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| <p>1 2 (12.00 pm) 3 MR JAY: Sir, the next witness is Mr Yates, who is in 4 Bahrain, I think. 5 MR JOHN MICHAEL YATES (sworn) 6 (Evidence by videolink) 7 Questions by MR JAY 8 MR JAY: Your full name, please, Mr Yates. 9 A. It's John Michael Yates. 10 Q. Thank you. May I check that you can see me? 11 A. I can see you, yes. 12 Q. Thank you very much. 13 LORD JUSTICE LEVESON: Hang on. If I speak, you shouldn't 14 see me if I'm not speaking, but if I speak -- 15 A. I can see you now in wide vision, sir. 16 LORD JUSTICE LEVESON: Thank you very much indeed. Thank 17 you very much for your statement. 18 Yes, Mr Jay. 19 MR JAY: Mr Yates, may I first of all ask you to confirm 20 your witness statement. It is dated 22 February and 21 signed by you. Is this your formal evidence to the 22 Inquiry? 23 A. Yes, it is. It's 46 pages. 24 Q. Thank you very much. May I just check the bundle that 25 you have in front of you, just check it's the same</p> <p style="text-align: center;">Page 1</p> | <p>1 Parliament, diplomatic protection and the like. 2 Q. It was in that role, and we'll come to this in due 3 course, that Sir Paul Stephenson, the then Commissioner, 4 asked you to review the evidence in relation to 5 Operation Caryatid in July 2009; is that correct? 6 A. I don't want to hit semantics around the word review, 7 but you'll understand from my statement the difference 8 between a review and what the Commissioner asked me to 9 do, which was to establish the facts. 10 Q. Yes. So that we are clear about it, at the time 11 Operation Caryatid was being conducted in 2005 12 concluding in January 2007, you had no role in counter 13 terrorism; is that correct? 14 A. Absolutely correct, yes. 15 Q. Paragraph 8 of your statement you explain -- and this is 16 at page 06472 on our pagination, page 3 on the internal 17 numbering -- that for the vast majority of the time 18 there was a healthy and transparent relationship at all 19 levels, and you're dealing here with a culture of 20 relations between the MPS and the media. 21 A. Yes. 22 Q. Why do you say that, Mr Yates? 23 A. In terms of a vast majority because there's clearly been 24 instances in the past where actually it hasn't been 25 healthy, and I'm talking about the current corruption</p> <p style="text-align: center;">Page 3</p> |
| <p>1 bundle as I have. It contains the various exhibits to 2 your statement, which are in subtabs. Do you have 3 a bundle which runs to 79 tabs? 4 A. I have a bundle, it isn't 79 because the numbers go 5 slightly odd thereafter, but it wouldn't be about 79, 6 I can see it goes to 31, 62, and then a series of 7 alphabets, but we might have to work it out from the 8 scale rather than bundle tabulation, if that helps. 9 Q. We'll navigate our way through it. First of all, 10 Mr Yates, your career in the Metropolitan Police 11 Service. You retired in the -- or resigned, I should 12 say more precisely, in the rank of Assistant 13 Commissioner in July 2011; is that correct? 14 A. Not quite correct. I actually officially left on 15 November 7, I think. 16 Q. Thank you very much. You set out your earlier career in 17 paragraph 5 of your statement, but what is material to 18 this Inquiry is that in April 2009 you were the national 19 lead for counter terrorism in Assistant Commissioner 20 rank; is that right? 21 A. Yes, together with the responsibilities within London as 22 well, as set out at paragraph 7. So it was a national 23 role -- it was a national role in terms of counter 24 terrorism as a coordinator and then there were 25 responsibilities within London itself around aviation,</p> <p style="text-align: center;">Page 2</p> | <p>1 allegations and the like. So to say there's always been 2 a healthy relationship would be wrong because there have 3 been instances in the past where that hasn't been the 4 case. Rare though they may be. 5 Q. How do you define a healthy and transparent 6 relationship? 7 A. By the very words I've used to describe it, really, in 8 terms of trusting in each way -- healthy and 9 transparent. I can't think of other ways to describe 10 it. 11 Q. Does that include in informal transactions, for example 12 over lunch or dinner with individual journalists? 13 A. Yes, it could well be, yes. 14 Q. In relation to those transactions, how do you ensure 15 that those particular transactions remain healthy and 16 transparent rather than unprofessional? 17 A. It's a matter for one's professional judgment and 18 discretion. The vast majority of my dealings with the 19 media would be around the sort of strategic policy 20 issues that I was exposed to in my service at the senior 21 rank. 22 So in terms of the big issues of the day, be it 23 counter terrorism legislation, be it data retention, be 24 it rape policy, for which I was responsible nationally 25 for a number of years, the very vast majority would be</p> <p style="text-align: center;">Page 4</p> |

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| <p>1 around that.</p> <p>2 Q. Did you see --</p> <p>3 A. And I think -- sorry.</p> <p>4 Q. Carry on.</p> <p>5 A. Yes, and I think, as I set out, I think there's a great</p> <p>6 value in that in terms of both educating myself, testing</p> <p>7 hypotheses, testing views, and getting the views back as</p> <p>8 well, so the last thing I think we would want is</p> <p>9 policing to be in a bubble and in a vacuum where one</p> <p>10 isn't connecting to other thinking.</p> <p>11 Q. Do you or did you see the purpose of interactions</p> <p>12 between the police and the media, at least from the</p> <p>13 perspective of the police, to pursue the public interest</p> <p>14 as distinct from the interests of the police itself?</p> <p>15 A. I think there's occasionally a bit of both, but public</p> <p>16 interest is always paramount. It's making sure that</p> <p>17 whatever -- in terms of things like counter terrorism</p> <p>18 legislation, counter terrorism legislation reviews,</p> <p>19 making sure we have the very best policies that are fit</p> <p>20 for purpose and will work.</p> <p>21 Q. You make it clear in your statement in various places</p> <p>22 that given the importance of the work you were doing and</p> <p>23 the nature of the work you were doing, you were very</p> <p>24 often the "public face" -- that's the term you use --</p> <p>25 for policing and policy matters. You use that</p> <p style="text-align: center;">Page 5</p> | <p>1 Q. Might it be suggested there, Mr Yates, that you're being</p> <p>2 slightly naive, if I can put it in those terms? The</p> <p>3 media might have been expecting through its personal</p> <p>4 dealings with you something additional in exchange.</p> <p>5 Would you accept that?</p> <p>6 A. No, I don't really actually, because I do think many of</p> <p>7 those dealings, the vast majority, as I said, had been</p> <p>8 around understanding the context. If you take, for</p> <p>9 example, the government's desire to legislate around</p> <p>10 data retention and the use of police (inaudible) data in</p> <p>11 its general sense, there was a fundamental</p> <p>12 misunderstanding about how important that was. So if</p> <p>13 you have the opportunity to explain that and explain the</p> <p>14 full context and the value of those sort of issues, then</p> <p>15 I think I'm doing it in what I believe, and I still</p> <p>16 believe, was in the best interests of the public and the</p> <p>17 best interests of policing.</p> <p>18 Q. Don't you feel though that there were sometimes</p> <p>19 occasions, particularly in social contexts and possibly</p> <p>20 when alcohol was exchanged or imbibed, when the press</p> <p>21 were trying to get something more out of you, either</p> <p>22 perhaps an indiscreet comment or perhaps to influence</p> <p>23 you in a certain way? Did you have a sense that that</p> <p>24 had occurred?</p> <p>25 A. I can certainly see your point, Mr Jay, but as an</p> <p style="text-align: center;">Page 7</p> |
| <p>1 terminology in paragraphs 15 and 16.</p> <p>2 A. Yes. I think that's a fair assessment which covers my</p> <p>3 period in charge of serious and organised crime in the</p> <p>4 capital, both as Deputy and Assistant Commissioner and</p> <p>5 also my role in counter terrorism as well.</p> <p>6 Q. Do you consider that there is any sort of risk that you</p> <p>7 being a public face might put you too close to the media</p> <p>8 in general, or certain sections of it in particular?</p> <p>9 A. No, I don't, actually. The certain sections bit.</p> <p>10 I mean, if you look at the registers, as I know you will</p> <p>11 have done, Mr Jay, it shows a very broad spectrum of</p> <p>12 coverage with the media. I would actually deliberately</p> <p>13 seek out the more obscure sections in terms of some of</p> <p>14 the views that they might hold, and I particularly look</p> <p>15 in terms of rape around that, and that's why I did so.</p> <p>16 So the "certain sections" bit is -- and I know where</p> <p>17 you're leading to, but I wouldn't say -- I would say</p> <p>18 I had a very broad spectrum of coverage in a broad</p> <p>19 spectrum of the meetings with the media.</p> <p>20 Q. You tell us in paragraphs 23 and 24 of your statement</p> <p>21 our page 06478, page 9 on the internal numbering, you</p> <p>22 consider that the media was seeking through its personal</p> <p>23 dealings with you to fully understand the context around</p> <p>24 policing issues or particular events.</p> <p>25 A. Yeah.</p> <p style="text-align: center;">Page 6</p> | <p>1 individual that hasn't happened.</p> <p>2 Q. Okay. I'll come back to that when we look at the</p> <p>3 register.</p> <p>4 Paragraph 22 of your statement, if you forgive me</p> <p>5 from darting around a bit, you tell us that the security</p> <p>6 services were understandably concerned about the degree</p> <p>7 of media contact "my previous role had involved"; this</p> <p>8 presumably was in 2009, and then you say presumably in</p> <p>9 part because of all the briefing against you and the</p> <p>10 cash for honours investigation. Can we be clear: what</p> <p>11 are you referring to there, Mr Yates, in the</p> <p>12 parentheses?</p> <p>13 A. I'm firmly of the view that I was briefed against on an</p> <p>14 industrial scale during the cash for peerages</p> <p>15 investigation. That's what I'm referring to.</p> <p>16 Q. I can see that, but what was being said about you,</p> <p>17 insofar as it's relevant to the sentence we are looking</p> <p>18 at here in your witness statement?</p> <p>19 A. Because I think what it put me in, it put me in the</p> <p>20 public eye in a way that was quite unhelpful. There</p> <p>21 were allegations made against me about all sorts of</p> <p>22 things, I was a Kenneth Starr, I was this, I was that,</p> <p>23 and I was very much in the public eye, and in terms of</p> <p>24 a counter terrorism lead that's not necessarily a good</p> <p>25 thing.</p> <p style="text-align: center;">Page 8</p> |

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| <p>1 Q. Was it being suggested you were the sort of policeman 2 who does leak to the press and that the security 3 services felt that you were the last sort of policeman 4 they would like to see in a counter terrorist role? Is 5 that the point? 6 A. That was the inference, Mr Jay, but it's not true. 7 Q. Okay. Again we may come back to that. I'm going to 8 move forward to paragraph 41 of your statement and the 9 issue of hospitality and gifts, which is 06483 of our 10 pagination, where you tell us that you accepted 11 hospitality, mainly lunch or dinner, from the media in 12 accordance with the relevant guidance, and hospitality 13 was declared in the register. I'm going to call that 14 the hospitality register, and of course that has been 15 made available to the Inquiry. You say a little bit 16 later: 17 "This would not include any occasion when I met 18 casually with a journalist and drinks or coffee were 19 bought on a reciprocal basis." 20 So you're excluding, are you, anything which is 21 minimal and therefore shouldn't trouble the register? 22 Is that your policy or was that your policy? 23 A. No, I think the word is "reciprocal". So if you are 24 buying and being bought, I don't consider that to be 25 hospitality. So if you buy a drink, you buy one back, Page 9</p> | <p>1 Q. Okay. 2 A. And again, as far as I'm aware, the hospitality guidance 3 says that is perfectly acceptable. 4 Q. It does. 5 Paragraph 47, before I come to the detail of the 6 register, page 06485, the then Deputy Commissioner 7 Mr Godwin advised you, as he did all other management 8 board members, to reduce contact with the media, and 9 that was advice you accepted. Can you recall about when 10 that advice was given? 11 A. With Tim it was reinforced on several occasions because 12 that was his style, so it would be difficult to say 13 exactly when, but there was a management board or 14 a senior management team meeting where I think it was 15 said, but Tim would repeat it quite a lot. 16 Q. So far as the phone hacking events were developing, the 17 advice was particularly relevant to you, wasn't it, 18 because of what happened in July 2009 and subsequently; 19 do you accept that? 20 A. Yes, I suppose I do accept that, yes. 21 Q. Because the advice to other management board members, 22 although salutary, was less relevant to them because 23 after all they had nothing to do with phone hacking or 24 its aftermath, did they? 25 A. Yes, but I think it was generally well-known and by many Page 11</p> |
| <p>1 I don't consider that hospitality. It didn't come 2 within, in my view, the guidelines. 3 Q. I understand. Paragraph 42: 4 "I do not consider a casual meeting in those 5 circumstances ..." 6 So you're making it clear, are you, that it's the 7 casual meeting where one round of beer is bought by you 8 and then reciprocated half an hour later, that's not the 9 sort of thing which amounts to hospitality but 10 everything else would, is that correct? 11 A. No. In that sense -- 12 LORD JUSTICE LEVESON: Does it matter who pays? Whether 13 it's your personal money or reclaimed back or the 14 journalist's personal money? I'm just asking. 15 A. No, it would have been my own personal money, so you 16 wouldn't claim for those. 17 MR JAY: Paragraph 43: 18 "An arrangement to have supper or lunch or attend 19 a dinner or social function with a journalist was 20 considered perfectly acceptable and had many benefits." 21 A. Yes. 22 Q. Some of the benefits you've already explained. Was it 23 your practice to drink alcohol at these occasions in the 24 evening? 25 A. Yes, in sensible quantities, yes. Page 10</p> | <p>1 people in a perfectly proper way that I had and had had 2 good relationships with the media going back a number of 3 years, so it was very well-known and, as I say, but 4 I absolutely accept what you're saying in terms of it 5 may have been more directed to me than, say, the 6 director of resources. 7 Q. But his advice that contact should be reduced is 8 obviously in part evaluative or prescriptive, because it 9 suggesting there might have been too much contact with 10 the media and particularly by you. Would you at the 11 present accept that? 12 A. I think -- and Tim will talk for himself -- I think Tim 13 was of the view that the media were the enemy and we 14 shouldn't be in contact with them. Now, I don't concur 15 with that view, never have done, and I've had some 16 healthy dialogue, debate, with Tim on those points. He 17 took it a different view to me and others. 18 Q. Of course we'll ask him, but his view might have been 19 rather more direct, and it was this, that as phone 20 hacking developed as an issue, certainly in and after 21 July 2009, it was particularly inappropriate that there 22 should be any interaction between those investigating 23 phone hacking, such as you, and the media, in particular 24 News International. Do you accept that interpretation? 25 A. No, I don't, actually, because the fact of the matter Page 12</p> |

