 Q. The mobile conversion is £75?</p> <p>11 A. Correct.</p> <p>12 Q. The vehicle registration search costs anything in</p> <p>13 between £150 to £200.</p> <p>14 A. It went up. It was £150 to Whittamore. It went up to</p> <p>15 200 when, shall we say, the DVLA source was neutralised,</p> <p>16 because somebody else was doing it then.</p> <p>17 Q. Thank you. From row 1070, we have a series of searches</p> <p>18 which are all described as "occupancy" under column I,</p> <p>19 but were charged out at £40.</p> <p>20 A. Yes, this was --</p> <p>21 Q. You heard me say that the occupancy was £17.50. Here we</p> <p>22 are. We can see them now. What do you think or what do</p> <p>23 you know those to be?</p> <p>24 A. I know they're all ex-directory numbers. They were</p> <p>25 bundles of what I'd call documents he was going to hand</p> <p style="text-align: center;">Page 21</p>	<p>1 whether there are any interesting comments there. Yes,</p> <p>2 we are seeing some, I think. There's quite an</p> <p>3 interesting one at 1816.</p> <p>4 A. B&amp;B Sex Party.</p> <p>5 Q. Just gives us a flavour. Of course, we have no idea</p> <p>6 whether any of this ever found its way into stories. So</p> <p>7 a veritable treasure trove of information in all these</p> <p>8 files.</p> <p>9 What I've done over the weekend, Mr Owens, is check</p> <p>10 the electronic Excel files for the green, red, blue and</p> <p>11 yellow books respectively against the originals of the</p> <p>12 books, and the spreadsheets are borne out by -- it would</p> <p>13 be wrong to say an analysis of every entry in the books,</p> <p>14 but certainly dipping into numerous entries.</p> <p>15 A. Yes, sir.</p> <p>16 Q. What I haven't been able to do is cross-reference</p> <p>17 entirely or really significantly the audit trail through</p> <p>18 from, say, the Blue Book back into the RP19 and RP15</p> <p>19 files and then into the JJ invoices 1 and 2 files.</p> <p>20 A. We managed to do that, but over much more than</p> <p>21 a weekend.</p> <p>22 Q. Yes, okay. Thank you, Mr Owens. I'm going to ask you</p> <p>23 now, please, if you can bring to hand a file which</p> <p>24 contains various legal advice.</p> <p>25 LORD JUSTICE LEVESON: Has that concluded the work in</p> <p style="text-align: center;">Page 23</p>
<p>1 in to his accountant for tax purposes, so he couldn't</p> <p>2 exactly put "XD" next to each one, so he just put</p> <p>3 "occupancy" there. If you go right to the other end,</p> <p>4 you'll see it's our friend Taff Jones, the expert in</p> <p>5 phone work, getting phone numbers, that he was paying it</p> <p>6 to, but they were more or less tax forms that he was --</p> <p>7 Q. Okay. Looks as if one's getting a discount for quantity</p> <p>8 because it's down from the £75.</p> <p>9 A. No, that's what he paid to Taff.</p> <p>10 Q. Pardon me.</p> <p>11 A. Then he would charge the press £75.</p> <p>12 Q. Thank you, Mr Owens.</p> <p>13 A. So he'd make £35 on every transaction.</p> <p>14 Q. Now the JJ Services invoice number 2 -- there's a mass</p> <p>15 of data on this. I'd quite like to scroll so I can see</p> <p>16 the columns. Here we go. It's fairly similar, isn't</p> <p>17 it, Mr Owens --</p> <p>18 A. Yes, very similar.</p> <p>19 Q. -- to the previous --</p> <p>20 A. When you were saying before about comments, this</p> <p>21 particular document has most of the comments that you</p> <p>22 would associate with a newspaper story.</p> <p>23 Q. Yes. Let's see whether that is borne out. I think it</p> <p>24 will be. I imagine I might have noted my papers in the</p> <p>25 wrong place. Let's have a look at row 1813 and just see</p> <p style="text-align: center;">Page 22</p>	<p>1 relation to this schedule?</p> <p>2 MR JAY: It does.</p> <p>3 LORD JUSTICE LEVESON: Is there any reason why we shouldn't</p> <p>4 now open up the proceedings so that those who are not in</p> <p>5 this room can see any document that is exhibited?</p> <p>6 MR JAY: There is no reason unless a core participant wishes</p> <p>7 matters to be explored as a result of the evidence I've</p> <p>8 adduced from Mr Owens. I've received no notification</p> <p>9 that there are --</p> <p>10 LORD JUSTICE LEVESON: Well, does anybody want to raise any</p> <p>11 question which will require us to look again at these</p> <p>12 books which contain extremely confidential information?</p> <p>13 MR JAY: Well, the question I'm asked to put can be posed</p> <p>14 when the public is back in this room.</p> <p>15 LORD JUSTICE LEVESON: All right.</p> <p>16 MR JAY: I think we can therefore close these files, please,</p> <p>17 and perhaps pause for a minute or two to see whether</p> <p>18 there are people waiting outside.</p> <p>19 LORD JUSTICE LEVESON: Yes. I'm keen to admit the public to</p> <p>20 this room and to open up the document screens to the</p> <p>21 other room as soon as possible. Is that going to take</p> <p>22 a couple of minutes?</p> <p>23 TECHNICIAN: It will, sir. We'll have to have technicians</p> <p>24 to do it.</p> <p>25 LORD JUSTICE LEVESON: Right. I think we'll do that so that</p> <p style="text-align: center;">Page 24</p>

6 (Pages 21 to 24)