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| <p>1 was that we weren't investigating News International</p> <p>2 after July 2009. I came to a view then, which no doubt</p> <p>3 we'll discuss, that there was no any evidence on which</p> <p>4 to base an investigation, and so to say they were under</p> <p>5 investigation is not correct. They only became under</p> <p>6 investigation in January 2011.</p> <p>7 Q. But then Mr Godwin's advice was completely wrong because</p> <p>8 it was predicated on the premise, wasn't it, that there</p> <p>9 should be less contact with the media because of the</p> <p>10 phone hacking events developing, so it doesn't matter</p> <p>11 whether you call it investigation, whether you call it</p> <p>12 establishing the facts; it is the public perception</p> <p>13 which he was driving it, wasn't he?</p> <p>14 A. But that's -- if you come from that premise, you're</p> <p>15 saying that after July 2009 we shouldn't have had any</p> <p>16 contact with the media at all, and I don't accept that.</p> <p>17 It's not logical. If we were investigating them, then</p> <p>18 yes I agree, but we weren't investigating them. The</p> <p>19 matter was concluded then, there was no new evidence and</p> <p>20 we always said we would reopen the case if there was new</p> <p>21 evidence and that became apparent when they provided us</p> <p>22 with material in January, I think the 26th, 2011.</p> <p>23 Q. Okay, Mr Yates. We have, and I hope you have, as part</p> <p>24 of the material which has been provided by the MPS, the</p> <p>25 gifts and hospitality register insofar as it relates to</p> <p style="text-align: center;">Page 13</p> | <p>1 correlate the two, if I may. I'm going to look at one</p> <p>2 year, which is 2009, so one year in particular.</p> <p>3 A. Okay.</p> <p>4 Q. According to the diary entry, for 28 April 2009,</p> <p>5 a meeting was --</p> <p>6 A. Yes.</p> <p>7 Q. -- a dinner was organised, although in the end you</p> <p>8 didn't attend, with SPS, Dick F, which must be</p> <p>9 Dick Fedorcio, and NW --</p> <p>10 A. Yeah.</p> <p>11 Q. -- who we think must be Neil Wallis. Is that right?</p> <p>12 A. Yes.</p> <p>13 Q. That was at a restaurant called Luciano's.</p> <p>14 A. Yes.</p> <p>15 Q. I know you didn't attend it, but can you tell us what</p> <p>16 the purpose of that meeting might have been? Can you</p> <p>17 recall?</p> <p>18 A. I have no idea. I didn't go.</p> <p>19 Q. But if the meeting was going to be for a proper</p> <p>20 professional purpose, as it was, one would need to know</p> <p>21 in advance why it had been organised. Can you recall at</p> <p>22 all why it was set up?</p> <p>23 A. No, I can't. I'm sorry.</p> <p>24 Q. On 3 June 2009 there was a private appointment in the</p> <p>25 evening. Nick Candy, you and Neil, that's Neil Wallis?</p> <p style="text-align: center;">Page 15</p> |
| <p>1 you for the period after 1 January 2005. In the bundle</p> <p>2 I have, it's tab 12, although I'm afraid I don't know</p> <p>3 the page number on our system. It runs out before</p> <p>4 tab 11. It's going to be about 06460, but we'll find it</p> <p>5 about there.</p> <p>6 A. Is it in bundle 1 or bundle 2? I have bundle 2.</p> <p>7 I think bundle 1 is mostly around Select Committee</p> <p>8 stuff.</p> <p>9 LORD JUSTICE LEVESON: There is a bundle which is headed</p> <p>10 "MPS master bundle gifts and hospitality", but you may</p> <p>11 only have been sent a small file which contains your own</p> <p>12 register.</p> <p>13 MR JAY: Yes, I think that's what happened, if I remember</p> <p>14 rightly. It runs over about 32 pages. Do you have</p> <p>15 this?</p> <p>16 A. No, I don't -- well, I may do, but it's not immediately</p> <p>17 obvious. Just take me through it and I'll be happy with</p> <p>18 that, if you're happy.</p> <p>19 Q. I've also been given but I don't think anybody else has</p> <p>20 as yet, because the Metropolitan Police Service have</p> <p>21 kindly provided it to us but we will make this more</p> <p>22 generally available, a compilation of your diary</p> <p>23 entries.</p> <p>24 A. Yes, I've got that.</p> <p>25 Q. Involving contact with the media. I just want to</p> <p style="text-align: center;">Page 14</p> | <p>1 A. Yes.</p> <p>2 Q. Dinner for four at Skalini's.</p> <p>3 A. Yes.</p> <p>4 Q. Do you know what the purpose of that meeting was?</p> <p>5 A. It's -- it was a private appointment. It was friends.</p> <p>6 It had nothing to do with policing at all. That's why</p> <p>7 it says "private appointment".</p> <p>8 Q. Who is Nick Candy?</p> <p>9 A. Nick Candy is a friend. He works in property.</p> <p>10 Q. I think there was also someone called Neil Reading who</p> <p>11 attended, if I've correctly understood this. If I have,</p> <p>12 who is he?</p> <p>13 A. Neil Reading is a friend. He works in PR. It shouldn't</p> <p>14 have to be in the diary because it was a private</p> <p>15 appointment. It just helped me managing my diary. So</p> <p>16 it's nothing to do with policing at all.</p> <p>17 Q. So does it follow that you paid for this or --</p> <p>18 A. No, I think Nick paid. As I say -- I think Nick paid,</p> <p>19 but as I say, it's friends, so there were many times</p> <p>20 I paid for dinner which don't go in my diary either, so.</p> <p>21 Q. I understand. So for these purposes, we're going to</p> <p>22 regard Mr Wallis as a friend; is that correct?</p> <p>23 A. If it says a private appointment, yes.</p> <p>24 Q. Would policing issues have been discussed, though, in</p> <p>25 passing or at all?</p> <p style="text-align: center;">Page 16</p> |

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| <p>1 A. Absolutely not.</p> <p>2 Q. Why do you say that so categorically, Mr Yates?</p> <p>3 A. Because it's not of interest to the others there and</p> <p>4 it's -- it just wouldn't be -- it wasn't the purpose of</p> <p>5 the dinner to go and discuss policing. It was to go and</p> <p>6 have -- to go out with friends and enjoy a dinner.</p> <p>7 Q. I understand that, Mr Yates. Did Mr Wallis discuss the</p> <p>8 media world at all, or the News of the World in</p> <p>9 particular?</p> <p>10 A. Not that I can recall. This was -- it's more likely to</p> <p>11 be discussions about boring stuff like football, to be</p> <p>12 honest.</p> <p>13 Q. Well, not necessarily boring, depending on the precise</p> <p>14 nature of the discussion. Did each of you -- that's you</p> <p>15 and Mr Wallis -- support the same team?</p> <p>16 A. No.</p> <p>17 Q. All right.</p> <p>18 A. He comes from the Manchester United end of life and</p> <p>19 I come from the Liverpool end of life, so.</p> <p>20 Q. Did you go to football matches together?</p> <p>21 A. Yes, we did.</p> <p>22 Q. Was this on occasion in Manchester and on other</p> <p>23 occasions in Liverpool?</p> <p>24 A. No, I mean probably two or three times I've been to</p> <p>25 a football match with him.</p> <p style="text-align: center;">Page 17</p> | <p>1 about domestic life, family life, football and, you</p> <p>2 know, there was a life outside the Met, and I'm sure</p> <p>3 there's a life outside of News International for him.</p> <p>4 Q. So there was no, as it were, seeping in to professional</p> <p>5 or work issues during these social interactions, is that</p> <p>6 right?</p> <p>7 A. As I say, completely in the margins. Of course there</p> <p>8 must have been, but, you know, nothing of a -- you know,</p> <p>9 I can -- I know a number of lawyers, and count them as</p> <p>10 good friends, and we can talk about the legal system</p> <p>11 without talking about particular cases. I know bankers,</p> <p>12 you can talk about banking systems and not talk about</p> <p>13 individual accounts. You'd have to accept there's</p> <p>14 a sort of element of professionalism and sound judgment</p> <p>15 that stops you going into areas where you shouldn't go</p> <p>16 into, and I think it's -- you know, the inferences</p> <p>17 shouldn't be there.</p> <p>18 Q. Are you assuring us that Mr Wallis kept to the proper</p> <p>19 boundaries and did not share with you matters which</p> <p>20 related to his work?</p> <p>21 A. Well, you'd have to ask him himself, but I certainly</p> <p>22 didn't hear anything from him that caused me concern,</p> <p>23 no.</p> <p>24 Q. To go back to your diary, 9 September 2009, another</p> <p>25 private appointment: dinner with Neil et al, and then it</p> <p style="text-align: center;">Page 19</p> |
| <p>1 Q. I didn't catch that.</p> <p>2 A. Sorry? Two or three times.</p> <p>3 Q. Was it once in Manchester, twice in Liverpool?</p> <p>4 A. No, I don't think -- I don't think he's -- I don't think</p> <p>5 I let him go to Liverpool, so it was Manchester and</p> <p>6 I think Arsenal when Liverpool were playing Arsenal,</p> <p>7 I think.</p> <p>8 Q. May I ask you this: who paid for the tickets?</p> <p>9 A. On the Liverpool/Manchester United, he paid for the</p> <p>10 tickets, and I paid for the travelling, so it's sort of</p> <p>11 pro rata, really.</p> <p>12 Q. It sounds as if Mr Wallis was, at least at that stage,</p> <p>13 a close friend of yours. Is that fair?</p> <p>14 A. He was -- I've always been completely open that he's</p> <p>15 a good friend. He certainly was a good friend.</p> <p>16 I haven't seen him for nigh on a year.</p> <p>17 Q. Inevitable, wasn't it, Mr Yates, that on these social</p> <p>18 occasions if you're travelling up from London, whether</p> <p>19 it be to Manchester or Liverpool, you're with Mr Wallis</p> <p>20 for at least a couple of hours on the train either way?</p> <p>21 A. Yes.</p> <p>22 Q. There's going to be discussion around what you do</p> <p>23 professionally and around what he did professionally.</p> <p>24 Would you accept that?</p> <p>25 A. In the margins, yes, but, seriously, it was far more</p> <p style="text-align: center;">Page 18</p> | <p>1 says "spk", which must be speak, and then the initials</p> <p>2 KB at a restaurant called --</p> <p>3 A. She's my PA.</p> <p>4 Q. Pardon me?</p> <p>5 A. KB is my -- was my PA.</p> <p>6 Q. Thank you. At a restaurant called Scott's, which</p> <p>7 I think is in Soho. Again, obviously it doesn't feature</p> <p>8 in the -- actually, I think on this occasion it does.</p> <p>9 Just bear with me. No, it doesn't feature in the gifts</p> <p>10 and hospitality register, I suppose because this was</p> <p>11 a private appointment; is that correct?</p> <p>12 A. Yes. For all private appointments, read private.</p> <p>13 Q. Again, it's the same points that you would make that</p> <p>14 there was no improper discussion with Mr Wallis at any</p> <p>15 stage?</p> <p>16 A. No, absolutely.</p> <p>17 Q. Just bear with me. 1 October 2009 is another private</p> <p>18 appointment, dinner with Nick Candy and Wallis at</p> <p>19 a place called Cecconi's, this time in Burlington</p> <p>20 Gardens. It exactly the same point, is it?</p> <p>21 A. It is, yes.</p> <p>22 Q. A lunch with Mr Wallis organised for 14 September</p> <p>23 I assume was cancelled. He was a very close friend of</p> <p>24 yours, wasn't he?</p> <p>25 A. He was a good friend, yes.</p> <p style="text-align: center;">Page 20</p> |

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| <p>1 Q. 7 September -- it's out of sequence in the diary as has 2 been compiled -- there's an entry this time in the 3 mid-afternoon, "Mr Wallis to NSY", which obviously is 4 New Scotland Yard, "arranged direct by JY", which is 5 you. Can you recall why Mr Wallis went to New Scotland 6 Yard to see you on that occasion?</p> <p>7 A. What was the date, sorry?</p> <p>8 Q. 7 September 2009.</p> <p>9 A. I think there were several attempts to get an 10 appointment with him, myself and Dick Fedorcio regarding 11 potential work, I think. I can only think it must have 12 been that.</p> <p>13 Q. Potential work for Mr Wallis; is that right?</p> <p>14 A. I think that -- I'd imagine that's what it is, but 15 I can't be certain in terms of the timing.</p> <p>16 Q. Is this the business surrounding Mr Wallis' company, 17 Shami?</p> <p>18 A. Yeah, I think so, yes, but I can't be certain.</p> <p>19 Q. So you think that this was a meeting which related to 20 that matter? Have I correctly understood it?</p> <p>21 A. I think it was with Dick Fedorcio, but I can't be 22 absolutely certain without seeing the diary entry.</p> <p>23 Q. How many of these meetings took place surrounding the 24 Shami issue and Mr Wallis? Can you recall?</p> <p>25 A. I think one or two in terms of the work he was doing for</p> <p style="text-align: center;">Page 21</p> | <p>1 A. Thank you.</p> <p>2 Q. 5 November 2009 in the diary, this is an entry which 3 does appear in the gifts and hospitality register. The 4 register says: 5 "Dinner, News of the World (to improve understanding 6 of each other's operational environment)." 7 Which is a formulation one sees very commonly in the 8 gifts and hospitality register whenever one is meeting 9 a news organisation.</p> <p>10 A. Yes, it's common across -- it's not just me, it's common 11 across, I think, all the rest, isn't it?</p> <p>12 Q. We'll see whether it's exactly the same for Mr Hayman.</p> <p>13 A. I think it was a form of words that was -- I had nothing 14 to do with the formal words, but that was the formal 15 words that appeared to sort of encapsulate it and 16 satisfy the police authority.</p> <p>17 Q. Because looking at this register you'd have no idea who 18 the dinner was with, but one does from the diary entry: 19 "Dinner meeting with Colin Myler and Lucy Panton." 20 And this is the Ivy Club, which apparently is 21 upstairs from the Ivy restaurant.</p> <p>22 A. Yes.</p> <p>23 Q. What was going on on this occasion, Mr Yates? What was 24 discussed?</p> <p>25 A. Again I think it was probably -- I think it was my -- in</p> <p style="text-align: center;">Page 23</p> |
| <p>1 us. Is that the question, sorry?</p> <p>2 Q. I think just the number of meetings, and you've given 3 your evidence about that.</p> <p>4 A. Yeah.</p> <p>5 Q. This was about two months after you were establishing 6 the facts in relation to News International, News of the 7 World and Operation Caryatid on 9 July --</p> <p>8 A. 9th, yes.</p> <p>9 Q. When you were establishing those facts, was it ever 10 suggested to you that the conspiracy, if I can use that 11 term, went quite high in the organisation? Or might 12 have done?</p> <p>13 A. No, absolutely not. It was -- I saw you taking through 14 the briefing notes yesterday exactly what was there, and 15 there was certainly no evidence to suggest that, so 16 absolutely not. And I was -- you know, the level of 17 reassurance I had on that was from a number of pointers, 18 both from sort of Peter Clarke and the late 19 John McDowall in terms of their seniority and their 20 oversight of it, some exceptionally good detectives from 21 specialist operations who were involved with it, the DPP 22 concurred with my view, counsel --</p> <p>23 Q. We're going to come back to that.</p> <p>24 A. We will be covering that?</p> <p>25 Q. We will certainly be covering that.</p> <p style="text-align: center;">Page 22</p> | <p>1 terms of coming into the CT job, I think it was the 2 first time I'd met Colin Myler. Again it was exactly 3 what it says, it's trying to understand perspectives 4 from one of the biggest selling or then biggest selling 5 national newspapers what their big issues of the day 6 were, what our big issues of the day were. It's talking 7 about it at a sort of strategic level, if you like, and 8 helping to understand both his perspective and my 9 perspective.</p> <p>10 Q. You tell us in your statement that Lucy Panton was one 11 of the most active members of the Crime Reporters 12 Association; is that right?</p> <p>13 A. She was certainly one of the most visible ones in that 14 sense, yes.</p> <p>15 Q. She was and probably still is married to a detective in 16 the MPS; is that right?</p> <p>17 A. Yes, as far as I'm aware.</p> <p>18 Q. What was the nature of your dealings with her? I'm not 19 suggesting for one moment -- sorry, we're getting an 20 echo on the system. I think it's stopped.</p> <p>21 A. Am I too loud?</p> <p>22 Q. No. I mean, how often did you meet with Lucy Panton?</p> <p>23 A. I've known Lucy, like I've known a number of the crime 24 reporters, for many, many years. I think I put in my 25 statement about a decade. So I've known her an awful</p> <p style="text-align: center;">Page 24</p> |