<p>1 we've kept people out of the full detail for as limited 2 a period of time as possible. 3 I'll rise a moment while that is done. Thank you. 4 (10.51 am) 5 (A short break) 6 (10.56 am) 7 LORD JUSTICE LEVESON: Mr Jay, before you carry on, it 8 perhaps is worthwhile just summarising that which you've 9 just done, which for those who didn't have access to the 10 data on screen must have been extremely difficult to 11 follow. 12 It's abundantly clear, looking at the electronic 13 records, which you've checked against the actual 14 documents, that Mr Whittamore had collected together 15 a vast amount of personal data. The documents identify 16 the names of titles and specific journalists at the 17 titles apparently or inferentially making the request. 18 It identifies the names of people from a wide range of 19 public life and in the public eye, and provides 20 addresses, telephone numbers, mobile telephone numbers 21 and charging details for that information. It's not 22 necessary to go into the identity of the individuals, 23 save and except as you did in relation to Mr Grant, 24 because of course a question was asked of him which 25 created some doubt as to whether he had been shown</p> <p style="text-align: center;">Page 25</p>	<p>1 put on the screen and you'll see it. 2 A. Oh, yes, okay. Yes, that's correct. 3 Q. I'm going to read out salient parts. It's a conference 4 to discuss Operation Motorman and the instructions to 5 counsel which have been sent. Can we look at Taff 6 Jones, which is at the very bottom: 7 "With regard to Taff Jones, he obtains BT 8 ex-directory definitely numbers." 9 Is that information you obtained, Mr Owens? 10 A. Yes. That was found amongst the papers and later 11 confirmed by Taff Jones himself. 12 Q. Did you interview him? 13 A. Yes. 14 Q. "He explained that Taff Jones is a biker and an 15 ex-soldier. The method he uses is by ringing from 16 mobile phone numbers, which he changes every three 17 months or so. There is one phone number with telephone 18 billing contacting Whittamore and billing in reverse, 19 Whittamore to Jones." 20 So taking that in stages, who is he ringing from his 21 mobile phone numbers? 22 A. He's using the -- he -- normally BT or whichever phone 23 company, purporting to be an engineer and getting the 24 information he wants. And then, after he's got the 25 information, he would ring Whittamore and pass him the</p> <p style="text-align: center;">Page 27</p>
<p>1 information from this particular investigation -- it's 2 clear that he was -- but it's not necessary otherwise to 3 identify titles or names and certainly not necessary to 4 identify the persons who were the targets of enquiry. 5 In relation to some of them, it is absolutely right that 6 there may well be a public interest justification in the 7 enquiry. In relation to others, however, it is 8 difficult, if not impossible, to see what public 9 interest justification there could be. 10 MR JAY: Thank you, sir. 11 LORD JUSTICE LEVESON: Do you dissent from that summary? 12 MR JAY: No. 13 LORD JUSTICE LEVESON: Thank you. 14 MR JAY: Mr Owens, I'm asked to pose this question to you: 15 do you know how far back in time the books go? 16 A. I think the earliest entry we found in the documents 17 would be about 1997, but it's my guessing that the books 18 stretch from about the end of 2000 to the start of 2003. 19 Q. Mr Owens, do you recall going to see counsel in 20 Birmingham on 3 October -- 21 A. I did, yes. Down in Birmingham, yes. 22 Q. We have an attendance note of that conference. The last 23 five numbers are 48710. 24 A. I'm sorry, could you tell me what the tab is? 25 Q. It might be tab 2 in front of you, but it's going to be</p> <p style="text-align: center;">Page 26</p>	<p>1 details that he's asked for. 2 Q. Thank you? 3 A. So it's between the telephone companies and Whittamore, 4 those particular phones. 5 Q. If we go to the next page, which is 48711, we'll learn 6 some more at the top of the page: 7 "It is clear, however, that he uses EIN numbers (an 8 EIN number is a number given to a BT employee and has an 9 8 as the prefix) ..." 10 So it's a form of password; is that right? 11 A. Yes. 12 Q. "... in order to pretend to be an engineer to provide 13 this EIN number on which there are no checks made." 14 A. That's correct, yes. 15 Q. Again, did you deduce that from the papers you seized -- 16 17 A. Correct, yes. 18 Q. -- and interviewing Mr Jones? 19 A. Yes, sir. 20 Q. Then it carries on: 21 "Data Research Limited were the subject of the 22 search warrant executed by Devon and Cornwall Police on 23 which [you] attended on behalf of the 24 Information Commissioner. As part of the documentation 25 to which there is an assertion the privilege, another</p> <p style="text-align: center;">Page 28</p>

7 (Pages 25 to 28)

<p>1 document found was a blaggers manual."  2 A. Yes.  3 Q. "The use of EIN numbers, a method of obtaining  4 information links, was in it. Currently there is no  5 evidence to link Jones to particular mobile phones,  6 although Roy is able to say that he has phoned him on  7 one of the numbers."  8 A. Yes, that's correct.  9 Q. We can look then under the heading "Gunning". We can  10 see further information in relation to area searches,  11 but let's look at what counsel advised under his name  12 with regard to the prosecution of the press. This is  13 what he said:  14 "Although there is evidence to support  15 a prosecution, a prosecution would not be considered  16 favourable because of the financial aspect."  17 A. Yes.  18 Q. Put in other terms, what was he saying there?  19 A. Basically said it would be too expensive.  20 Q. Yes. Then counsel asked if there was any way in which  21 friends and family details could be lawfully obtained  22 and there is not?  23 A. No.  24 Q. Had you carried out any enquiries to ascertain that?  25 A. Well, obviously we'd spoken to BT and asked them and</p> <p style="text-align: center;">Page 29</p>	<p>1 has been waived by the ICO. It bears the number 48716.  2 A. Yes.  3 Q. This is advice that counsel gave, I think, on  4 22 December 2003, which was now nine months after the  5 research, wasn't it, Mr Owens?  6 A. December would be nine months, yes.  7 LORD JUSTICE LEVESON: So just let's understand this. This  8 is a barrister who has been instructed by solicitors  9 acting for the Information Commissioner to advise on the  10 material that you've obtained in relation to a potential  11 prosecution?  12 A. Yes, sir.  13 LORD JUSTICE LEVESON: So his opinion is his opinion and  14 there's a value for that purpose but none other. It's  15 to help the Information Commissioner make a decision?  16 A. That's it, yes.  17 LORD JUSTICE LEVESON: Right.  18 MR JAY: In paragraphs 2 to 4 of the advice, if I can  19 summarise it, he was saying effectively there's enough  20 evidence to allege a conspiracy to contravene Section 55  21 of the Data Protection Act and the parties to the  22 conspiracy, at least at that stage, were going to be  23 Messrs Whittamore and Dewes, although we know  24 subsequently that four individuals were on the charge or  25 on the indictment relating to that conspiracy.</p> <p style="text-align: center;">Page 31</p>
<p>1 they've said, "Not unless you know the people or you're  2 one of the friends or family who might know them", but  3 trying to get that sort of information had to be  4 illegal.  5 Q. Yes. Did you make similar enquiries of DVLA at Swansea?  6 A. Well, yes, obviously we dealt with Swansea quite a bit.  7 But there are legal ways of getting numbers -- or  8 person -- the owner's details from Swansea, but that's  9 conditional. It's -- you write in, pay a fee, but it  10 has to be on one of their special reasons.  11 Q. Yes. We've done some research on that and can submit  12 a note together with policy advice from Swansea, which  13 supports what you're saying.  14 A. Yes.  15 LORD JUSTICE LEVESON: In other words, if you've had an  16 accident with car that's driven off and you've got the  17 registration number, then that would be a reason to  18 get --  19 A. I've done it myself when my daughter had an accident.  20 Well, a car hit her when she was on the -- a nightclub  21 car park, and the police couldn't help because it wasn't  22 on the road. So that would be a legitimate request.  23 MR JAY: Yes. That's clear.  24 I'm going to ask you, please, to look at counsel's  25 written advice, which is under tab 4, which privilege</p> <p style="text-align: center;">Page 30</p>	<p>1 I really want to turn to the second page, under the  2 heading "Journalists". This is 48717. This is what  3 counsel says:  4 "Having regard to the sustained and serious nature  5 of the journalistic involvement in the overall picture,  6 there can be little doubt that many, perhaps all, of the  7 journalists involved have committed offences."  8 A. Yes.  9 Q. I don't think he should be interpreted as saying that in  10 relation to each and every request, each and every  11 journalist will necessarily have committed an offence.  12 He's not going that far?  13 A. No.  14 Q. Then he says -- and it's true it's only counsel's  15 inference from his reading of the papers:  16 "The inference, overwhelming, it seems to me, is  17 that several editors must have been well aware of what  18 their staff were up to and therefore party to it."  19 Really, I'm introducing this for the next paragraph:  20 "I understand that policy considerations [it should  21 say] have led to their view [it should be 'the view']  22 that enforcement of some sort rather than prosecution is  23 the way forward in respect of the  24 journalists/newspapers."  25 A. That's what it says, yes.</p> <p style="text-align: center;">Page 32</p>