6 (Pages 21 to 24)

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| <p>1 long time. It would be difficult to say how often I'd</p> <p>2 met her, but probably two or three times a year, I would</p> <p>3 say. I don't know.</p> <p>4 Q. This is an expensive restaurant, isn't it? It goes</p> <p>5 without saying. We get the idea with the Ivy Club.</p> <p>6 A. I think all restaurants in London are expensive, Mr Jay.</p> <p>7 Q. Okay, Mr Yates, but this is at the expensive end, and</p> <p>8 I mean you don't get out of the Ivy Club, possibly, for</p> <p>9 less than £100 a head. Obviously alcohol was bought as</p> <p>10 well, wasn't it?</p> <p>11 A. Yes, absolutely.</p> <p>12 Q. Was this an appropriate interaction with Mr Myler and</p> <p>13 Lucy Panton, in your view, looking back on this?</p> <p>14 A. I don't -- I mean, in terms of what we know now, yes, it</p> <p>15 clearly -- as I say, in terms of what has happened in</p> <p>16 the last three or four months, yes, I suppose it is, but</p> <p>17 it certainly wasn't at the time in terms of what we knew</p> <p>18 about the events, Mr Myler's position, he was the new</p> <p>19 editor who'd come in, and I go back to what I said at</p> <p>20 the start. I think it's hugely important that senior</p> <p>21 police officers have a relationship and interact with</p> <p>22 the media, that they are not the enemy, they are</p> <p>23 occasionally critical friends and occasionally much</p> <p>24 worse.</p> <p>25 Q. Mr Myler's position -- we heard his evidence to this</p> <p style="text-align: center;">Page 25</p> | <p>1 lunch, and indeed the diary entry, at least as</p> <p>2 transcribed to me, says:</p> <p>3 "Meeting with Nick Davies, Guardian, 30 minutes</p> <p>4 only."</p> <p>5 You're making it clear that that's the limit of your</p> <p>6 time for Mr Davies, isn't it? I'm not saying you're</p> <p>7 wrong about that, but this is going to be an</p> <p>8 abbreviated, short as possible, professional</p> <p>9 interaction, isn't it?</p> <p>10 A. Well, if you looked at my diary in its broader context,</p> <p>11 you would see it's sort of fairly round from dawn till</p> <p>12 early dusk. I imagine that's because it was considered</p> <p>13 important to have the meeting. Nick was quite</p> <p>14 a challenging individual for us to deal with in</p> <p>15 a perfectly proper respect, and we felt there would be</p> <p>16 some value in having that meeting with him. We had</p> <p>17 a follow-on meeting, I think, with the editor and the</p> <p>18 deputy editor around exactly the same issues in terms of</p> <p>19 just trying to explain what the MPS position was around</p> <p>20 phone hacking.</p> <p>21 Q. And on 15 December 2009 in the diary:</p> <p>22 "Meeting between JY, Dick Fedorcio and Neil Wallis."</p> <p>23 A. Yeah.</p> <p>24 Q. This probably relates, does it, to the Shami employment</p> <p>25 issue?</p> <p style="text-align: center;">Page 27</p> |
| <p>1 Inquiry -- was that there was one rogue reporter. Was</p> <p>2 that your understanding of the position? Was that</p> <p>3 affirmatively established to your satisfaction that</p> <p>4 there was only one rogue reporter at the News of the</p> <p>5 World?</p> <p>6 A. In terms of what we knew and what the evidence was, yes,</p> <p>7 that was the position in July 2009 and remained that</p> <p>8 position up until January 2011. We had no other way of</p> <p>9 affirming it either way.</p> <p>10 Q. In your opinion, there was no evidence at all to suggest</p> <p>11 that others might be involved; is that correct,</p> <p>12 Mr Yates?</p> <p>13 A. Well, there was the -- you know, the long spoken about</p> <p>14 "for Neville" email, which again was covered in terms of</p> <p>15 what its value to an investigation was on several</p> <p>16 occasions, not least by the DPP and counsel in terms of</p> <p>17 what it would value -- its evidential value. There was</p> <p>18 nothing else that we knew differently then.</p> <p>19 Q. Okay, we'll come back to that, but I'm still on this</p> <p>20 diary. There's a meeting with Nick Davies of the</p> <p>21 Guardian, which is quite interesting. 30 November 2009.</p> <p>22 A. Yes, got it.</p> <p>23 Q. Which is probably at New Scotland Yard.</p> <p>24 A. It was.</p> <p>25 Q. We know from the time of day that it wasn't going to be</p> <p style="text-align: center;">Page 26</p> | <p>1 A. Yes. I think, if I recall it, I don't think I actually</p> <p>2 made the meeting, but I think you're right, Mr Jay,</p> <p>3 that's what it was about.</p> <p>4 Q. 9 April 2010. This is a CRA lunch.</p> <p>5 A. Yes.</p> <p>6 Q. At a place called Racine's in Knightsbridge. Were there</p> <p>7 only four other people there, John Twomey, Lucy Panton</p> <p>8 and Justin Davenport with Sara Cheesley attending, or</p> <p>9 was it wider --</p> <p>10 A. No, that was it. It was the sort of practice of</p> <p>11 specialist operations going back several years,</p> <p>12 before -- way before my time, to arrange these -- to</p> <p>13 arrange these almost monthly, although I never made them</p> <p>14 monthly, I think I probably got to them only every three</p> <p>15 or four months, with the CRA, where Sara Cheesley calls</p> <p>16 the press officer.</p> <p>17 Q. This one isn't in the gifts and hospitality register.</p> <p>18 Is there a reason for that?</p> <p>19 A. I can only think that's an oversight. It's in the</p> <p>20 diary. Maybe I didn't make it, I don't know. If you</p> <p>21 look -- what you're of course not pointing out, Mr Jay,</p> <p>22 is the number of meetings that were cancelled during</p> <p>23 those years, which were probably more than the ones</p> <p>24 I attended, so I think that's probably helpful to point</p> <p>25 out.</p> <p style="text-align: center;">Page 28</p> |

7 (Pages 25 to 28)

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| <p>1 Q. Thank you. 21 May 2010, again in the diary. It's not 2 in the gifts and hospitality register, but it may be 3 that this one didn't take place.</p> <p>4 A. I don't think it did.</p> <p>5 Q. It says "Dinner with Neil ..." then it says "TBC". Are 6 we to deduce that it didn't take place?</p> <p>7 A. Yes. It probably took place in four days' time.</p> <p>8 Q. Yes I was going to come to that, 25 May, private 9 appointment: "NC". That's Mr Candy, I think, isn't it?</p> <p>10 A. Yes, the private appointments, Mr Jay -- I shouldn't 11 have them in my diary.</p> <p>12 Q. Well. It's at somewhere called the Bar Boulud, Mandarin 13 Oriental. NC confirmed booking. So it suggests that 14 he probably paid?</p> <p>15 A. He may well have done, yes.</p> <p>16 Q. Mr Wallis was there again, wasn't he?</p> <p>17 A. Yes, the same four people who I have dined with probably 18 three times that year. As friends.</p> <p>19 Q. Another private appointment, Neil Wallis, 10 June 2010. 20 Do you see that one?</p> <p>21 A. Yes. But he was no longer working for 22 News International. I think he was working for us then.</p> <p>23 Q. Also been transcribed as a diary entry for 3 August 24 2010, although this one appears to have been postponed. 25 It's a drink with Ron McGivern(?) and possibly Wallis.</p> <p style="text-align: center;">Page 29</p> | <p>1 anything, between the professional contact that you 2 might have with a newspaper or organisation to further 3 the interests of the Metropolitan Police and 4 a relationship with somebody which might be perceived -- 5 I mean perfectly innocently, you're entitled to be 6 friends with whomsoever you wish, but who might be 7 perceived to impact on your professional judgment in 8 circumstances that you should be careful to avoid?</p> <p>9 A. I agree with you, and what I've done in the last year is 10 to cut off contact with someone who was a good friend 11 because of the way things had developed, but from 2005, 12 2006 onwards, whenever Caryatid started, there was never 13 any question of Mr Wallis being involved. He hadn't 14 resigned, he continued to work at the newspaper. There 15 was no evidence in July 2009, there was no evidence in 16 the New York Times, so --</p> <p>17 LORD JUSTICE LEVESON: It's not that he personally would 18 necessarily be involved, but he was associated with an 19 organisation that certainly was being the subject of 20 scrutiny, whether correctly or not, and I'm sure that 21 you in your experience from your other investigations 22 have more than enough scars of problems of 23 relationships.</p> <p>24 A. Yeah, I mean I -- the way this has been described in the 25 past in terms of -- if a Detective Inspector at Bromley</p> <p style="text-align: center;">Page 31</p> |
| <p>1 A. Yeah, didn't happen.</p> <p>2 Q. I think the reason why this was drawn to the Inquiry's 3 attention is the email to the right-hand side. Do you 4 see that?</p> <p>5 "Hello John." 6 And there's a rather disparaging reference to 7 Mr Wallis being drunk in a restaurant and you trying to 8 control him.</p> <p>9 A. Yeah --</p> <p>10 Q. Do you recall that?</p> <p>11 A. That didn't happen. It's not my email. Give us 12 a break.</p> <p>13 Q. This is coming to an end shortly. 24 August 2010.</p> <p>14 A. What you -- I can understand why you are ignoring it -- 15 is all the other appointments with other sections of the 16 media, the Guardian, the Independent, Channel 4, ITN, 17 which of course show the balance of the level of media 18 contact, which was actually way in favour of those 19 people over News International, in my view, if you did 20 the counting.</p> <p>21 Q. Thank you.</p> <p>22 A. I'm just making a point.</p> <p>23 Q. Yes, fair enough, Mr Yates.</p> <p>24 LORD JUSTICE LEVESON: But is there a difference, Mr Yates, 25 if you're going to be involved in investigating</p> <p style="text-align: center;">Page 30</p> | <p>1 police station gets arrested -- in a big organisation 2 gets arrested for corruption, that doesn't mean you cut 3 off contact with the rest of the organisation. So as 4 far as we were aware, you had Mr Goodman, as a cog in 5 a large organisation, arrested for wrongdoing and sent 6 to prison. That, as far as I was aware at the time and 7 others were aware, no other evidence to suggest others' 8 involvement, does that mean you cut off relationships 9 with a very influential section of the media? I don't 10 think it does.</p> <p>11 LORD JUSTICE LEVESON: I don't think it necessarily does 12 either, but that's rather different if you are then 13 required to make judgments about the existence or 14 otherwise of evidence, and that you then run the risk of 15 somebody saying actually you have something of a -- not 16 an interest --</p> <p>17 A. Because there's so many formal checks and balances and 18 informal checks and balances in these matters. Public 19 perception, I accept your point, my Lord, but if you 20 want -- you saw Keith Surtees yesterday. If you're 21 honestly suggesting that someone like Keith Surtees 22 would accept a perverse decision just because I was the 23 senior officer, it's just nonsense, sir. These are the 24 informal checks and balances that take place as well, 25 and, you know, I absolutely know what I did on July 9th,</p> <p style="text-align: center;">Page 32</p> |

8 (Pages 29 to 32)

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| <p>1 I know what I was provided with, I know the judgment</p> <p>2 I made. You know, time has shown that to be -- and</p> <p>3 what's happened -- not the greatest call, but at that</p> <p>4 time it was the right call, and it wasn't influenced in</p> <p>5 any way, shape or form by other matters.</p> <p>6 LORD JUSTICE LEVESON: Those are two questions, aren't they?</p> <p>7 First of all, whether the basis for the call, and</p> <p>8 secondly whether whatever basis there was for the call,</p> <p>9 it was justified by events or -- and finally, whether</p> <p>10 what happened thereafter. I understand the separation</p> <p>11 of the issues.</p> <p>12 A. Yes. Thank you.</p> <p>13 MR JAY: Mr Yates, in relation to the diary and the</p> <p>14 register, the diary shows, looking elsewhere now, that</p> <p>15 there were occasional meals, usually in the evening,</p> <p>16 with Mr Witherow, editor of the Sunday Times.</p> <p>17 A. Yes.</p> <p>18 Q. On each occasion, those do feature in the gifts and</p> <p>19 hospitality register. Do you follow me?</p> <p>20 A. Yes. They all should. But if there's the occasional</p> <p>21 oversight, that's regrettable, but it's what it is.</p> <p>22 Q. But your interactions with him were always, as it were,</p> <p>23 a deux, there weren't other people there. Do you follow</p> <p>24 me?</p> <p>25 A. Yeah, that's right.</p> <p style="text-align: center;">Page 33</p> | <p>1 high up in News International?</p> <p>2 A. He was one of those ones that would (break in</p> <p>3 transmission) --</p> <p>4 Q. Sorry, we didn't catch that.</p> <p>5 A. He was one of the ones -- sorry. He was an individual,</p> <p>6 I think, and again he can speak for himself, I don't</p> <p>7 want to put words in his mouth, but James did see</p> <p>8 a grander conspiracy, and, you know, the discussion was</p> <p>9 around this is what we've done, this is why we've done</p> <p>10 it, and I believe -- again he can speak for himself --</p> <p>11 that I would have been very helpful in terms of putting</p> <p>12 context around why police do certain things and why</p> <p>13 police can't do certain things.</p> <p>14 Q. I'm not dealing here with the rights and wrongs of this;</p> <p>15 I'm dealing solely with what he told you, and so --</p> <p>16 A. Yes.</p> <p>17 Q. -- you say he can speak for himself, but what in fact is</p> <p>18 important is what you can tell us as to what he told</p> <p>19 you, and he was telling you --</p> <p>20 A. Okay, if the point you're getting to is -- sorry to</p> <p>21 overspeak. If the point you're getting to is did he</p> <p>22 give me any nugget of evidence that enabled me to do</p> <p>23 anything with it, the answer is no. And if he had done,</p> <p>24 of course I'd have taken it forward.</p> <p>25 Q. Yes. But what he was doing, though, was casting -- or</p> <p style="text-align: center;">Page 35</p> |
| <p>1 Q. Then on perhaps more occasions you're having drinks with</p> <p>2 a journalist called James Hanning, which this Inquiry's</p> <p>3 heard from, of the Independent. Does that match your</p> <p>4 recollection?</p> <p>5 A. Yeah, it does, and James was a sort of very interesting</p> <p>6 interrogator, small "i", and challenging some of my --</p> <p>7 many of my assumptions and preconceptions around phone</p> <p>8 hacking, and I found it extremely useful to talk to him</p> <p>9 because he was giving a completely different view about</p> <p>10 the public perception around what had taken place. So</p> <p>11 I found that extremely useful.</p> <p>12 Q. So he was telling you, was he, from what he'd heard and</p> <p>13 knew, this activity was far more widespread than you</p> <p>14 believed? Is that right?</p> <p>15 A. And it was -- that's what James' view was, and he can</p> <p>16 speak for himself, I don't want to put words in his</p> <p>17 mouth. But from my perspective what I was trying to get</p> <p>18 across to him was the limitations on what could have</p> <p>19 been done in 2005/6 when I wasn't responsible, the</p> <p>20 exercise I undertook in 2009 when I was responsible, and</p> <p>21 the continuing attention I gave it, which I think is</p> <p>22 probably clear from the paperwork, from July 2009</p> <p>23 onwards until January 2011.</p> <p>24 Q. I mean did he share with you his belief, albeit in this</p> <p>25 informal context, that the conspiracy, as it were, went</p> <p style="text-align: center;">Page 34</p> | <p>1 perhaps this is what ought to have happened -- casting</p> <p>2 doubt in your mind as to the propriety of you continuing</p> <p>3 to have frequent social interactions with Mr Wallis.</p> <p>4 Wasn't he at least doing that?</p> <p>5 A. He had a view about -- it was not so much -- I can't</p> <p>6 actually recall the exact details of the conversation --</p> <p>7 it wasn't so much about Wallis, it was about others. He</p> <p>8 had a view. He had a view about what had taken place.</p> <p>9 It was actually certainly far more about other senior</p> <p>10 people in the Murdoch stable, as it were, than</p> <p>11 Mr Wallis. He by then didn't work for them, of course.</p> <p>12 Q. I go back to Lucy Panton in paragraph 65 of your</p> <p>13 statement.</p> <p>14 A. Yes.</p> <p>15 Q. You refer to an email that you were shown from James</p> <p>16 Mellor to Lucy Panton, 30 October 2010. The email</p> <p>17 itself is in our bundle at our page number 06530.</p> <p>18 Tab 3, probably, of the bundle you have.</p> <p>19 A. I have it, yeah.</p> <p>20 Q. It's a rather odd email to get one's mind around without</p> <p>21 knowing a lot more of the context.</p> <p>22 A. I can help you with the context, probably.</p> <p>23 Q. Yes. Very briefly, Mr Yates.</p> <p>24 A. Sorry?</p> <p>25 Q. Please do, but very briefly.</p> <p style="text-align: center;">Page 36</p> |

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| <p>1 A. The context was around -- the background is the weekend 2 of that 30 October was -- I think it was about two or 3 three days beforehand there had been a printer cartridge 4 bomb found on a DHL flight up in the West Midlands 5 Airport, so there was a lot of interest around what had 6 happened that weekend.</p> <p>7 Q. Why you were shown this email -- and it may have been 8 the MPS who showed it to you -- was the last two lines: 9 "Thinks John Yates could be crucial here. Have you 10 spoken to him? Really need an exclusive splash line so 11 time to call in all those bottles of champagne ..."</p> <p>12 A. Yeah.</p> <p>13 Q. One interpretation is, well, you'd been providing 14 bottles of champagne to Lucy Panton; it was time to call 15 in the favour, as it were, or it may have been the other 16 way around. But you can see the point. I think it's 17 the other way around.</p> <p>18 A. Yeah, and I sort of put a -- I mean, firstly I have no 19 clue who James Mellor is, I never met him in my life. 20 Secondly, it's not my email and it's a turn of phrase, 21 and thirdly, it would indicate even by October 2010 that 22 those perceived favours had never been called and 23 I hadn't provided them with anything before and that's 24 the position.</p> <p>25 So I can't account for -- yes, it's a phrase, and</p> <p style="text-align: center;">Page 37</p> | <p>1 Q. This is Mr Wallis coming to work for the MPS. There's 2 detailed evidence -- or rather there's a statement from 3 you, it's not that detailed, but it runs over a few 4 pages -- your exhibit JMY3.</p> <p>5 A. Yes.</p> <p>6 Q. Mr Wallis coming to wok for the MPS. We'll take JMY3 as 7 read, but the conversation you had with him, when you 8 referred to evidence you gave to the Home Affairs Select 9 Committee --</p> <p>10 A. Yeah.</p> <p>11 Q. -- wanted "absolute assurance there was nothing in the 12 previous phone hacking matters still being reported and 13 chased by Nick Davies that could embarrass him, me, the 14 Commissioner or the Metropolitan Police Service. 15 I received categorical assurances that this was the 16 case."</p> <p>17 What was the --</p> <p>18 A. Yes.</p> <p>19 Q. -- value of those assurances, Mr Yates?</p> <p>20 A. It was the proper assurances and the proper due 21 diligence, as it were, is of course done through the 22 normal channels of the procurement branch in the Met. 23 It was a type of formal reassurance to me that there was 24 nothing. I wanted to be doubly certain. I knew the 25 rumours that were swilling around potentially, and</p> <p style="text-align: center;">Page 39</p> |
| <p>1 I think it's slightly unfair that it's put to me in that 2 way, and I've said I put a completely different spin on 3 it to you.</p> <p>4 Q. The only spin I put on it -- and I prefer the word 5 interpretation, actually, rather than spin -- is that 6 Lucy Panton is plying you with champagne, that was known 7 about to James Mellor, and the suggestion is that the 8 favour needs to be returned and that's what this clearly 9 says, doesn't it?</p> <p>10 A. It's a turn of phrase. No, I hadn't been plied with 11 champagne by Lucy Panton and I think it's an unfortunate 12 emphasis you're putting on it.</p> <p>13 Q. I'll only ask one other question: did you ever drink 14 champagne with Lucy Panton?</p> <p>15 A. There may well have been the very odd occasion, yes, 16 when a bottle was being shared with several people, but 17 no in the sense that you're suggesting.</p> <p>18 Q. This email was drawn to our attention, and therefore it 19 was right to ask questions about it, but I leave it 20 there.</p> <p>21 Can I move on to the next section of your witness 22 statement?</p> <p>23 A. Paragraph?</p> <p>24 Q. This is paragraph 66, our page 06489.</p> <p>25 A. Yes.</p> <p style="text-align: center;">Page 38</p> | <p>1 I just wanted to be absolutely certain.</p> <p>2 Q. But he was hardly going to say yes to you. You, of 3 course, are a policeman, and an extremely senior 4 policeman. He has to say no, whatever the truth of the 5 matter. Do you see that? Asking Mr Wallis for 6 a categorical assurance is entirely worthless, isn't it?</p> <p>7 A. I don't think it is, actually, because I think it is me 8 saying, "Come on, Neil, is there anything, anything, 9 anything, that's going to embarrass you, me or the Met 10 in the future?" I felt it was valuable. You know, it 11 would -- if anything, it would put him off taking the 12 job if he thought there was something, rather than say, 13 "Oh yes, lots to embarrass you." He might just say, "Do 14 you know what, I don't think it's worth it", or 15 something. So it was me sort of reinforcing those facts 16 with him.</p> <p>17 Q. The offer of work by the MPS to Neil Wallis' daughter 18 Amy, that's paragraph 74 of your statement. That's 19 a matter which has been considered elsewhere.</p> <p>20 A. Yeah. Considered elsewhere, of course there was 21 absolutely no wrongdoing. I've been completely cleared 22 of any sort of wrongdoing regarding that.</p> <p>23 Q. Questions of course were asked by a Select Committee, 24 but the gist of it is this, that you passed on an email 25 and said words to the effect, "Let me know what happens</p> <p style="text-align: center;">Page 40</p> |

10 (Pages 37 to 40)

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| <p>1 to this so I can manage expectations"; is that right?</p> <p>2 A. Absolutely. So I was -- as I've said before, I was</p> <p>3 completely equivocal about whether Amy got the job or</p> <p>4 not, and I had no influence on it at all. As has been</p> <p>5 confirmed.</p> <p>6 Q. Just the appearance of this, Mr Yates. You're an</p> <p>7 Assistant Commissioner, you're passing on the email to</p> <p>8 someone in human resources --</p> <p>9 A. To the -- sorry. I was passing it to the director of</p> <p>10 human resources.</p> <p>11 Q. Yes, but that person knows by the very fact that you're</p> <p>12 passing on the email that you know the father.</p> <p>13 A. Yeah.</p> <p>14 Q. That's the reason why expectations need to be managed.</p> <p>15 There is at least the perception of influence by you,</p> <p>16 which might be said by some to have been or at least</p> <p>17 give the appearance of being causative in Amy Wallis</p> <p>18 getting the job. Do you see that point?</p> <p>19 A. No. I disagree with you. This is passed to a peer on</p> <p>20 the management board who had a reputation for telling it</p> <p>21 as it is. If he thought there was anything</p> <p>22 inappropriate, if you were to read out the email from</p> <p>23 Martin Tiplady, you would actually see what he said</p> <p>24 about that. So no, I don't accept that and of course</p> <p>25 the IPCC have agreed with me.</p> <p style="text-align: center;">Page 41</p> | <p>1 stories that weren't right, yes, I did that on at least</p> <p>2 a couple of occasions, because we were saying if that</p> <p>3 story goes to the public domain that will distract the</p> <p>4 team for days on end, create a media furore that is</p> <p>5 completely unnecessary and you would say -- you provide</p> <p>6 the items to say you're completely wrong.</p> <p>7 But I stand by what I put in my statement that the</p> <p>8 salient facts and the -- in media terms the salacious</p> <p>9 facts about that enquiry remain known to very few people</p> <p>10 and that's the way it's always remained. We managed to</p> <p>11 interview a certain Prime Minister four times with</p> <p>12 no one knowing so I think that bears testament to the</p> <p>13 tightness of the team and myself during what was a very</p> <p>14 testing period.</p> <p>15 Q. Can I move now to the phone hacking investigation, which</p> <p>16 starts at paragraph 95. You feel now, this is</p> <p>17 paragraph 96, our page 06498:</p> <p>18 "It is now very clear from the outset News of the</p> <p>19 World deliberately failed to co-operate with the</p> <p>20 original investigation and have seriously misled</p> <p>21 a variety of people and institutions over the past</p> <p>22 several years."</p> <p>23 A. Yes.</p> <p>24 Q. The reference to "from the outset" is presumably</p> <p>25 a reference to -- what, do you mean literally by that?</p> <p style="text-align: center;">Page 43</p> |
| <p>1 Q. I move on to a separate issue now, that of leaks.</p> <p>2 Paragraph 85 of your statement, page 06496. Cash for</p> <p>3 honours --</p> <p>4 A. Page 5?</p> <p>5 Q. Paragraph 85.</p> <p>6 A. Yes.</p> <p>7 Q. You say you have always denied being the source of any</p> <p>8 inappropriate information reaching the public domain and</p> <p>9 still do. It was being suggested by many that you were</p> <p>10 the source of leaks of information into the public</p> <p>11 domain, wasn't it?</p> <p>12 A. It was, but that was the inference that was put out,</p> <p>13 I don't know if it was ever put quite as starkly as</p> <p>14 that, but it's not true.</p> <p>15 Q. So your clear evidence is that you were not the source</p> <p>16 of any leaks in relation to that investigation; is that</p> <p>17 right?</p> <p>18 A. I don't put out anything in the public domain that</p> <p>19 I wasn't entitled to do so by virtue of my rank or</p> <p>20 authority by somebody else, no.</p> <p>21 Q. That's a slightly different formulation. It suggests</p> <p>22 that you might have put things into the public domain,</p> <p>23 but feel that it was appropriate to do so by virtue of</p> <p>24 your rank and status?</p> <p>25 A. No, no, no. Okay. No. In terms of knocking down</p> <p style="text-align: center;">Page 42</p> | <p>1 What happened on 8 August 2006 and subsequently; have</p> <p>2 I understood that right?</p> <p>3 A. Yes, I think that is my view. It's clear that both from</p> <p>4 the sort of -- the solicitors' and lawyers' letters that</p> <p>5 were traded from the earlier investigation, that there</p> <p>6 was a deliberate obfuscation around all these matters,</p> <p>7 and that they clearly had material which they didn't</p> <p>8 provide us, and didn't provide until some five years</p> <p>9 later, January 2011.</p> <p>10 Q. Weren't you told, though, by Mr Williams -- Mr Surtees,</p> <p>11 of course, wasn't part of what happened in July 2009 --</p> <p>12 that News of the World had been obstructive in the</p> <p>13 police's view in August/September 2006?</p> <p>14 A. There's obstruction that -- which I heard about</p> <p>15 yesterday and I knew about in terms of sort of a slight</p> <p>16 lockdown at Wapping when police turned up, and then</p> <p>17 there's the obstruction that has to be a deliberate</p> <p>18 obstruction that would foil us in terms of getting</p> <p>19 a production order. When lawyers wrote, as they did, on</p> <p>20 numerous occasions the opening paragraph was always the</p> <p>21 lines of "we intend to co-operate completely with your</p> <p>22 enquiries". You would know and I would know and our</p> <p>23 lawyers told us that that would foil the ability to get</p> <p>24 a production order then. That's my understanding, of</p> <p>25 course. I wasn't part of that team. That's my</p> <p style="text-align: center;">Page 44</p> |

11 (Pages 41 to 44)