<p>1 Q. That sentence may well be consistent with what you were 2 telling us on Wednesday, Mr Owens, but apart from the 3 meeting you say took place in mid-March 2003, is there 4 any further light you can throw on that sentence? 5 A. The meeting which took place in mid-March? 6 Q. This is the meeting which you told us took place 7 involving Mr Thomas and Mr Aldhouse. Do you remember 8 that? A week or so after the raid, which was on 9 8 March. 10 A. Oh yes. Nothing, really, apart from basically what I've 11 already said, the fact that I -- it was my suggestion 12 that we go up and down, right the way to the top and 13 right the way to the bottom, and the evidence was there, 14 when Mr Aldhouse said -- made those comments that he 15 did, that they're too big for us to take on. 16 Q. Whatever conclusions can be drawn from that sentence, we 17 can draw them. What counsel goes on to say: 18 "I understand and sympathise with that approach. 19 This is, I believe, the first occasion upon which the 20 scale of the problem has come to light and it may not be 21 unreasonable to give the Press Complaints Commission the 22 chance to put their house in order." 23 A. That's what he's put. That's Mr Thorogood, I think. 24 Q. We'll see whether that's reflected on Friday by 25 documentation which has already been made available.</p> <p style="text-align: center;">Page 33</p>	<p>1 Q. Yes. Okay, I'm not going to comment further on that. 2 It speaks for itself. 3 Mr Owens, is there anything else you would like to 4 say? You have expanded on the evidence you've given on 5 Wednesday, we've cross-referenced some of that evidence 6 with documents which are available, we've seen the 7 underlying material now, and can draw the appropriate 8 conclusions. Is there anything else -- 9 A. No, I think everything's been covered, sir. 10 MR JAY: Thank you very much. 11 LORD JUSTICE LEVESON: Thank you very much for coming back 12 Mr Owens. 13 A. Thank you. 14 MR JAY: I'm moving on now to Mr Aldhouse. 15 LORD LEVESON: Very good. 16 A. Do you want me to move these? 17 LORD JUSTICE LEVESON: Probably just leave them there and 18 we'll see. 19 MR JAY: Mr Aldhouse, if I could invite you to come forward, 20 please. 21 MR FRANCIS GEORGE BODEN ALDHOUSE (sworn) 22 Questions from MR JAY 23 MR JAY: Mr Aldhouse, I invite you to make yourself 24 comfortable and then to provide us with your full name. 25 A. I'm Francis George Boden Aldhouse.</p> <p style="text-align: center;">Page 35</p>
<p>1 Then counsel says: 2 "However, the evidence of involvement [it should 3 read 'is significant'] and often unpleasant offending 4 is, in my opinion, clear enough in very many cases. You 5 would be appropriate to caution identified journalists 6 and their editors. I doubt whether a formal caution 7 would be accepted as such but informal cautioning by 8 letter with a suitable selection of (heavily edited) 9 evidence attached should achieve the aim." 10 Of course, by that point no journalist had been 11 interviewed. 12 A. No, this -- if you're talking about this being 13 in December, we were stopped from interviewing them 14 in April/early May at the very latest. 15 Q. Yes then his final shot: 16 "Those defending in the prosecution might seek to 17 make capital from the fact that the journalists are not 18 being prosecuted. The judge might also comment on the 19 basis that the journalists are the ones (it seems) who 20 created the demand for this offending. With this in 21 mind, it is a sensible precaution to equip me at some 22 point before trial with the detail of the reasoning not 23 to prosecute. I may need to explain or even defend the 24 decision to the judge." 25 A. That's what it says there, yes.</p> <p style="text-align: center;">Page 34</p>	<p>1 Q. You've provided us, Mr Aldhouse, with a short witness 2 statement which is dated 16 November this year. Is that 3 right? 4 A. That's right. 5 Q. You've signed the statement and verified its truth. Is 6 this your evidence? 7 A. Yes, it is. 8 Q. Can I ask you, please, about yourself, first of all, 9 Mr Aldhouse. You are a solicitor by training; is that 10 correct? 11 A. That's right. 12 Q. And you, in December 1984, became the deputy to the 13 first data protection registrar; is that right? 14 A. That's right. 15 Q. Is the data protection registrar more or less the 16 forerunner or the then incarnation of the 17 Information Commissioner under the 1984 Act? 18 A. The then incarnation I suppose is the right way of 19 putting it because it's the same office. They just 20 changed the name by statute. 21 Q. Right, and what happened was the Data Protection Act 22 1998 came into force on 1 March 2002 to bring domestic 23 law in line with the European directive and at that 24 point you became the deputy -- is this correct -- to the 25 Information Commissioner?</p> <p style="text-align: center;">Page 36</p>