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| <p>1 understanding.</p> <p>2 Q. You may well have followed the evidence that was given</p> <p>3 to this Inquiry yesterday, but it was I think I'm right</p> <p>4 in saying the view of all three officers from whom we</p> <p>5 heard yesterday at the time that they felt News of the</p> <p>6 World were being obstructive. Was that communicated to</p> <p>7 you by Mr Williams in July 2009?</p> <p>8 A. I recall sort of the phrase a sort of Mexican stand-off</p> <p>9 at Wapping HQ when they turned up with a warrant, but</p> <p>10 I think that would happen at a lot of newspaper offices</p> <p>11 if the police came in with a warrant. I think the</p> <p>12 newspaper lawyers would want to test that warrant and do</p> <p>13 everything they could do to safeguard journalistic</p> <p>14 material. I wouldn't necessarily think that would be an</p> <p>15 unusual turn of events at a newspaper.</p> <p>16 Q. Even if the police had a warrant which excluded from its</p> <p>17 ambit journalistic material? Is that still your</p> <p>18 evidence, Mr Yates?</p> <p>19 A. It's difficult -- what happened in 2005/2006 obviously</p> <p>20 had nothing to do with me and I can't make those</p> <p>21 judgments. The important thing is in 2009, when it did</p> <p>22 come under my umbrella, that a production order was --</p> <p>23 was just not relevant any more. So you've heard the</p> <p>24 evidence from Mr Clarke, Mr Williams and Mr Surtees</p> <p>25 around those matters. Obviously what they say is</p> <p style="text-align: center;">Page 45</p> | <p>1 got it in front of me -- that we were not told about</p> <p>2 others' involvement, and the crucial phrase "nor did we</p> <p>3 see any evidence of others' involvement". So I have</p> <p>4 counsel, the leading counsel, and I knew junior counsel</p> <p>5 had spent a considerable amount of time, two and a half,</p> <p>6 three days, going through all the material giving me</p> <p>7 that level of assurance that there was no evidence of</p> <p>8 others' involvement.</p> <p>9 LORD JUSTICE LEVESON: I'm not sure it means that, does it?</p> <p>10 MR JAY: Does it -- sorry.</p> <p>11 A. Well --</p> <p>12 LORD JUSTICE LEVESON: Well, we'll go through it, Mr Yates.</p> <p>13 It's quite important.</p> <p>14 MR JAY: I must say --</p> <p>15 A. It is important.</p> <p>16 Q. -- the inference I drew from it, and possibly</p> <p>17 Lord Justice Leveson, was different. I think they were</p> <p>18 saying, in answer to your suggestion that there was no</p> <p>19 evidence, they had been shown no evidence but that</p> <p>20 doesn't mean that there wasn't any evidence. Do you see</p> <p>21 the difference?</p> <p>22 LORD JUSTICE LEVESON: Let's have a look at it.</p> <p>23 MR JAY: I think it's in your bundle there. We have it at</p> <p>24 tab 163 of a much bigger bundle. Do you have the note</p> <p>25 there to hand, Mr Yates?</p> <p style="text-align: center;">Page 47</p> |
| <p>1 correct.</p> <p>2 Q. There's a difference between whether it might have been</p> <p>3 possible to obtain a production order and whether</p> <p>4 News International or more specifically those at the</p> <p>5 News of the World were obstructive through their lawyers</p> <p>6 in failing to reply to police requests in late August</p> <p>7 and September 2006. Do you see that?</p> <p>8 A. But that is -- it wasn't part of my remit at that point,</p> <p>9 so you're asking me to comment on something that was for</p> <p>10 others to do. My remit was 2009 onwards.</p> <p>11 Q. It's part of the inferential picture one might draw as</p> <p>12 to whether there was evidence generally speaking against</p> <p>13 others at the News of the World. Do you see the</p> <p>14 relevance of it from that point of view?</p> <p>15 A. I do and I don't. I mean, the inference of was there</p> <p>16 other evidence, you will see the note from counsel dated</p> <p>17 14 July, we could go to that, I'm not sure where it is</p> <p>18 in the --</p> <p>19 Q. We've seen it yesterday, it's Mr Parry's note.</p> <p>20 A. But it's a very important note from my perspective, Mr</p> <p>21 Jay, because what it --</p> <p>22 Q. Please carry on.</p> <p>23 A. Thank you. What it says is that leading counsel saw the</p> <p>24 material, albeit I know in terms of the indictment they</p> <p>25 were looking at it, but they say in that -- I haven't</p> <p style="text-align: center;">Page 46</p> | <p>1 A. I jump from 18 to --</p> <p>2 LORD JUSTICE LEVESON: It's behind --</p> <p>3 A. Yes, I've got it.</p> <p>4 LORD JUSTICE LEVESON: It's behind divider 23.</p> <p>5 A. Yeah, I've got it. It's my 19, but I have it. My</p> <p>6 particular point is the sixth line down:</p> <p>7 "We were told there was not and we never saw any</p> <p>8 such evidence."</p> <p>9 I take that to mean that Mr Maberly had reviewed all</p> <p>10 the unused material and in that exercise he had never</p> <p>11 seen any other evidence to suggest others were involved.</p> <p>12 MR JAY: No. This was Mr Parry and Mr Maberly before</p> <p>13 Mr Maberly had reviewed the unused material making it</p> <p>14 clear that at the conference on 21 August 2006 the</p> <p>15 specific questions were asked: was there any evidence</p> <p>16 against others? And they were told there was no such</p> <p>17 evidence and we never saw any such evidence.</p> <p>18 A. Yes.</p> <p>19 Q. Do you see that? So what they might be saying -- well,</p> <p>20 there are a number of things they might be saying by</p> <p>21 implication, but one of them is: don't draw the</p> <p>22 inference from our advising conference that there was no</p> <p>23 evidence; merely this: we were told that there was no</p> <p>24 evidence and we never saw it. Do you see the difference</p> <p>25 between that?</p> <p style="text-align: center;">Page 48</p> |

12 (Pages 45 to 48)

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| <p>1 A. No, I don't. This is written on 14 July 2009. Yes? 2 Q. Mm-hm. 3 A. And Mr Maberly and Mr Parry are putting their name to 4 a document that says, "We were told there was no 5 evidence and we never saw such evidence". Mr Maberly 6 had done the disclosure exercise allegedly seeing all 7 the unused material in 2006, 2007, I'm not sure when the 8 (inaudible) are, and he's saying two years later, having 9 done that exercise, he never saw any such evidence. 10 LORD JUSTICE LEVESON: But the exercise Mr Maberly was doing 11 wasn't to decide how the investigation should proceed. 12 As I understand it, he was never asked that question. 13 The question which Mr Maberly was dealing with was 14 whether there was any material which might exculpate 15 those who were being charged. In other words, he was 16 doing a CPIA piece of work. Now -- 17 A. I completely -- 18 LORD JUSTICE LEVESON: -- is it really fair to place so much 19 reliance on this -- incidentally, I want to know about 20 dates of this, because I don't quite understand them -- 21 to justify the sort of conclusion that you were reaching 22 when you came to review the matter in July 2009? That's 23 the issue. 24 A. It's one limb that was helping me form views, both on 25 July 9 and thereafter, as we -- you know, as we've seen Page 49</p> | <p>1 out, but it wasn't just an eight-hour exercise that has 2 been seen by staff, it was a continuing exercise of 3 reviewing, considering, reflecting about, you know, 4 whether we were on the right track and whether we needed 5 to do something different. 6 Q. We'll come back -- 7 A. That 14 July -- 8 Q. We'll come back to that point, because it's important, 9 but I do suggest to you you misunderstood what leading 10 and junior counsel are saying, but the review of the 11 evidence which Mr Maberly carried out after the 12 conference on 21 August 2006 was merely for the purposes 13 of the 1996 Act and wasn't to advise the police as to 14 whether to start investigating other journalists. It 15 was focused solely -- just wait for the end of the 16 question, Mr Yates -- on the Goodman/Mulcaire 17 prosecutions and whether there was any exculpatory 18 evidence. That's what the law required, wasn't it? 19 A. Well, if you read out the sentence in the note, I think 20 it's abundantly clear what's there, and on any reading, 21 exculpatory, CPIA or whatever, they are saying they've 22 done the exercise on CPIA and they never saw any such 23 evidence about others' involvement. I just -- 24 I can't -- I know you're cross, Mr Jay, but I can't see 25 any other reading of it that would -- you know, it's Page 51</p> |
| <p>1 from the information and stuff I've submitted, it was 2 a constant exercise over the next 18-month period 3 almost, around, you know, is there anything new, have we 4 treated the victims appropriately, all those issues. 5 This was quite an important limb, I would say, in terms 6 of saying, well, okay, he was looking at it from the CPI 7 perspective from the indictment, but if counsel is 8 telling me that they never saw any such evidence, then 9 of course I'm going to place some reliance on that. But 10 it was only one limb of a series of aspects which 11 enabled me to come to that view, if you like. 12 MR JAY: Mr Yates, there are two points here. The first 13 point is that you had already stated your view in your 14 press statement on the afternoon of 9 July, and this -- 15 A. On? 16 Q. 9 July 2009. This note from counsel, of course, 17 postdates your press statement, doesn't it? 18 A. It does, and the press statement was solely dealing with 19 establishing the facts about the Guardian article, and 20 there's a caveat at the end of that article, you'll 21 recall, which says, "We need to do everything possible 22 to check we've done everything appropriately around 23 victims", so I sort of left a slight open end to say 24 I was going to look at this afterwards very carefully as 25 well, and I think the documentation you see bears that Page 50</p> | <p>1 there. 2 Q. We'll see whether there was any evidence in a moment, 3 but can I deal first with paragraph 106 of your 4 statement, our page 06501. 5 A. Yes. 6 Q. Where you say: 7 "The advice described at paragraph 105 ..." 8 That's the advice as to the true meaning of section 9 2 of RIP A. 10 A. Yes. 11 Q. "... dictated who the police considered to be victims." 12 A. Yes. 13 Q. "I have confirmed in evidence to various select 14 committees the fact that the activities of 15 Glenn Mulcaire affected many people. However, I have 16 also said in evidence to the same committees that in the 17 light of the legal advice received, the police were only 18 able to positively identify a small number of victims, 19 ie where the offence could actually be proved to the 20 requisite evidential standard as per paragraph 105 21 above." 22 And then you say that in fact the only person in 23 respect of whom that was conclusively proved was 24 Mr Lowther-Pinkerton. So is this right, that your 25 definition of victims for the purpose of notifying Page 52</p> |

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| <p>1 people is far narrower than anybody else's, it's 2 confined to those in respect of whom there was 3 conclusive proof of unlawful interception before the 4 voicemail was read by its intended recipient? Is that 5 correct?</p> <p>6 A. That is correct. That is definitely what I thought at 7 the time, and it was in good faith, based on the 8 briefings I'd received, but I absolutely accept now that 9 I got that wrong and I made a fundamental misjudgment 10 there. So I've said that before in other forum and I do 11 regret that.</p> <p>12 Q. Okay, can we move forward to the events of 9 July 2009. 13 This is paragraph 111 of your statement, page 06503.</p> <p>14 A. Yes.</p> <p>15 Q. You wrote yourself a file note, which is 06539, under 16 your tab 7.</p> <p>17 A. I have it. It's in the statement itself.</p> <p>18 Q. Is this a contemporaneous file note?</p> <p>19 A. Contemporaneous in terms of that day, yes. I can't 20 actually remember when I did it. It was within sort of 21 24 hours of doing it. It was taken from the rough 22 scrawl into a proper file note. So yes, 23 contemporaneous.</p> <p>24 Q. So the request by Sir Paul Stephenson was to establish 25 the facts around the case. You set out the approach you</p> <p style="text-align: center;">Page 53</p> | <p>1 without Paul asking me to do anything, so I imagine 2 first thing in the morning, sort of 7.30, 8-ish. But 3 I can't -- in terms of that time, I would have been -- 4 you know, the sort of battle rhythm of the Met was to 5 review press cuttings first thing and see if any issues 6 arose, and clearly that was part of the specialist 7 operations investigation that came under specialist 8 operations in the past, so I would have been looking at 9 it then.</p> <p>10 Q. Yes, but that was before Sir Paul Stephenson asked you 11 to do anything about it, wasn't it?</p> <p>12 A. Yes. I would have been considering it then. You know, 13 it would have been clearly of interest to me, Mr Jay.</p> <p>14 Q. Yes, interest, it was vaguely on your radar because you 15 were looking at a whole range of press cuttings, weren't 16 you?</p> <p>17 A. It would have been more than on my radar. It would have 18 been of significant interest to me because I was then in 19 charge of SO and this was an SO job.</p> <p>20 Q. You're not trying to persuade us, are you, that this was 21 part of the establishing the facts exercise that Sir 22 Paul Stephenson was later on going to ask you to do, are 23 you?</p> <p>24 A. No.</p> <p>25 Q. Because that didn't start until 11.00 in the morning,</p> <p style="text-align: center;">Page 55</p> |
| <p>1 were going to adopt in relation to establishing the 2 facts, and then you say in paragraph 8 you're going to 3 deal as well with approach to victims, how they were 4 managed and dealt with and the impact of any further 5 enquiries if deemed necessary on them. Is that correct?</p> <p>6 A. Yes. Yes.</p> <p>7 Q. There are two exercises here. You're going to establish 8 the facts, and once the facts are established, you're 9 going to set out your opinion, and then there is 10 a separate exercise, which is ancillary to that, which 11 is the victim notification management exercise. Is that 12 correct?</p> <p>13 A. Yes. That's right.</p> <p>14 Q. Am I right in saying that the establishing the facts 15 exercise was completed when you gave your press 16 statement that afternoon?</p> <p>17 A. Yes, about 5.30-ish, I think.</p> <p>18 Q. Whatever the time was, the press --</p> <p>19 A. Yes, it was.</p> <p>20 Q. You established the facts. Can we establish when the 21 fact-establishing exercise commenced? What time of the 22 morning do you say it commenced?</p> <p>23 A. I can't recall exactly. I think Paul Stephenson was up 24 at an ACPO conference. The article would have been in 25 our press cutting, would obviously have raised issues</p> <p style="text-align: center;">Page 54</p> | <p>1 did it? Look at tab 8, our page 06540.</p> <p>2 A. I don't have it. My numbers are all different. What's 3 the --</p> <p>4 Q. Tab 8.</p> <p>5 A. -- the document?</p> <p>6 Q. Your tab 8.</p> <p>7 LORD JUSTICE LEVESON: Hang on.</p> <p>8 MR JAY: Our page 06540.</p> <p>9 A. No, my tab 8 is about the Information Commissioner. 10 Would you give me a hint --</p> <p>11 LORD JUSTICE LEVESON: It is your tab 3, I think.</p> <p>12 A. Oh, I see, the Gold Group minutes, yes, I've got it.</p> <p>13 MR JAY: I have it in tab 8.</p> <p>14 LORD JUSTICE LEVESON: I have it in tab 8 too but I also 15 have an exhibit list to Mr Yates' statement, which I can 16 use to correlate it.</p> <p>17 MR JAY: Thank you very much.</p> <p>18 A. Thank you, my Lord.</p> <p>19 Q. The only point I'd note, Mr Yates, is this: this meeting 20 didn't start until 11 am, did it?</p> <p>21 A. No, that's the formal meeting where everyone is present 22 and everyone can pool their knowledge or whatever. 23 That's the formal meeting. There were several meetings 24 going on way before that that I'd have been briefed on 25 and given insight into what this was about.</p> <p style="text-align: center;">Page 56</p> |

14 (Pages 53 to 56)