<p>1 A. That's right.</p> <p>2 Q. And you stayed as such until your retirement -- is this</p> <p>3 correct -- on 13 January 2006?</p> <p>4 A. That's correct.</p> <p>5 Q. Can I ask you a general question, please, about the</p> <p>6 criminal law before the Data Protection Act 1998 comes</p> <p>7 into force. We know what Section 55 says, but is this</p> <p>8 right, that the first criminal offence was introduced in</p> <p>9 1994 by way of amendment into the Data Protection Act</p> <p>10 1984?</p> <p>11 A. Yes, that's correct. There were other sort of</p> <p>12 administrative criminal offences, but so far as this</p> <p>13 sort of activity is concerned, it was the 1994 Act that</p> <p>14 made the difference.</p> <p>15 Q. Can I ask you, please, a question on Section 55 of the</p> <p>16 Data Protection Act 1998. I don't know whether you have</p> <p>17 that to hand, but you probably know it off by heart.</p> <p>18 A. Not by heart.</p> <p>19 Q. This creates the offence of unlawfully obtaining a</p> <p>20 sector of personal data. Under subsection 1:</p> <p>21 "A person must not knowingly or recklessly ..."</p> <p>22 There are two limbs there and "recklessly" will be</p> <p>23 a subjective test of any criminal statute, won't it,</p> <p>24 Mr Aldhouse?</p> <p>25 "... without the consent of the --"</p> <p style="text-align: center;">Page 37</p>	<p>1 case -- that a journalist would only fall within</p> <p>2 Section 55(1)(b). Thinking about it over the weekend,</p> <p>3 I would respectfully agree with you. It probably falls</p> <p>4 within both.</p> <p>5 We know from other evidence that on 8 March 2003,</p> <p>6 admittedly some time ago, there was the initial</p> <p>7 execution of a search warrant for a search which led to</p> <p>8 Operation Motorman. Did you get to learn about it at</p> <p>9 the time, Mr Aldhouse?</p> <p>10 A. I cannot recall when I first heard about Motorman.</p> <p>11 You'll forgive me, but it's eight and a half years ago</p> <p>12 and memory fades and of course there were other things</p> <p>13 going on. No, I couldn't tell you exactly when I first</p> <p>14 heard about the operation.</p> <p>15 Q. In terms of your responsibilities at that time,</p> <p>16 Mr Aldhouse, was it part of your role as the deputy to</p> <p>17 provide direction to the head of investigations?</p> <p>18 A. Yes. What had happened was the previous head of</p> <p>19 operations and second deputy had retired in 2001, and</p> <p>20 the head of investigations then reported to me. I don't</p> <p>21 think it would be right to say that I directed</p> <p>22 investigations in any way, but I supervised the person</p> <p>23 who ran the investigations department.</p> <p>24 Q. We heard who that person was on Wednesday, but could you</p> <p>25 confirm her identity?</p> <p style="text-align: center;">Page 39</p>
<p>1 LORD JUSTICE LEVESON: I think there's some objectively</p> <p>2 there as well.</p> <p>3 MR JAY: Yes. One would draw inferences, most definitely.</p> <p>4 I'm just interested about (a) and (b), because there</p> <p>5 may be a difference of view about this. Under</p> <p>6 subparagraph (a):</p> <p>7 "... obtain or disclose data or the information</p> <p>8 contained in personal data, or (b) procure the</p> <p>9 disclosure to another person of the information</p> <p>10 contained in personal data."</p> <p>11 Now, if we're looking at the position of</p> <p>12 a journalist -- or it can be an insurance company or</p> <p>13 anybody else -- does that fall within subparagraph (a),</p> <p>14 subparagraph (b) or both?</p> <p>15 A. I'm -- if you'll forgive me, my voice is going. I think</p> <p>16 I'm inclined to the view that it could fall within both.</p> <p>17 I think the fact that you use an intermediary to obtain</p> <p>18 the information doesn't mean that you have not yourself</p> <p>19 obtained it.</p> <p>20 Q. Yes.</p> <p>21 A. So -- and similarly, it could be said that you have</p> <p>22 procured the disclosure. I think it could be an offence</p> <p>23 under either A or B.</p> <p>24 Q. On reflection, if it helps, that's also my view.</p> <p>25 I might have said -- indeed, I did say in opening the</p> <p style="text-align: center;">Page 38</p>	<p>1 A. Yes. At the time we're talking about, it was</p> <p>2 Jean Lockett.</p> <p>3 Q. Yes. Were you head of operations?</p> <p>4 A. No. No. Indeed, I think, as I say in my statement, the</p> <p>5 focus of my work, certainly by that stage and in</p> <p>6 continuing years, was on policy work.</p> <p>7 Q. The evidence Mr Owens gave us on Wednesday is that a few</p> <p>8 days after the search -- so we are now in mid-March of</p> <p>9 2003 -- there was an informal meeting involving you and</p> <p>10 Mr Thomas where Mr Owens gave an explanation of what he</p> <p>11 found. First of all, do you have any recollection of</p> <p>12 any such meeting?</p> <p>13 A. I cannot recall such a meeting. I wondered whether this</p> <p>14 was just because, you know, time passes and my memory</p> <p>15 had faded, so I took the opportunity of consulting my</p> <p>16 old -- or the print-outs from my old electronic diary,</p> <p>17 which I've kept, and I cannot find any such meeting</p> <p>18 in March 2003, or indeed in April.</p> <p>19 Q. Is it your evidence that you simply cannot remember</p> <p>20 whether there was such a meeting or is it your evidence</p> <p>21 that you are fairly sure that there wasn't such</p> <p>22 a meeting?</p> <p>23 A. I think my evidence is that if there was a meeting, it</p> <p>24 would have been a very casual one and a very short one,</p> <p>25 and certainly not scope for a full briefing. If it had</p> <p style="text-align: center;">Page 40</p>

10 (Pages 37 to 40)

<p>1 been a carefully arranged, lengthy meeting, it would 2 have been recorded. I don't recall any such meeting and 3 I have no record of it.</p> <p>4 Q. So that I put to you what Mr Owens' version is -- and we 5 heard his evidence on Wednesday -- his clear evidence to 6 the Inquiry was that it was you, Mr Thomas and he. He 7 had carried out a cursory analysis of the material and 8 was able to demonstrate an audit trail, as he put it, 9 from the newspaper through the journalist to 10 Mr Whittamore. The blagger was involved, the charging 11 element was established, the invoices were sent out and 12 the invoices were paid, so there was a complete picture 13 which he wished to demonstrate to you and did. Do you 14 remember anything about that at all?</p> <p>15 A. No. And indeed, the information I have heard and seen 16 this morning is new to me. I had not had that set out 17 in that way to me before.</p> <p>18 Q. Have you seen these books before, the red, yellow, green 19 and blue books?</p> <p>20 A. I've certainly not seen the content. I can't say I've 21 never seen the books because it's just possible if I was 22 visiting Jean Lockett's office or something, someone 23 might have said, "Oh, that's the Motorman books", but 24 no, other than that, I have not seen those books before.</p> <p>25 Q. Was there anything in your office at the time which was</p> <p style="text-align: center;">Page 41</p>	<p>1 important buttons, on the face of it.</p> <p>2 A. Yes, it did, but I was otherwise engaged. Half of my 3 time I was in Brussels on article 29 working party 4 business or the third -- joint advisory authority 5 business, so it might well be that -- I mean, no, it was 6 the fact that things just have to happen in my absence.</p> <p>7 LORD JUSTICE LEVESON: Oh, I'm sure, yes.</p> <p>8 MR JAY: You were there for half the time, though, weren't 9 you, Mr Aldhouse?</p> <p>10 A. I can't remember the amount of time, but I was there 11 some the time, yes.</p> <p>12 Q. I think the point I was driving at has already been 13 made, but isn't it a bit strange, Mr Aldhouse, that with 14 the policy ramifications that this might throw up and 15 the potential cost implications for your office, that 16 you weren't at least involved quite closely in 17 discussions with Mr Thomas regarding the strategic 18 direction of Operation Motorman?</p> <p>19 A. What can I say? It's for the Commissioner to decide how 20 he runs the office. If -- and it is worth bearing in 21 mind, of course, that it is -- that the Commissioner is 22 a one-man band and if the Commissioner decides to take 23 a route, so be it.</p> <p>24 Q. Yes. So is it your evidence that the Commissioner 25 decided to take a route -- and he'll tell us about that</p> <p style="text-align: center;">Page 43</p>
<p>1 as big or as important as Operation Motorman?</p> <p>2 A. From an operational investigations point of view, that 3 was probably the largest investigation.</p> <p>4 Q. Were there discussions over the months between you and 5 Mr Thomas regarding strategic decisions and policy 6 decisions which would bear upon the future conduct of 7 the investigation and the prosecutions?</p> <p>8 A. I don't recall any discussions. I do recall that 9 Richard Thomas decided that he wanted to pursue the 10 route of going to the Press Complaints Commission and 11 writing to Sir Christopher Meyer, but I have to say 12 I think that was Richard Thomas' decision rather than 13 the result of some discussion.</p> <p>14 Q. I'm not suggesting, Mr Aldhouse, that you were party to 15 any decision but were you aware, therefore, that 16 a policy decision or a strategic decision was taken 17 whereby the matter would be taken up through the PCC 18 rather than criminal prosecution of the journalists?</p> <p>19 A. I certainly knew that Richard Thomas wanted to go to the 20 PCC as a strategic approach. I don't think I knew that 21 he had completely ruled out prosecution.</p> <p>22 LORD JUSTICE LEVESON: Would you expect to be involved in 23 this sort of discussion when you're the deputy? This 24 was a very substantial investigation. It was obviously 25 taking up some time and really did hit some very</p> <p style="text-align: center;">Page 42</p>	<p>1 on Friday -- but you weren't involved really in any 2 significant way in the discussions bearing upon the 3 direction he might take?</p> <p>4 A. I certainly don't recall that, no, and I don't just 5 think that's failing memory.</p> <p>6 Q. Had you been asked for a view by anyone, in particular 7 Mr Thomas, what would your view have been in 2003?</p> <p>8 A. I think my view in 2003 would have been -- certainly if 9 I'd seen the information, had it laid out before me as 10 it's been laid out before you this morning, I think my 11 view would have been: we really ought to find a way of 12 pursuing this, this is a major exercise, I'm not at all 13 sure that it's something that could be handled by just 14 two people, an exercise that requires some sensitive 15 handling -- because I think if you simply approach 16 journalists, they are likely to say, "Why should we 17 respond is to you at all?" So there would need to be 18 some careful construction of the case and the 19 investigation. I'm not quite sure whether we could have 20 put together the resource to handle such an 21 investigation. Not having been put in the position of 22 taking the decision, I can't say how I would have 23 handled it but I do think that -- yes, I do think there 24 was a case for taking the involvement of journalists and 25 newspapers further.</p> <p style="text-align: center;">Page 44</p>