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| <p>1 Q. But who was doing the briefing? The person you needed 2 to hear from in particular was DCS Phil Williams; is 3 that right?</p> <p>4 A. There were several people involved. Clive Timmons was 5 involved, Keith Surtees was involved, Kevin South -- 6 there were numerous people who had worked on the inquiry 7 at whatever level and those informal briefings would 8 have started almost immediately, but this was a formal 9 meeting to discuss the facts and record decisions in the 10 way that you can see there.</p> <p>11 Q. I know we're trying to get to our eight hours by one 12 route or another, Mr Yates, or indeed you are, but --</p> <p>13 A. Mr Jay, can I assure you I'm not, and I don't quite 14 understand why you're suggesting that.</p> <p>15 Q. Well, because --</p> <p>16 A. This was a simple exercise and one of a number of 17 exercises that the Commissioner or Deputy would ask ACs 18 like me to do almost on a weekly basis. It was an 19 article in a newspaper, and it was no more, no less than 20 that. So the fact that I sort of cleared my diary and 21 did something relatively formal around this, recognising 22 some of the challenges, is actually qualitatively 23 different than many times you'd do it. So it's what it 24 was. It was an article in a newspaper. Events make 25 that look very different, I know, but give me the</p> <p style="text-align: center;">Page 57</p> | <p>1 A. Yes.</p> <p>2 Q. So the general thrust of the article was that this was 3 potentially a conspiracy which embraced others at the 4 News of the World and possibly went quite high up in the 5 organisation. Is that correct?</p> <p>6 A. That's the tone of the article, yes.</p> <p>7 Q. And Mr Wallis at the material time was of course the 8 deputy editor of the News of the World, wasn't he, in 9 July 2009?</p> <p>10 A. Yes, he was. I can't remember whether he'd left then. 11 I cannot remember.</p> <p>12 Q. He was deputy editor in July 2009.</p> <p>13 A. Yes. Yes.</p> <p>14 Q. And you told us that you read the Guardian article and 15 it was of significance and interest to you that very 16 morning, didn't you?</p> <p>17 A. Yes, I did, yes.</p> <p>18 Q. So there are two points here. The first point is that 19 didn't any alarm bells ring at all about the 20 appropriateness of you carrying out this establishment 21 of the facts exercise given your relationship with 22 Mr Wallis?</p> <p>23 A. No. No, it didn't. There was -- the inference you're 24 making is, you know, that there was -- the relationship 25 was improper. It was not improper. You're talking to</p> <p style="text-align: center;">Page 59</p> |
| <p>1 credit, this was an article in a newspaper, that's what 2 it was about. It wasn't a formal review.</p> <p>3 LORD JUSTICE LEVESON: I think we're going to have just five 4 minutes because we've been going for an hour and a half 5 and the shorthand writer needs a break and I think it 6 might be just a good idea. Five minutes.</p> <p>7 A. Thank you.</p> <p>8 (1.32 pm)</p> <p>9 (A short break)</p> <p>10 (1.40 pm)</p> <p>11 MR JAY: Mr Yates, can we go back to 9 July 2009?</p> <p>12 A. Yes.</p> <p>13 Q. And the Guardian article, which I have under tab 6, it's 14 page 06536.</p> <p>15 LORD JUSTICE LEVESON: It's your tab 1.</p> <p>16 A. Thank you.</p> <p>17 MR JAY: It refers to the settlement of legal cases. Third 18 paragraph:</p> <p>19 "Today the Guardian revealed details of the 20 suppressed evidence which may open the door to hundreds 21 more legal actions as well as provoking police enquiries 22 into reporters who were involved and the senior 23 executives responsible for them."</p> <p>24 And then there's various comments about difficult 25 questions which might have to be asked.</p> <p style="text-align: center;">Page 58</p> | <p>1 someone who's --</p> <p>2 Q. No, that's not the point, Mr Yates.</p> <p>3 A. It's --</p> <p>4 Q. Just wait. What the Guardian was saying, rightly or 5 wrongly, was, look, this has the appearance of being 6 a conspiracy which goes to other journalists at the 7 News of the World and possibly high up in the 8 organisation. Fact number one. Fact number two, 9 Mr Wallis is someone high up in the organisation of the 10 News of the World. Fact number three, or point number 11 three: why didn't it pass your mind that, at least 12 putting it at its lowest, it was inappropriate for you 13 to be carrying out this establishment of the fact 14 exercise at all?</p> <p>15 A. Well, you might as well ask that to the Commissioner as 16 well and others who knew full well that I had 17 a relationship with Neil Wallis, and, you know, I was 18 looking at this dispassionately from the evidential 19 perspective and I had people advising me on that, and we 20 went through an exercise, and we got to the point we got 21 to. To suggest that I would be influenced otherwise, 22 which I think you're making, is wrong. You know, you're 23 talking to a person, Mr Jay, who investigated serving 24 government on which the Home Secretary has the final say 25 on my career. I have a reputation and a track record of</p> <p style="text-align: center;">Page 60</p> |

15 (Pages 57 to 60)

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| <p>1 doing difficult things and doing them in a dispassionate 2 and evidence-based way and that's exactly what I did in 3 this case.</p> <p>4 LORD JUSTICE LEVESON: It's not quite the point, Mr Yates. 5 The issue is slightly different. As I said before, you 6 were entitled to be friends with whomsoever you wish. 7 There's nothing wrong with that, and nobody is 8 suggesting that anything improper should be inferred 9 from your friendship with the deputy editor of the News 10 of the World.</p> <p>11 Mr Jay's point is rather different. It is not that 12 you would in fact be influenced or affected; it is that 13 here was the Metropolitan Police having to review an 14 inquiry which it undertook in circumstances in which 15 some pretty big players were expressing concern. You 16 knew your friendship with Mr Wallis, therefore the 17 perception might be that you would be affected. Not the 18 reality, but the perception.</p> <p>19 A. No, I take -- of course I take your point, but I think 20 the benefit of hindsight once again comes into play 21 because in July 2009 there was nothing to suggest that 22 Wallis was involved in any way whatsoever, and what's 23 happened in the last few year, and of course nothing has 24 been proven yet, but in July 2009 there was just -- 25 there was no indication at all, and I did this very</p> <p style="text-align: center;">Page 61</p> | <p>1 the Guardian in the third paragraph of their piece. You 2 should have left this for another Assistant Commissioner 3 to do. Do you accept that or not?</p> <p>4 A. I think I've just accepted that with Lord Justice 5 Leveson actually. I think I just said that, but anyway. 6 It's -- we are where we are.</p> <p>7 Q. The second issue is the one you were dealing with which 8 I'm now going to ask you about, namely the issues raised 9 by the Guardian article and your response to those 10 issues. Do you accept that the issues raised by the 11 article, whatever the evidence base for them, were 12 wide-ranging, serious and important?</p> <p>13 A. The interference with people's voicemail is serious. On 14 a serious end -- this is what I'm thinking in July 2009 15 and not now. It would not be at the serious end at all. 16 One looks at the invasion of privacy uncovered by 17 Motorman and Glade and the sentences they got there, 18 which was conditional discharges, so I would not put it 19 at the serious end. What we know now puts it at the 20 very serious end, but in July 2009 it was phone hacking. 21 I was three months into a new job as head of 22 anti-terrorism, we were dealing with the fall-out of 23 a very difficult operation up in Manchester, which was 24 still going, numerous other high-profile operations 25 involving the security of the state. This did not</p> <p style="text-align: center;">Page 63</p> |
| <p>1 dispassionately, and I take your point about the 2 perception, but it didn't appear to me to be a problem 3 then and it didn't appear to others to be a problem 4 then. It is clearly a problem now.</p> <p>5 LORD JUSTICE LEVESON: No, well, actually --</p> <p>6 A. And I accept that.</p> <p>7 LORD JUSTICE LEVESON: The third paragraph of the Guardian 8 article speaks about "senior executives responsible for 9 reporters", and I would have thought somebody would say 10 that the deputy editor was a senior executive 11 responsible for reporters. It's a perception thing. 12 I'm not saying it's any more than that.</p> <p>13 A. I completely take that as a perception, but what this 14 was on July 9, 2009, was a newspaper article. It didn't 15 present evidence. Newspaper articles, as we all know, 16 can have basis in facts and they can have lots of flour 17 put around them to make them more interesting. I can 18 only go on what the evidence was that day and that's 19 where I got to.</p> <p>20 MR JAY: Mr Yates, you're not evening beginning to answer 21 Lord Justice Leveson's question, you're answering 22 a different question. His question was: isn't there at 23 least the appearance of a lack of disinterestedness by 24 you because of your close friendship with Mr Wallis? 25 Mr Wallis is within the ambit of those referred to by</p> <p style="text-align: center;">Page 62</p> | <p>1 present itself as a hugely serious thing in 2009.</p> <p>2 Q. Was it for that reason, then, that if you go back to the 3 summary of the meeting which took place on 9 July 4 starting at 11 am --</p> <p>5 A. Yeah.</p> <p>6 Q. -- that you made it clear at the very outset that you 7 were going to establish the facts and you were going to 8 put out a press statement for release later that very 9 afternoon?</p> <p>10 A. Yes, and the press statement could of course have said 11 we're not going to do anything, which it did, or it 12 could have said we're going to conduct a full 13 investigation or it could have said we're going to 14 conduct a full review. That's what the press statement 15 meant.</p> <p>16 Q. You weren't indicating at 11 o'clock, when you started 17 on this exercise, you were going to get through this 18 quickly and, come what may, you were going to publish 19 your decision, as it were, having established the facts 20 that very afternoon?</p> <p>21 A. If you look at the list of people who were present at 22 that meeting, all very senior, all very experienced. If 23 there had been a scintilla of evidence that said we 24 should be doing something differently, I can absolutely 25 assure you they would have challenged me and I'd have</p> <p style="text-align: center;">Page 64</p> |

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| <p>1 challenged myself and we'd have done something</p> <p>2 different. The fact of the matter was, as I was</p> <p>3 briefed, there was nothing else in that article that led</p> <p>4 us to suggest that anything else needed to be done</p> <p>5 immediately regarding the investigation, or anything</p> <p>6 about the investigation.</p> <p>7 Q. Can I just be clear what material you were provided with</p> <p>8 on that occasion? You were provided with briefing</p> <p>9 documents by DCS Clive Timmons, there referred to in</p> <p>10 about the fourth paragraph.</p> <p>11 A. I can't actually recall the content of those documents.</p> <p>12 If it said there were briefings, then I would have seen</p> <p>13 them, yes.</p> <p>14 Q. And then Mr Timmons gave a brief overview, and then</p> <p>15 there's a synopsis of what the investigation was?</p> <p>16 A. Yes.</p> <p>17 Q. It's all quite succinct, isn't it? We're skim reading</p> <p>18 it as we proceed.</p> <p>19 A. But it covers the key issues around the -- you know,</p> <p>20 there was a lot of data, the evidence against it was</p> <p>21 limited, the phone companies have been tasked, the</p> <p>22 Prescott phone issue was covered.</p> <p>23 Q. Yes, the Prescott phone issue was covered on the next</p> <p>24 page, 06541.</p> <p>25 A. Yeah.</p> <p style="text-align: center;">Page 65</p> | <p>1 I think, to one of the newspapers. That's the best of</p> <p>2 my recollection.</p> <p>3 LORD JUSTICE LEVESON: Well, Mr Yates, I'd like chapter and</p> <p>4 verse on that, because that's absolutely not the</p> <p>5 evidence I've heard, and it's not my understanding of</p> <p>6 the Mulcaire notebook.</p> <p>7 A. Well I mean --</p> <p>8 LORD JUSTICE LEVESON: Don't get me wrong, in one sense this</p> <p>9 may not be your fault in the sense that you're relying</p> <p>10 on information you are provided with. I recognise that.</p> <p>11 Nobody is suggesting that you should then burn the</p> <p>12 midnight oil going through the Mulcaire documents</p> <p>13 yourself. That's not the job. You're relying on what</p> <p>14 you're told.</p> <p>15 A. Yes.</p> <p>16 LORD JUSTICE LEVESON: What may be relevant is the extent to</p> <p>17 which some of these issues were glossed over or taken</p> <p>18 seriously, and I say that because what you've just said</p> <p>19 has caused me real surprise. When you say that there</p> <p>20 were scores of times that you went back to check on</p> <p>21 Mr Prescott's position -- because he was writing to you,</p> <p>22 I have no doubt -- and you were still getting the same</p> <p>23 information, and we now know what the position is --</p> <p>24 A. Yes.</p> <p>25 LORD JUSTICE LEVESON: -- I am disturbed that your</p> <p style="text-align: center;">Page 67</p> |
| <p>1 Q. "PW [of course is Phil Williams] confirmed he had no</p> <p>2 knowledge of John Prescott's phone being intercepted.</p> <p>3 If he had been subject to interception and evidence</p> <p>4 supported then he would have been informed."</p> <p>5 Of course you weren't aware of the evidence which</p> <p>6 related to his PA, were you?</p> <p>7 A. Not -- I don't think so at that point. But I cannot</p> <p>8 tell you the amount of times I checked and sought</p> <p>9 further and better particulars about the possibility</p> <p>10 that Mr Prescott's phone had been interfered with. It</p> <p>11 would be literally scores -- over the following months,</p> <p>12 Mr Jay, there would be scores of times that, you know,</p> <p>13 because the level of concern I had about it is</p> <p>14 commensurate with the number of times I sought clarity</p> <p>15 about it, and every time, right up until I think the end</p> <p>16 of 2010 when there was a piece of paper that showed that</p> <p>17 he might have been involved or had some access to his</p> <p>18 sent messages, that was the first time.</p> <p>19 LORD JUSTICE LEVESON: But were you not told about his PA?</p> <p>20 A. I think she -- as I recall, that individual had been --</p> <p>21 I was aware -- I can't remember what time I was aware,</p> <p>22 but I think she had finished working for him at that</p> <p>23 point, and I think the -- as I recall, any targeting of</p> <p>24 her was almost in her own right as an individual, having</p> <p>25 put herself in the public domain by selling her story,</p> <p style="text-align: center;">Page 66</p> | <p>1 persistent requests didn't reveal the answer. And that</p> <p>2 concerns me for reasons which I probably do not need to</p> <p>3 explain.</p> <p>4 MR GARNHAM: Sir --</p> <p>5 A. I think what happened, and I say -- and I've absolutely</p> <p>6 stated this in my statement and accepted it, that there</p> <p>7 was an indexing issue around the name John Prescott</p> <p>8 being linked to his -- I think it was his adviser, whose</p> <p>9 name I would never have known or could never -- I don't</p> <p>10 think anyone could have made the link, to be honest.</p> <p>11 And I think what happened was -- sorry?</p> <p>12 LORD JUSTICE LEVESON: I'm sorry, Mr Yates. You ought to</p> <p>13 know that the investigating detective who interviewed</p> <p>14 Glenn Mulcaire within a day or so of his arrest made the</p> <p>15 link and specifically asked Mr Mulcaire about that</p> <p>16 person. So this wasn't an unknown fact.</p> <p>17 A. I saw that, and I was just as surprised as you seem to</p> <p>18 be surprised now. That was the first time I was aware</p> <p>19 of that. I have checked that with the Met lawyers and</p> <p>20 the individuals, as in Phil Williams. Was I ever made</p> <p>21 aware of that? No, I wasn't, because he wasn't aware of</p> <p>22 that either. I can't answer to that, I'm afraid. I was</p> <p>23 only as good as my briefing.</p> <p>24 LORD JUSTICE LEVESON: I understand that point, but what</p> <p>25 concerns me, and after I've said this Mr Garnham wanted</p> <p style="text-align: center;">Page 68</p> |

17 (Pages 65 to 68)