<p>1 Q. You weren't party, therefore, to a timorous approach 2 which was dictated by two considerations: first, 3 a concern that it would be rather expensive and you 4 would be at risk as to the cost, of course, if the 5 newspapers obtain their own legal advice, and secondly, 6 that the journalists might put up difficulties in the 7 way of further investigation? You weren't party to that 8 sort of policy, were you, Mr Aldhouse? 9 A. No, and if I might comment on the expense of 10 prosecution, the practice of the office would be -- if 11 faced with a very expensive investigation or 12 prosecution, would be to approach the sponsoring 13 department, the Home Office, then LCD, Ministry of 14 Justice, and say, "Look, we might be at risk of 15 considerable expense here. Will you stand behind this 16 with grant in aid if necessary?" 17 LORD JUSTICE LEVESON: Hang on. At this time, 2003, we're 18 talking about the Home Office, are we? 19 A. I think we are. 20 LORD JUSTICE LEVESON: Because the Ministry of Justice 21 doesn't come on the scene until 2008. 22 A. I can't remember when responsibility transferred from 23 the Home Office to Lord Chancellor's Department, but 24 whichever sponsoring department it was. 25 MR JAY: Did you apply your mind to these issues at all,</p> <p style="text-align: center;">Page 45</p>	<p>1 gazette articles roundly attacking Elizabeth France and 2 myself. So I don't fear the media, but there are always 3 other considerations. 4 MR JAY: Did you see counsel's advice, the one I referred 5 to, 22 December 2003, at the time? 6 A. The first time I've seen it was this morning. 7 Q. We know you were involved at some later stage. There 8 was a conference with counsel on 27 May 2005, which is 9 our document 48808. 10 A. Do I have that? 11 Q. I don't know whether it is in those files but we'll 12 provide you with a note of that advice. It's under our 13 tab 25. We'll provide you with it now. 14 LORD JUSTICE LEVESON: Tab 25? 15 MR JAY: Sorry, of the extra bundle of attendance notes -- 16 LORD JUSTICE LEVESON: Yes, but I'm not sure that 17 Mr Aldhouse was at that conference. 18 MR JAY: No, but there's something at the bottom of the 19 page I want to refer him to. 20 LORD JUSTICE LEVESON: Right. So be it. 21 MR JAY: Thank you. (Handed) 22 Not a conference you attended, Mr Aldhouse. This is 23 a conference which followed the hearing at Blackfriars 24 Crown Court in April 2005. So that you have your 25 bearings in time, you obviously learnt of that very</p> <p style="text-align: center;">Page 47</p>
<p>1 Mr Aldhouse? 2 A. In connection with this case? 3 Q. Yes. 4 A. No. 5 LORD JUSTICE LEVESON: Is that right, Mr Aldhouse? You say 6 in paragraph 8 of your statement, in relation to the 7 suggestion "We can't take the press on": 8 "I don't believe I ever said anything remotely 9 corresponding to this quotation. It does not represent 10 my view then ..." 11 A. "... or now." 12 LORD JUSTICE LEVESON: That suggests that you did reach that 13 view then. 14 A. I'm sorry, I was responding to the question about 15 expense. 16 LORD JUSTICE LEVESON: I see. 17 A. Had I applied to my mind to the costs of a Motorman 18 prosecution? No, I was never asked to. But the 19 question about "the press are too big to take on", 20 simply not my view. Certainly not the sort of language 21 I would have used, and I think I would point to the 22 experience that Elizabeth France and I had in 23 discussions with the media in 1996, that we were quite 24 happy to stand up to the media and try to negotiate with 25 them. I wish I still had the copies of the press</p> <p style="text-align: center;">Page 46</p>	<p>1 disappointing outcome at the time, didn't you? 2 A. Yes. 3 Q. Is it right to say that there was at the very least 4 a measure of frustration and irritation within your 5 office, probably quite understandably? 6 A. I think that's right. 7 Q. And is that a feeling or sentiment which you shared? 8 A. Yes. 9 Q. Were there discussions about it with Mr Thomas and the 10 way forward? 11 A. Well, there was certainly some discussion, the detail of 12 which frankly I can't recall, but you rightly express 13 the view held in the office, and that would have been 14 the subject of discussion. But as I say, the detail of 15 it I'm afraid I don't recall. 16 Q. At the bottom of page 48808: 17 "JW [who is someone within your office] stated that 18 the view of Richard Thomas and Francis Aldhouse was that 19 if the only problem this case faced was the Blackfriars 20 verdict or other sentence, then the view of the office 21 would be to continue with the prosecution as it still 22 would be within the public interest to proceed as 23 regards the criminality of the remaining defendants." 24 If this note is right, it indicates that you were 25 involved, at least at this stage, in part of the</p> <p style="text-align: center;">Page 48</p>