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| <p>1 to say something so I'm going to let him say it, is that 2 people were bleeding over these papers for Mr Prescott 3 for some time, yet somehow this has all slipped through 4 the cracks. 5 A. No, it's deeply regrettable and I can't account for it, 6 I'm afraid. But the reassurance in terms of what I did 7 was I asked him -- there'll be a Met lawyer sat in court 8 who will be nodding now saying he asked scores of times 9 around this. Because I was so concerned, the idea of 10 misleading the Deputy Prime Minister is not something 11 I'd relish and I was absolutely desperate to get to the 12 bottom if there was something there. 13 LORD JUSTICE LEVESON: All right. Mr Garnham, you wanted to 14 say something. 15 MR GARNHAM: Sir, only this, that it may be important to 16 ensure that Mr Yates is clear as to whether he's talking 17 about Mr Prescott's assistant or the person with whom it 18 was said Mr Prescott was having a relationship, and the 19 answer appears to have confused the two. 20 MR SHERBORNE: Sir, I was going to rise before Mr Garnham 21 but he beat me to my feet. The fact is for the record, 22 contrary to what Mr Yates says, Joan Hammell was working 23 as the special adviser to Mr Prescott at the time, and 24 she did not sell any story, nor did she put herself in 25 the public domain.</p> <p style="text-align: center;">Page 69</p> | <p>1 is. 2 Q. Don't worry about that bit, because we don't know what's 3 behind the redaction, but you were therefore being told 4 that only those in respect of whom there was evidence of 5 criminal activity on their phones were being informed as 6 victims; is that right? 7 A. Yes, that was certainly the case, yes. 8 Q. And then a little bit further down: 9 "Why was there not a more wide-ranging 10 investigation? 11 "There was no evidence to expand the investigation 12 wider, which, if it had done, then this would have been 13 an ineffective use of police resources. 14 "What other journalists were involved? 15 "There was no evidence at that time to implicate 16 involvement in any other journalists." 17 These are the -- 18 A. Yes. 19 Q. -- only references in the note to any consideration 20 being given to the main sting of the Guardian article, 21 which was that there were other journalists involved, or 22 at least there might be. Do you accept that? 23 A. Yes, I do, but it's clear from this that we went through 24 an exercise to try and establish the facts, and this was 25 the summary note of the briefing that I received that</p> <p style="text-align: center;">Page 71</p> |
| <p>1 LORD JUSTICE LEVESON: All right. 2 MR GARNHAM: That is right, but -- 3 A. I was -- 4 LORD JUSTICE LEVESON: All right, now we've unpicked it. 5 The reference to that -- 6 A. I was desperate -- 7 LORD JUSTICE LEVESON: Sorry. 8 A. I was desperate not to mention any names, so I apologise 9 for the confusion. It was clearly not her. 10 LORD JUSTICE LEVESON: You've got the point that bothers me 11 and it bothers you too. 12 A. Yes, it does. 13 MR JAY: Can I ask you please to continue to look at the 14 note of the meeting on 9 July. 15 A. Yes. 16 Q. Under the heading towards the top of the page: 17 "Did we alert others? 18 "Yes, as outlined above. No evidence to support 19 wider phones had been intercepted." 20 If you look a few lines above that: 21 "Wider people were not informed as there was no 22 evidence to suggest there was any criminal activity on 23 their phones." 24 So you were -- 25 A. Yeah, and I got it redacted thereafter, so whatever that</p> <p style="text-align: center;">Page 70</p> | <p>1 day, which led me to the conclusion that I did. 2 Q. To what extent did you test the proposition "there was 3 no evidence at that time to implicate involvement in any 4 other journalists" because there's no written record 5 here of you testing that proposition and answers being 6 given to you pursuant to any such probing. Would you 7 accept that? 8 A. I can assure you -- I can't recall the exact questions 9 I would have asked, but I would have been -- I would 10 have said, "Did counsel see it? Did the CPS see it?" 11 All the sort of levels of assurance that from sort of 12 independent people, those are the type of areas that 13 I would have gone into, and said, for example, was all 14 the unused material reviewed properly? And accepting 15 the point I know you make that it was only reviewed on 16 a sort of CPI basis but it still gives you a sense that 17 all this would have been gone through and from what 18 I was told on that day, that was the position. 19 LORD JUSTICE LEVESON: But do you think it's really fair to 20 rely on that for this reason: the article you've made 21 the point was the Guardian that morning. The 22 investigation had been conducted just short of three 23 years beforehand and, save for the prosecution of two 24 persons, had been brought to an end in September 2006. 25 Now, it's true you had Detective Chief Superintendent</p> <p style="text-align: center;">Page 72</p> |

18 (Pages 69 to 72)

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| <p>1 Williams, as he then was, with you, who had been --</p> <p>2 A. Yes.</p> <p>3 LORD JUSTICE LEVESON: -- the SIO, but he must have done</p> <p>4 many things in two and a half years.</p> <p>5 Let me just take one other fact from the meeting to</p> <p>6 ask you about. It says this at the top of the third</p> <p>7 page, 6542:</p> <p>8 "There was no evidence to prove criminally any other</p> <p>9 person's phone had been intercepted. There was strong</p> <p>10 evidence that they had intercepted three Royal Family</p> <p>11 aides' phones and a further five other high profile</p> <p>12 people all of which were the subject of charges and</p> <p>13 proceedings in court."</p> <p>14 Now, you will have heard yesterday, if you have seen</p> <p>15 Mr Williams' evidence, that actually they looked at</p> <p>16 a number of people to make complaints, but they didn't</p> <p>17 want to get involved. And the choice of --</p> <p>18 A. I think the --</p> <p>19 LORD JUSTICE LEVESON: -- the other charges wasn't because</p> <p>20 there wasn't a basis to proceed; it was because these</p> <p>21 were the people who were prepared to say something, and</p> <p>22 leading counsel had said five or six was enough.</p> <p>23 A. Yes, and I was aware of that. I hesitate to say this,</p> <p>24 but this is not a sort of forensic note of everything</p> <p>25 that took place that day, because it's the minutes of</p> <p style="text-align: center;">Page 73</p> | <p>1 LORD JUSTICE LEVESON: All right.</p> <p>2 MR JAY: Did you ask for a succinct summary, at least, of</p> <p>3 what the evidence was in relation to any other</p> <p>4 journalists?</p> <p>5 A. What I asked Phil to do, I think it was that weekend,</p> <p>6 was to produce me a full note once they had access to</p> <p>7 more material actually to refresh their memories around</p> <p>8 it. Because I readily understood that this would be</p> <p>9 a matter of interest to both the Commissioner, the</p> <p>10 police authority and probably the Home Office as well,</p> <p>11 and that was absolutely right. So there was a fuller</p> <p>12 note completed by Phil Williams and Keith Surtees,</p> <p>13 I think, that -- over that weekend, which I think is in</p> <p>14 the bundle somewhere.</p> <p>15 Q. That's right, Mr Yates, but you were giving your press</p> <p>16 statement out that very afternoon without waiting for</p> <p>17 the fruits of any later briefing notes from Mr Williams,</p> <p>18 weren't you?</p> <p>19 A. Yes, because we -- in the vernacular, we'd established</p> <p>20 the facts and the facts were, then, that that Guardian</p> <p>21 article had some new information for the general public,</p> <p>22 but it wasn't new to the investigators or to the police,</p> <p>23 and there was nothing -- there was no new evidence</p> <p>24 presented by that article to warrant reopening the</p> <p>25 investigation at that stage. So I came out and said it.</p> <p style="text-align: center;">Page 75</p> |
| <p>1 the Gold Group, probably completed by my superintendent,</p> <p>2 I think, and capturing what, you know, he will consider</p> <p>3 to be the summary points. As a sort of full forensic</p> <p>4 note and a full legal advice file, no, it's not, and</p> <p>5 I was certainly aware that at least three other people</p> <p>6 had been approached, all quite high profile people had</p> <p>7 been approached around potentially giving evidence and</p> <p>8 their phones had been hacked.</p> <p>9 LORD JUSTICE LEVESON: We can't do more than read what you</p> <p>10 wrote at the time, Mr Yates.</p> <p>11 A. No, no, Mr Leveson, I absolutely -- I accept that, but</p> <p>12 this was July 2009, and would we have thought there</p> <p>13 would be the scrutiny that there is now in 2012? No, we</p> <p>14 wouldn't. It was a sort of summary note of the Gold</p> <p>15 Group, it was the best we'd got.</p> <p>16 LORD JUSTICE LEVESON: I agree. I'm going to stop in</p> <p>17 a moment, but if I look at your meeting of the Gold</p> <p>18 Group the following day, on Friday 10th at midday, the</p> <p>19 second line says:</p> <p>20 "Previous minutes agreed."</p> <p>21 In other words, it's agreed that that's a reflection</p> <p>22 of the previous day's meeting.</p> <p>23 A. Yes.</p> <p>24 LORD JUSTICE LEVESON: Which it's obviously not.</p> <p>25 A. Yes, it's a fair point.</p> <p style="text-align: center;">Page 74</p> | <p>1 I could have waited a week, two weeks, and choreographed</p> <p>2 it and spun it, but I didn't. I said it as it was.</p> <p>3 Q. It's not a question of choreographing and spinning it.</p> <p>4 Why not wait until your Detective Chief Superintendent,</p> <p>5 as I think he then had become, had spent the weekend and</p> <p>6 started to prepare you a briefing note before</p> <p>7 precipitantly giving a press statement? Why not do</p> <p>8 that?</p> <p>9 A. Because the briefing note was the flesh on the bones, as</p> <p>10 it were. I mean, whatever you say about what I did that</p> <p>11 day and whether it was precipitous or not, the fact of</p> <p>12 the matter was only a week later the DPP came out and</p> <p>13 agreed with exactly what I'd done, so precipitous or</p> <p>14 not, it was --</p> <p>15 Q. Well, you're now beginning to argue a case. The</p> <p>16 question was: why didn't you wait? And we've heard your</p> <p>17 answer.</p> <p>18 The press statement is at tab 16, or it might be in</p> <p>19 your bundle at tab 11.</p> <p>20 LORD JUSTICE LEVESON: It is.</p> <p>21 MR JAY: It is. Page 06555. You come to a clear conclusion</p> <p>22 here, don't you, on the two main points:</p> <p>23 "No additional evidence has come to light since this</p> <p>24 case has concluded and I therefore consider that no</p> <p>25 further investigation is required."</p> <p style="text-align: center;">Page 76</p> |

19 (Pages 73 to 76)

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| <p>1 You're really closing the door to any further 2 establishing the fact exercise, aren't you?</p> <p>3 A. Well, not entirely, because I say later on that if 4 further evidence comes to light, of course we'll 5 consider it. So it is simply -- the exercise is: is 6 there anything new in the Guardian? It is not a review, 7 it's establishing the facts. Answer: no, there wasn't. 8 I think even on the cold light of day today, there 9 wasn't at that time. And I opened the door to, one, 10 review the victim strategy, and secondly, that if 11 further evidence came to light, we would consider 12 reopening it. We've been consistent or I've been 13 consistent on that point throughout.</p> <p>14 Q. Where do you say that in this press statement, "If 15 further evidence comes to light, we'll consider it"?</p> <p>16 A. It wasn't in this press statement. It had been in every 17 other public comment I've made. I thought it was in 18 this statement.</p> <p>19 Q. It's pretty clear, isn't it, Mr Yates, that you came to 20 a rapid conclusion that there was nothing in this and in 21 less time than the eight hours which has been suggested 22 elsewhere you took, possibly a maximum of six hours, you 23 had all this done and dusted, including the drafting of 24 this press statement, which must have taken a bit of 25 time, and that was the end of it. Isn't that the</p> <p style="text-align: center;">Page 77</p> | <p>1 A. As best I could, as best I could, and I absolutely, you 2 know, accept the resource constraints then, but that's 3 not part of my business at that point.</p> <p>4 The irony of this, I suppose, is something that on 5 one hand we are asked as senior police officers to make 6 difficult decisions. If you look at something like the 7 HMIC report into the Damian Green affair, we are 8 absolutely directed by the chief HMI, but you have to 9 make difficult decisions, I have the paper here, based 10 on proportionality, seriousness, public interest and 11 costs. Such cases always involve making difficult 12 choices and sometimes the decision is not to 13 investigate. That's the advice and guidance we were 14 given in September 2009 by Her Majesty's Chief Inspector 15 of Constabulary. We are paid to make difficult 16 decisions. There are constant resource constraints and 17 constant resource challenges.</p> <p>18 Q. Mr Clarke explained all that to us this morning. You 19 may not have heard his evidence. But it may have been 20 more accurate on 9 July 2009 to have said: there may 21 well have been evidence which implicated others, but the 22 decision was taken in September 2006 to close down this 23 investigation for resource reasons alone. But that's 24 not what you said, was it?</p> <p>25 A. I don't accept that's the case, either. There may --</p> <p style="text-align: center;">Page 79</p> |
| <p>1 position?</p> <p>2 A. It was a fairly straightforward -- again, you talk with 3 what's happened since, with sort of the taint of what's 4 happened since, and I completely accept that. But in 5 July 2009, that's what I was asked to do. If I'd seen 6 anything to suggest that I needed to do more, of course 7 I'd have done -- I'd have gone beyond establishing the 8 facts, because for the level of seniority I was, of 9 course that is part of my discretion. I spoke with the 10 key people who had run the operation, who had dealt with 11 all the liaison with the CPS. That's what I was briefed 12 and that's the conclusion I came to.</p> <p>13 Q. Mm. It's true there's a difference of emphasis, really, 14 or it may be a bit deeper than that, between the 15 evidence of Mr Williams and Mr Surtees we heard 16 yesterday, but if we take into account Mr Surtees' 17 evidence, it amounted to this, that he had very 18 considerable suspicions if not accepted the proposition 19 that there was circumstantial inferential evidence in 20 relation to other journalists, but it was really the 21 overwhelming impact of resource considerations which 22 closed down this investigation in September 2006 rather 23 than any perception that there was no evidence against 24 other journalists. You followed yesterday's evidence 25 and understand that?</p> <p style="text-align: center;">Page 78</p> | <p>1 Keith Surtees may have had suspicions and those 2 suspicions are clearly well-founded now, but they 3 weren't -- there was no evidence then. If there had 4 been any evidence for us to pursue -- you've got to let 5 me finish this point because this is really important. 6 You're judging me on 2012 by what was taking place in 7 July 2009, and we are paid, I am paid or was paid to 8 make those difficult resourcing decisions about 9 competing priorities.</p> <p>10 Two people had gone to prison. The mobile phone 11 networks, as far as I was aware, were aware of the 12 problems, they'd put the security parameters around it, 13 and it was time to move on to other things, as it were. 14 But this was a simple exercise. It looks extremely 15 challenging now, two and a half years later, with all 16 that we know, but then at this time it was 17 a straightforward exercise, it's something I probably 18 did every couple of months and assistant commissioners 19 would do every couple of weeks for the Commissioner 20 based on these sort of premises.</p> <p>21 Q. What was your reaction, then, Mr Yates, to the evidence 22 you heard yesterday before this Inquiry, which was to 23 the effect -- and I summarise it -- that there was 24 circumstantial and indeed other evidence which 25 implicated other journalists before the investigation</p> <p style="text-align: center;">Page 80</p> |

20 (Pages 77 to 80)