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<p>1 strategic thinking regarding the future conduct of the 2 Operation Motorman prosecutions; that's right, isn't it? 3 A. Yes, but I say -- I don't recall the discussions but it 4 might well be that Richard and I had talked about it. 5 There was certainly discussion about the Blackfriars 6 verdict, how disappointing it was, what way should we 7 go, but I'm afraid I can't add to that. 8 LORD JUSTICE LEVESON: Who is Janet Witkowski(?)? 9 A. Oh dear. I'm afraid I cannot recall. 10 LORD JUSTICE LEVESON: Sorry. 11 MR JAY: I think all I'm gently suggesting, Mr Aldhouse, is 12 this -- and it's probably fairly obvious now: we have 13 possibly the most important investigation involving your 14 office, Operation Motorman. It has very serious 15 ramifications. It was clearly being ramped up at this 16 stage. Mr Thomas had it in mind to make a report to 17 Parliament shortly afterwards and he did. Surely you 18 were involved, even in informal discussions with 19 Mr Thomas, as to the direction your office was taking, 20 weren't you? 21 A. Well, I think they would only have been casual ones. 22 Certainly, I have no recollection of -- I have no 23 recollection of, for example, full briefing material on 24 the basis of which one could take decisions. I simply 25 was not involved to that depth. It might well be that</p> <p style="text-align: center;">Page 49</p>	<p>1 and then -- well, prosecution was normally left to the 2 legal advisers to the Commissioner. I wasn't the 3 Commissioner's legal adviser. I -- but I don't recall 4 any discussion about should we investigate further. 5 I -- no, I think any comment I made after -- would now 6 be coloured by retrospection. 7 Q. We know that the legal team, including counsel, were 8 under the direction of a policy decision -- counsel's 9 advice refers to policy considerations -- which amounted 10 to this: that the journalists would not be prosecuted, 11 indeed the journalists would not be investigated. Are 12 you sure that doesn't chime with your thinking at the 13 time, Mr Aldhouse? 14 A. It certainly wasn't my thinking, and indeed, I would 15 have -- no, if I'd been asked, I would have said we 16 ought to look further. I'm sorry, you will have to ask 17 the Commissioner -- or the former Commissioner for his 18 views. 19 Q. So in terms of Mr Owens' evidence, which we heard on 20 Wednesday, what he attributes to you at the meeting of 21 mid-March 2003, you don't remember saying anything along 22 these lines: "We simply can't take on the journalists, 23 they're too big for us", words to that effect? 24 A. I have -- not only do I have no recollection of saying 25 that; it is simply the sort of thing I would say and, as</p> <p style="text-align: center;">Page 51</p>
<p>1 Richard Thomas would have casually said, "We're thinking 2 of going this way, does it make sense?" But I'm sorry, 3 I was involved to a deeper extent than that. 4 Q. In terms of important strategic decisions -- and there 5 would be quite a few over the course of the working year 6 of an Information Commissioner -- was it Mr Thomas' 7 practice to involve you, at least informally, in such 8 decisions? 9 A. You mean over the whole range of activities of the 10 office? It would depend. Activities were divided. 11 I think I said I spent most of my time by that stage on 12 policy matters, particularly European ones, and I had 13 quite a considerable degree of independence within that 14 area. I think that was probably the way we tended to 15 operate. 16 Q. So you don't think it's right that Mr Thomas discussed 17 with you back in 2003 the right strategic approach to 18 Operation Motorman, in particular whether it was correct 19 or appropriate bring criminal proceedings against the 20 journalists? 21 A. I have no recollection of being asked did I think we 22 should bring proceedings against journalists, and if 23 I had been asked, I suppose I would have taken it in two 24 steps. First of all, I would want to know that we had 25 investigated sufficiently thoroughly to justify that,</p> <p style="text-align: center;">Page 50</p>	<p>1 I say, it does not reflect my views of -- or indeed my 2 previous practice of dealing with the media. 3 MR JAY: Okay. Thank you very much, Mr Aldhouse. 4 LORD JUSTICE LEVESON: Could I just ask about that? You've 5 mentioned something in 1996. I don't really know what 6 that's about. I appreciate it's going back in time, but 7 could you just paint it in for me? 8 A. Yes. In -- the framework directive '95/46/EC was 9 adopted in October 1995, and it contains in article 9 10 a provision permitting member states to adopt exemptions 11 necessary to protect journalism and similar freedom of 12 expression. We, the Commissioner and I, set about 13 talking to media representatives to see if we could 14 develop a consensus view about how that might be 15 implemented in what became the Data Protection Act 1998. 16 I spoke to -- oh, I -- no, there was an individual 17 who is well known for representing the public affairs 18 media -- I won't mention her name -- and to a number of 19 the representative bodies, the periodical publishers and 20 the national newspaper press associations and to groups 21 of -- to groups of particularly media lawyers, and as 22 I say, we -- the Commissioner and I were quite roundly 23 attacked, not in the public print but in the UK Press 24 Gazette, and it was very difficult to get the media to 25 engage with the fact that here was a directive which</p> <p style="text-align: center;">Page 52</p>

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<p>1 said that it was, at least in part, to protect the                  2 rights to privacy and there were exemptions and how                  3 should though exemptions be -- how should they be                  4 deployed, how should they be enacted, and there was --                  5 I recall quite clearly one occasion, a meeting of media                  6 lawyers at DJ Freeman when they still had a big media                  7 practice. One lawyer stood up -- perhaps I ought not to                  8 name the newspaper he represented -- and said that I was                  9 simply wasting my time, that it really wouldn't matter,                  10 that the newspaper proprietors would ensure that the                  11 legislation was enacted to suit them.                  12 So I -- yes, those things do stick in my mind.                  13 LORD JUSTICE LEVESON: That's rather interesting, isn't it,                  14 because they were joining battle with you.                  15 A. Yes.                  16 LORD JUSTICE LEVESON: The legislation was then passed.                  17 A. Yes.                  18 LORD JUSTICE LEVESON: And here, within five years, you had                  19 on your desk -- perhaps not you personally, but the                  20 Commissioner's office had on their desk monumental                  21 potential breach. I'm just trying to think how that                  22 chimes with your memory. This was precisely what you'd                  23 been talking about seven years before, the problems that                  24 the European directive would generate. It was being                  25 ignored.</p> <p style="text-align: center;">Page 53</p>	<p>1 Information Commissioner? There's the Commissioner,                  2 there's you.                  3 A. Yes.                  4 LORD JUSTICE LEVESON: There's the number two --                  5 A. Well, there are, of course, two deputies.                  6 LORD JUSTICE LEVESON: Yes.                  7 A. Well, the total staff now, of course, is about 300.                  8 LORD JUSTICE LEVESON: But what was the senior staff then?                  9 A. Myself and another deputy. One, two, three, can't                  10 remember, four assistant commissioners. Several -- then                  11 the -- what are we talking about? A management team                  12 of -- I'm trying to think. It would have been the --                  13 possibly 10 or a dozen very senior people.                  14 LORD JUSTICE LEVESON: Okay. You've now seen this material                  15 laid out.                  16 A. Yes.                  17 LORD JUSTICE LEVESON: You've seen the detail that it                  18 contains and the names and all the material that was                  19 documented at the time. Are you surprised you weren't                  20 asked and there wasn't a management discussion about                  21 this?                  22 A. Am I surprised? I'm disappointed. Not necessarily                  23 surprised. I know that there was, because it's in my                  24 diary, a -- what must have been a fairly substantial                  25 briefing session in August 2003.</p> <p style="text-align: center;">Page 55</p>
<p>1 A. Let me see. I -- there are two elements to the                  2 legislation. There's the enforcement powers of the                  3 Commissioner and they are hedged around with lots of                  4 complex procedure to make it very -- well, actually to                  5 make it rather difficult for the Commissioner to take                  6 enforcement action against the media. But I think yes,                  7 you are right that the sort of information that was                  8 exposed this morning certainly indicates the -- what                  9 should I say? -- conflicts between media practice and                  10 classic data protection, yes.                  11 LORD JUSTICE LEVESON: Was Mr Thomas the Commissioner at the                  12 time?                  13 A. Oh yes. Sorry, not in 1996, no. That was Elizabeth                  14 France. Elizabeth France retired in 2002.                  15 Richard Thomas became the Commissioner in late 2002.                  16 LORD JUSTICE LEVESON: But does it not chime some memory                  17 with you -- and I appreciate it's a long time ago --                  18 that here was something which had happened which                  19 actually you'd gone through the mill with those years                  20 before, and here it was coming back to demonstrate the                  21 accuracy of the perception that you then had?                  22 A. I think that's why I said to Mr Jay that had I been                  23 asked at the time, my view would have been we should at                  24 least have pursued investigation of journalists.                  25 LORD JUSTICE LEVESON: I mean, how big is the office of the</p> <p style="text-align: center;">Page 54</p>	<p>1 LORD JUSTICE LEVESON: Yes.                  2 A. And I was on leave that week. My diary shows it. I --                  3 well, yes, I'm sure in retrospect it would have been --                  4 one could well say: wasn't this big enough for the whole                  5 of the management team to be involved?                  6 LORD JUSTICE LEVESON: Not least because you'd gone through                  7 the battle those few years before, so you knew the                  8 history.                  9 A. I certainly had views, anyway, yes.                  10 LORD JUSTICE LEVESON: I'm sure, yes. Thank you.                  11 MR JAY: May I ask a few more?                  12 LORD JUSTICE LEVESON: Yes. That's the process of                  13 inquisitorial proceedings, Mr Jay.                  14 MR JAY: Paragraphs 9 and 10 of your witness statement.                  15 Let's just get a clue what your thinking might have                  16 been. We need to throw ourselves back, don't we, to                  17 2003 and ignore your thinking today. If you look at                  18 paragraph 9, you use the present tense:                  19 "My approach to taking formal action against the                  20 media is as follows."                  21 Can I just clarify your use of the tense. Are you                  22 saying that's your approach in November 2011 or was that                  23 your approach at all material times when you were the                  24 deputy? It's the latter, isn't it?                  25 A. I -- so far as I can tell, it is an approach I would</p> <p style="text-align: center;">Page 56</p>

<p>1 have taken at the time, it's the approach I've taken for                  2 a long time, but memory plays tricks, so you will                  3 forgive me if I'm being cautious. But it is                  4 certainly -- perhaps because of my dealings with the                  5 European institutions, this sort of approach is one                  6 which I have held for a long time.                  7 Q. You say then in the next sentence:                  8 "The Commissioner has strong powers, which should be                  9 used in relation to the media with particular                  10 discretion."                  11 A. Yes.                  12 Q. You refer to Article 8, et cetera, et cetera, and at the                  13 end of this paragraph you say:                  14 "The pursuit of individual journalists could have                  15 a chilling effect on those rights."                  16 A. Yes.                  17 Q. Aren't you telling us there that that would militate in                  18 favour of not pursuing journalists, or at least being                  19 very careful about doing so?                  20 A. Certainly about being very careful. I -- yes, this is                  21 a rather short statement and rather compressed. I don't                  22 wish -- I don't wish to speak up for or be seen to be                  23 speaking up for the practices that have already been                  24 exposed to the Inquiry, but I suppose I am concerned                  25 that if one talks about the press and journalism</p> <p style="text-align: center;">Page 57</p>	<p>1 1996 on how one might implement article 9 of the                  2 directive, and certainly concerns were expressed to me                  3 then about -- I have a particular meeting in mind and                  4 certainly concerns were expressed about the fragility of                  5 local newspapers and the legal threats they felt they                  6 were under.                  7 MR JAY: Operation Motorman wasn't involved or concerned                  8 with local newspapers, was it?                  9 A. No, absolutely not.                  10 Q. Can I look at the practical issues you raise in                  11 paragraph 10, please. You set out what the section                  12 provides. In the second sentence:                  13 "There are practical challenges in the investigation                  14 of the involvement of individual journalists in such                  15 cases in demonstrating ..."                  16 Then you make three points:                  17 "... first the degree of knowledge on the part of                  18 the individual journalist ..."                  19 That you can find out just by interviewing them,                  20 can't you?                  21 A. I think that takes me to the third point.                  22 Q. Which is what?                  23 A. Which is: why should a journalist respond to our request                  24 for interview? The Commissioner has no power of arrest,                  25 has no power to compel people to speak to him. These --</p> <p style="text-align: center;">Page 59</p>
<p>1 generally, that you shouldn't catch up the innocent                  2 along with the guilty. I have a particular concern                  3 because of meetings I've attended and things that have                  4 been said to me about consequences for local newspapers.                  5 I mean, if I have an anxiety, and the effect -- the                  6 problem of a chilling effect, it's for the Gloucester                  7 Citizen, the Oxford Mail, the Farnham Herald and the                  8 Nutsford Guardian, not the Sun and the Daily Mail.                  9 LORD JUSTICE LEVESON: But that wouldn't be to permit them                  10 to breach Section 55, would it?                  11 A. Um ...                  12 LORD JUSTICE LEVESON: What you're concerned about is the                  13 viability of local newspapers providing a local service                  14 for the local communities, I assume?                  15 A. Yes. But local newspapers have been concerned about the                  16 way that, for example, defamation has been used to put                  17 them in some financial difficulty, and I wouldn't                  18 want -- I wouldn't want a data protection legislation to                  19 simply be another rod to beat their backs with.                  20 LORD JUSTICE LEVESON: I'm sorry, Mr Jay. Has any local                  21 newspaper ever suggested to you that they were concerned                  22 that Section 55 of the Data Protection Act was going to                  23 cause them difficulty?                  24 A. Not in so -- no, because the time -- my discussions                  25 predate that. I'm thinking back to my discussions in</p> <p style="text-align: center;">Page 58</p>	<p>1 we would be seeking to interview journalists presumably                  2 as prospective defendants to a criminal action. They                  3 would have to be cautioned. A well-advised journalist                  4 would simply say nothing.                  5 Q. Let's explore that, Mr Aldhouse. Just cherry-pick, as                  6 a starting point, the very best cases: the CRO cases, of                  7 which there aren't very many, but you could take                  8 a sample, and the family and friends cases. The                  9 Information Commissioner's office would then make                  10 a request to interview the individual journalists and                  11 possibly the individual editors, having pointed out, as                  12 must be obvious, that there's a strong prima facie case                  13 which needs to be rebutted. Are you saying that                  14 practical obstacles would have been put in your way                  15 which were so great that your investigations might have                  16 been thwarted?                  17 A. Well, the investigations might have been thwarted but                  18 I think the tenor of your questions is: shouldn't you at                  19 least try? I think I agree with that.                  20 LORD JUSTICE LEVESON: But actually, they wouldn't                  21 necessarily be thwarted because if you have a paper                  22 trail that takes you from the journalist on the one hand                  23 to Mr Whittamore on the other and all the material, as                  24 you've now seen, which you've explained you hadn't seen                  25 before, if he says nothing, then the prima facie case</p> <p style="text-align: center;">Page 60</p>

<p>1 there stands un rebutted.</p> <p>2 A. Um ... I wonder whether -- well, let me accept that the</p> <p>3 paper trail is sufficient and complete. In that case,</p> <p>4 you would be right, and then it's a question of: is</p> <p>5 there a public interest defence?</p> <p>6 Now, I think I heard some remarks from you, sir,</p> <p>7 earlier that -- how could this possibly be a public</p> <p>8 interest defence in these cases? I think it's worth</p> <p>9 bearing in mind that we're talking about 2003, and</p> <p>10 I certainly remember discussions between senior staff</p> <p>11 and the lawyers in 2002 saying -- how can I choose my</p> <p>12 words correctly? The remarks of the Lord Chief Justice</p> <p>13 in A v B, the Garry Flitcroft case, were not helpful</p> <p>14 in -- now, admittedly we're talking about a case that</p> <p>15 could be distinguished. It was a civil case, it was</p> <p>16 interim relief, but remarks which suggested that there</p> <p>17 was a public interest -- there was -- there was a public</p> <p>18 interest in having economically viable newspapers, and</p> <p>19 for that they had to sell -- they had to print things</p> <p>20 that the public were interested in, even if it was</p> <p>21 tittle-tattle.</p> <p>22 Now, I know that in the Court of Appeal six months</p> <p>23 later, a different Court of Appeal slightly modified</p> <p>24 those used, but nonetheless it did rather discourage</p> <p>25 people like ourselves, senior staff in the</p> <p style="text-align: center;">Page 61</p>	<p>1 defence. I'm merely trying to put myself back in how we</p> <p>2 reacted to certain legal decisions in 2002, 2003. And,</p> <p>3 well, there are those who think that the legislation was</p> <p>4 constructed to achieve just what you are saying.</p> <p>5 LORD JUSTICE LEVESON: Well, maybe I'll have to re-look at</p> <p>6 A v B. All right.</p> <p>7 MR JAY: I think that's as far as we can take it, isn't it,</p> <p>8 Mr Aldhouse? Thank you very much.</p> <p>9 LORD JUSTICE LEVESON: Thank you very much for coming</p> <p>10 A. Thank you.</p> <p>11 LORD JUSTICE LEVESON: We'll have a few minutes' break.</p> <p>12 (11.58 am)</p> <p>13 (A short break)</p> <p>14 (12.02 pm)</p> <p>15 MR JAY: The witness who was lined up for today is now going</p> <p>16 to be called tomorrow, so there is a small gap.</p> <p>17 Mr Burden will take a bit of time, but he's not</p> <p>18 available at the moment. There's one redaction, in any</p> <p>19 event, to his statement, which will be required, which</p> <p>20 we will organise over the next few minutes or so, but</p> <p>21 may we hear his evidence at 2 o'clock?</p> <p>22 LORD JUSTICE LEVESON: I think that's probably sensible.</p> <p>23 Representations have been made to me that it is in</p> <p>24 the public interest that statements be published before</p> <p>25 the witnesses come to the Inquiry, and that therefore</p> <p style="text-align: center;">Page 63</p>
<p>1 Commissioner's office, from thinking there's a good --</p> <p>2 you know, there's a possibility of prosecutions in this</p> <p>3 sort of case because we thought: well, the journalists</p> <p>4 have got a fairly easy route to establishing a public</p> <p>5 interest defence.</p> <p>6 The world has moved on, of course, and maybe the</p> <p>7 courts won't see it that way.</p> <p>8 MR JAY: But all this is demonstrating is that there may</p> <p>9 well have been a policy decision not to pursue the</p> <p>10 journalists because you're expressing views which are</p> <p>11 entirely consistent with the existence of such a policy</p> <p>12 decision. Isn't that right?</p> <p>13 A. There might well have been, but I didn't take it. I'm</p> <p>14 sorry, you will have to ask the former Commissioner,</p> <p>15 Richard Thomas.</p> <p>16 MR JAY: Well, I will.</p> <p>17 LORD JUSTICE LEVESON: Yes. I don't know whether, when you</p> <p>18 were looking at the screen, you could see some of the</p> <p>19 entries of persons, because if you'd seen the names of</p> <p>20 the people who were the subject of these enquiries --</p> <p>21 friends and families, for example -- if you were going</p> <p>22 to say there's a public interest in looking at those,</p> <p>23 you might as well then say that data protection doesn't</p> <p>24 run to journalists.</p> <p>25 A. First of all, I don't say that there's a public interest</p> <p style="text-align: center;">Page 62</p>	<p>1 I should discharge the order that I made last Monday,</p> <p>2 which imposed a restriction on the publication of those</p> <p>3 statements.</p> <p>4 I will, of course, consider those submissions</p> <p>5 carefully and provide a reasoned response to them, but</p> <p>6 my immediate reaction is that if statements are released</p> <p>7 in advance, then the debate about that statement will</p> <p>8 start then, and far from having the effect of</p> <p>9 encouraging an appropriate and orderly pursuit of the</p> <p>10 Inquiry, it will mean that the debate will move through</p> <p>11 various stages before the witness ever gets anywhere</p> <p>12 near the Inquiry.</p> <p>13 MR JAY: Yes.</p> <p>14 LORD JUSTICE LEVESON: That's my immediate reaction, and</p> <p>15 indeed I was persuaded of that view by Mr Caplan. My</p> <p>16 immediate reaction when we'd learned that Mr Campbell's</p> <p>17 statement had been put into the public domain, was to</p> <p>18 say: right, let it go, and he made submissions to like</p> <p>19 effect to that which I've just summarised.</p> <p>20 I'm keen to know -- I appreciate nobody's had notice</p> <p>21 of this -- if anybody has any particular views on this</p> <p>22 topic or whether they want to speak up for removing the</p> <p>23 restriction or for supporting it? Mr Garnham.</p> <p>24 MR GARNHAM: Sir, we would certainly support your</p> <p>25 provisional stance.</p> <p style="text-align: center;">Page 64</p>



<p>1 LORD JUSTICE LEVESON: It's certainly my present stance,                  2 because it's the order from last Monday.                  3 MR GARNHAM: Yes. We would encourage you, sir, to remain of                  4 that view. The orderly management of this Inquiry is                  5 something that affects the core participants as well as                  6 your team. It's inevitable that some statements come                  7 out quite late because the process is a rapidly moving                  8 one, and if we are to give any consideration to the                  9 potential effect of that so that we can make a decision                  10 as to whether representations need to be made, we need                  11 at least the time between the publication of the                  12 statement to core participants and the calling of the                  13 witness. If it's going to be released publicly earlier                  14 than that, that makes that task impossibly difficult.                  15 I would add, sir, that you are entirely right, if                  16 I may say so respectfully, that if you allow the                  17 publication of statements before the witness gets to                  18 that witness table, the matter will be debated in the                  19 press long before the evidence is tested here, and that                  20 ought not to be so.                  21 LORD JUSTICE LEVESON: Thank you. Does anybody have any                  22 other view?                  23 MR DAVIES: It's not another view, but I was hoping to echo                  24 what Mr Garnham says about timing. I could see an                  25 argument for another view, but it would require that the</p> <p style="text-align: center;">Page 65</p>	<p>1 I shall respond appropriately. Thank you all very much                  2 for your assistance. Let's wait until 2 o'clock. Thank                  3 you.                  4 (12.08 pm)                  5 (The short adjournment)                  6                  7                  8                  9                  10                  11                  12                  13                  14                  15                  16                  17                  18                  19                  20                  21                  22                  23                  24                  25</p> <p style="text-align: center;">Page 67</p>
<p>1 core participants had plenty of time to see the                  2 statement before it was made public, which would then be                  3 before the witness gave evidence, and the speed at which                  4 things are going at the moment simply doesn't allow that                  5 much time.                  6 LORD JUSTICE LEVESON: I understand that.                  7 MR SHERBORNE: Sir, I was simply going to endorse the                  8 approach that you're taking currently. As you know, in                  9 the past we've wanted all the statements to be ready as                  10 soon as witnesses were giving evidence. I know                  11 logistical difficulties have made that not necessarily                  12 possible in every case, but --                  13 LORD JUSTICE LEVESON: I hope it's got better, Mr Sherborne.                  14 MR SHERBORNE: It's got better. Unfortunately, it's                  15 slightly too late for my witnesses, but I'm not going to                  16 carp. In terms of the approach from now on, we                  17 certainly would endorse the principle, sir, that you've                  18 adopted.                  19 LORD JUSTICE LEVESON: Right, thank you. Mr Caplan, this                  20 was your submission last Monday, so I suppose you will                  21 maintain it?                  22 MR CAPLAN: Yes, please.                  23 LORD JUSTICE LEVESON: Thank you very much. Anybody else                  24 want to say anything on the topic?                  25 Well, I shall consider the submissions carefully and</p> <p style="text-align: center;">Page 66</p>	

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