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| <p>1 was shut down in September 2006?</p> <p>2 A. Well, I'm surprised it was phrased that way because it's</p> <p>3 never been phrased that way to me. There was the "for</p> <p>4 Neville" email, which has been well ventilated in</p> <p>5 a number of areas. That is all I knew that was</p> <p>6 additional.</p> <p>7 Q. That wasn't the question. I'm just asking you as</p> <p>8 formerly an extremely --</p> <p>9 A. I'm very surprised, very surprised.</p> <p>10 Q. You were surprised?</p> <p>11 A. Yes.</p> <p>12 Q. Would you characterise what you heard from Mr Williams,</p> <p>13 Mr Surtees and Mr Maberly, would you characterise the</p> <p>14 evidence which existed at all material times, but in</p> <p>15 particular August/September 2006, as amounting to good</p> <p>16 circumstantial inferential evidence involving or</p> <p>17 implicating a number of other journalists?</p> <p>18 A. I don't think I was ever given that inference at all.</p> <p>19 There was certainly a desire to go to the phone hubs and</p> <p>20 all that. The evidential challenges were paramount, and</p> <p>21 as far as I was aware from them were completely that</p> <p>22 they could not be overcome.</p> <p>23 Q. I think your position, Mr Yates, is then you were</p> <p>24 surprised by hearing that evidence because that</p> <p>25 wasn't --</p> <p style="text-align: center;">Page 81</p> | <p>1 hold of that.</p> <p>2 A. Yes.</p> <p>3 LORD JUSTICE LEVESON: Would you not agree that that</p> <p>4 provides an evidential basis --</p> <p>5 A. Yes.</p> <p>6 LORD JUSTICE LEVESON: -- for investigation? It may be</p> <p>7 you're absolutely right: for good resource reasons, it</p> <p>8 can't be done.</p> <p>9 A. Yes.</p> <p>10 LORD JUSTICE LEVESON: And I recognised, if you didn't hear</p> <p>11 it, to Mr Clarke earlier today that I well understand on</p> <p>12 resource grounds in the light of what was happening in</p> <p>13 2006 why the investment of resource into this operation</p> <p>14 could not be justified. I quite get that.</p> <p>15 A. Yes.</p> <p>16 LORD JUSTICE LEVESON: But my point is different, and it's</p> <p>17 therefore not looking at what we know now because of</p> <p>18 Weeting; it's looking at actually what the piece of</p> <p>19 papers then said.</p> <p>20 A. Yes.</p> <p>21 LORD JUSTICE LEVESON: How much work it involved</p> <p>22 I recognise.</p> <p>23 A. Yes, and I think the point I would have been aware of</p> <p>24 but I can't absolutely recall when was yes, Mulcaire</p> <p>25 must have targeted many people and I knew he was</p> <p style="text-align: center;">Page 83</p> |
| <p>1 A. I didn't --</p> <p>2 Q. Is this right, because that wasn't the picture you were</p> <p>3 being given on 9 July 2009? Is that right?</p> <p>4 A. I haven't seen all their evidence from yesterday, so</p> <p>5 I can't make that judgment, it would be unfair. I have</p> <p>6 seen snippets but not all of it, so I can't make that</p> <p>7 judgment without seeing it at all.</p> <p>8 LORD JUSTICE LEVESON: Have you had a chance -- I don't</p> <p>9 suppose you have -- of yourself seeing some of the</p> <p>10 entries in the Mulcaire notebook with the phone numbers,</p> <p>11 the PIN numbers, the details, the addresses, the links,</p> <p>12 the paper material that was available as a result of the</p> <p>13 search? You may never have seen it. I don't know.</p> <p>14 A. No, I -- I've seen -- I've certainly seen samples</p> <p>15 because I wanted to see -- you know, I was always being</p> <p>16 told "scraps of paper and hieroglyphics all over it", so</p> <p>17 I've seen samples, but have I gone through any of that</p> <p>18 in a formulaic way? No I haven't.</p> <p>19 LORD JUSTICE LEVESON: No, I wasn't suggesting you'd go</p> <p>20 through it formally. I've already said I wasn't</p> <p>21 expecting you to reinvestigate this yourself. My point</p> <p>22 was rather different. Had you seen a name and addresses</p> <p>23 with links to other people with phone numbers and PIN</p> <p>24 numbers and this sort of documentary material, once you</p> <p>25 got a PIN number, somebody's worked quite hard to get</p> <p style="text-align: center;">Page 82</p> | <p>1 a private detective. Whether there were PIN numbers</p> <p>2 involved or whatever. But I took the view, rightly or</p> <p>3 wrongly, that more evidence against Mulcaire would</p> <p>4 actually take us nowhere at all. He was never going to</p> <p>5 stand trial again for phone hacking. He had been dealt</p> <p>6 with, sentenced and that process had been complete.</p> <p>7 LORD JUSTICE LEVESON: But did you know about the corner</p> <p>8 names of other journalists with mobile phone numbers of</p> <p>9 journalists?</p> <p>10 A. No, I was aware of the "for Neville" bit.</p> <p>11 MR JAY: Of course the briefing note from Mr Williams, which</p> <p>12 he prepared on Sunday, 12 July, three days after your</p> <p>13 press statement, does make reference in paragraph 14 to</p> <p>14 the corner names. I don't think you have that --</p> <p>15 A. And the only --well, if you could confirm -- if his</p> <p>16 Lordship would just help me with the tab.</p> <p>17 Q. I don't think it's in that bundle. Oh, it is.</p> <p>18 A. The only one I can --</p> <p>19 LORD JUSTICE LEVESON: It may be behind --</p> <p>20 MR JAY: Tab 14, thank you. Yes, it is.</p> <p>21 A. The one that stands out is awareness and a clear</p> <p>22 recollection is the "for Neville" bit, because that's</p> <p>23 the bit which has caused concern. It may well be in</p> <p>24 this briefing document about others, but it didn't hit</p> <p>25 home in that way.</p> <p style="text-align: center;">Page 84</p> |

21 (Pages 81 to 84)

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| <p>1 Q. Maybe the reason why it didn't hit home is that you'd 2 already made your decision, as it were, three days 3 before, and that when you got to read this briefing note 4 it was of little interest to you because the facts had 5 been established. Is that fair? 6 A. No, I don't think it is fair. I maintained a very close 7 and continuing close oversight and almost constant 8 review, if you want to use that word, of how this was 9 developing over many months and if not well over a year, 10 until it was handed over, so I don't think that's fair 11 at all. 12 Q. So reading paragraphs 14 and 15 of this briefing note of 13 12 July carefully, did you adhere to the view that there 14 was no evidence that other journalists were involved? 15 A. The point at 15 is the point I highlighted, and it was 16 the evidence, the evidential threshold. That was 17 exactly the same evidential threshold that was the 18 problem with the "for Neville" stuff in terms of the 19 knowledge of how they would have known how the 20 information was obtained. 21 MR JAY: There's a difference -- 22 LORD JUSTICE LEVESON: It's a rather interesting issue, 23 that, isn't it? A journalist gets hold of a private 24 detective and wants some information, then gets that 25 information back quite quickly in a specific form, which</p> <p style="text-align: center;">Page 85</p> | <p>1 evidence which my satisfy a jury. But to say there is 2 "no evidence", which is a term you consistently used 3 before Select Committees, is putting it far too baldly, 4 isn't it, Mr Yates? 5 A. I suspect you may, on what has happened since, I think 6 you're right, Mr Jay. 7 Q. But on what was available, information available to you 8 on 12 July 2009, that was putting it too broadly, wasn't 9 it? 10 A. I think you described the word "evidence" in a very 11 legalistic way, as you would do. There is a different 12 syntax -- if I can finish. There's a different syntax 13 put on it in police work, and that's where the 14 difference is. 15 Q. I understand. So you're telling us that in police 16 circles, "no evidence" is really another way of saying 17 "insufficient evidence to bring before a criminal 18 court"? 19 A. Insufficient evidence to take forward, yes, to develop. 20 LORD JUSTICE LEVESON: We have to be a bit careful about 21 that, because the one thing Deputy Assistant 22 Commissioner Akers has done is take forward what was 23 there in quite a far way. 24 A. Yes, I completely accept that and that's entirely 25 proper.</p> <p style="text-align: center;">Page 87</p> |
| <p>1 he could then use. It's rather unlikely that the 2 journalist would have personal links with the celebrity 3 or person about whom information is being given. The 4 inferences aren't bad, are they? 5 A. Sorry? Can you -- 6 LORD JUSTICE LEVESON: The inference that this is likely to 7 have come from some sort of interception are not bad. 8 I'm not saying they're solid, but they're not bad. 9 A. Oh, not bad, sorry, I get -- who knows what techniques, 10 lawful or unlawful, private detectives use and how they 11 get the information, you know, I can't be the judge. 12 What we were worried about was is there any evidence 13 around this, and the view I was given was: no, there 14 wasn't. 15 MR JAY: Just -- 16 A. Even the "for Neville" email, which was closely analysed 17 by the DPP and counsel, came to the same view on that. 18 Q. Just the formulation "no evidence", there are certainly 19 different levels of evidence or its absence. At the 20 very bottom, of course, there is literally no evidence. 21 A. Yes. 22 Q. Higher up the food chain there is some evidence. Then 23 there's some evidence plus circumstantial, inferential 24 evidence, which may or may not be sufficient to raise 25 a prima facie case in a criminal court, and then there's</p> <p style="text-align: center;">Page 86</p> | <p>1 MR JAY: It might have been safer to say, Mr Yates, back in 2 July 2009, really the same thing that we heard from 3 Mr Clarke, namely the resources which it would require 4 to bring this to a successful conclusion would be 5 immense. That would be unjustified in the public 6 interest, given competing priorities on the police. 7 Rather than saying there's simply no evidence. Because 8 there's a big difference between those two propositions, 9 isn't there? 10 A. I accept your point, but from what I was told, what 11 I was briefed, on a matter that had gone some four years 12 out of date or had happened four years ago, that's what 13 I was briefed, so that's -- again, that's what I said. 14 MR JAY: Well, that's, I think, as far as that can ... 15 In relation to the victims, which was a matter you 16 left open in a limited way at the end of your press 17 release, were further victims notified? 18 A. We went through a fairly torturous exercise, actually, 19 which was not satisfactory on a number of levels, over 20 many months. And with the very best intentions that the 21 appropriate people should be notified. It was not 22 a successful exercise and I accept the responsibility 23 for that. It's a matter of great regret that didn't 24 take place as it should have done. 25 Q. Of course you did revisit the issue at least</p> <p style="text-align: center;">Page 88</p> |

22 (Pages 85 to 88)

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| <p>1 consequentially on Monday, 13 July, which is tab 16, the 2 minutes of the Gold Group meeting on 13 July. It's our 3 tab 21.</p> <p>4 A. My 16, is it?</p> <p>5 Q. It's your 16.</p> <p>6 A. 13 July, yes. I didn't just revisit it then.</p> <p>7 I revisited it on numerous occasions over the following 8 months and went through a series of, as I say, torturous 9 exercises to try and get this right. Regrettably, that 10 failed, but it wasn't just 9 July and doing what I did. 11 It was a continuing exercise and attention to this 12 matter for about 18 months to try and get it right.</p> <p>13 Q. But on this occasion you weren't carrying out any 14 further establishment of the fact exercise, were you?</p> <p>15 A. No, this was to do with all about the victims, actually, 16 all about the victims.</p> <p>17 Q. It was all about consequential matters including sending 18 letters to the Guardian, and indeed we note at the 19 bottom of this page, it's page 06581: 20 "DCS Williams' update from informing Andy Coulson 21 and others from 10 July onwards. PW informed Coulson 22 and no issues. He took it well." 23 I say nothing about that.</p> <p>24 A. No, in terms of he was one of the individuals that was 25 contacted and we tried to contact several others with</p> <p style="text-align: center;">Page 89</p> | <p>1 though Mr Yates that at no stage did you carry out any 2 further analysis of the evidence, did you?</p> <p>3 A. No.</p> <p>4 Q. Because the die had been cast with or by what you'd said 5 in your press statement on 9 July 2009, hadn't it?</p> <p>6 A. In some sense yes, but the reason why I say I thought it 7 was in the statement that if any further evidence came 8 to light we would consider it is because I have said 9 that in -- on the six or seven Select Committee 10 appearances I did, I think I must have said that on 11 every occasion, so that's why it was on in my mind. 12 I said it. So the die hadn't been cast in that sense 13 because we are always alive to the possibility that new 14 evidence would come to light, be it in the New York 15 Times or be it through our efforts or be it through of 16 course News International eventually co-operating and 17 producing some material which was relevant.</p> <p>18 Q. You see, what happened in relation to the New York 19 Times -- this is paragraphs 115 and 116 of your 20 statement -- was that they wrote a lengthy and detailed 21 piece in I think it was September 2010.</p> <p>22 A. Yes.</p> <p>23 Q. You, as a result of that, caused letters to be written 24 to 19 current and former reporters and desk staff of the 25 News of the World. You say in paragraph 16:</p> <p style="text-align: center;">Page 91</p> |
| <p>1 limited success.</p> <p>2 Q. He was being contacted in his capacity as communications 3 director at Number 10, wasn't he? No, he wasn't at that 4 point, sorry. He was advising the Conservative party. 5 He wasn't being contacted in his capacity -- he'd left 6 the News of the World, hadn't he?</p> <p>7 A. Clearly the focus was on him, and him not to be aware 8 that he was a victim himself would have been 9 intolerable, really.</p> <p>10 Q. Oh, so he was being contacted only in his capacity as 11 victim, not in any other capacity?</p> <p>12 A. Yes. Clearly he would have been making -- the focus of 13 the article was very much inferred around him, so as 14 he was a victim and we knew he was a victim then, then 15 it was clearly appropriate that he should be made aware.</p> <p>16 Q. Sorry, the article was suggesting that he might be one 17 of the conspirators, not that he was a victim.</p> <p>18 A. The article -- yes, the article --</p> <p>19 Q. Isn't that a better way of putting it?</p> <p>20 A. Well, maybe, yes.</p> <p>21 Q. I'd better move on from that point.</p> <p>22 Further material came to you, including the note 23 from Mr Parry, and we've looked at that and other 24 matters. You've summarised the Gold Group meetings at 25 paragraph 120 of your statement. But it's fair to say</p> <p style="text-align: center;">Page 90</p> | <p>1 "As I recall, many of these letters were ignored and 2 no relevant replies were received." 3 So another --</p> <p>4 A. You've missed a significant chunk of work in between 5 that. So the article comes out and raises a number of 6 issues. We then set up a small team to scope and review 7 that with the CPS. A number of people were interviewed, 8 some under caution, some not. A full scope took place. 9 It went to the Crown Prosecution Service and they 10 considered it with their independent hat on and came to 11 the view that none of this constituted new evidence. 12 Part of that exercise was to write to those people.</p> <p>13 Q. You tell us in paragraph 130 that you believe that you 14 yourself were a victim of phone hacking?</p> <p>15 A. Yes, and I've explained that, I think, in a Select 16 Committee.</p> <p>17 Q. What evidence do you have for that, Mr Yates?</p> <p>18 A. The modus operandi of the effect on your own phones. 19 I was abroad, a particularly difficult weekend for the 20 Met, where I was doing a lot of to-ing and fro-ing with 21 both Dick Fedorcio and the Commissioner's office and 22 every time a voicemail was left on my phone, I couldn't 23 access it, I had to reset my password, probably the PIN 24 number. So knowing that the MO was in use, I surmised, 25 99 per cent certain, that my phone was being hacked.</p> <p style="text-align: center;">Page 92</p> |

23 (Pages 89 to 92)

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| <p>1 LORD JUSTICE LEVESON: Yes.</p> <p>2 MR JAY: The irony of this I don't think has been lost on</p> <p>3 many in this room. You're applying a different</p> <p>4 evidential standard to yourself than you applied to</p> <p>5 victims who were not yourself. Isn't that right,</p> <p>6 Mr Yates?</p> <p>7 A. Well that certainly (inaudible).</p> <p>8 Q. Well, you are, aren't you, because according to the</p> <p>9 standards you were rigorously applying earlier on, this</p> <p>10 is no evidence.</p> <p>11 A. I hadn't listened to the voicemail messages, Mr Jay.</p> <p>12 LORD JUSTICE LEVESON: That may not matter, but that's</p> <p>13 another point. All right.</p> <p>14 MR JAY: Media coverage of you, paragraph 130 and following,</p> <p>15 6509.</p> <p>16 A. Sorry, those numbers don't mean anything to me.</p> <p>17 Q. No, paragraph 130, on the internal numbering it's</p> <p>18 page 40.</p> <p>19 A. Yes, I have it.</p> <p>20 Q. You feel, to use the term victim again, that you're</p> <p>21 a victim of unfair or were a victim of unfair press</p> <p>22 coverage and media intrusion; is that right?</p> <p>23 A. To some extent. I mean victim in that sense is a bit</p> <p>24 too strong a word, actually, on reflection. Some of</p> <p>25 it's the rough and tumble of senior life, but certainly</p> <p style="text-align: center;">Page 93</p> | <p>1 to convey?</p> <p>2 A. Yes.</p> <p>3 Q. I understand.</p> <p>4 A. Yes.</p> <p>5 Q. You say:</p> <p>6 "This added to the media frenzy, placed additional</p> <p>7 pressure on those left on the committee."</p> <p>8 Of course, those left on the committee wouldn't know</p> <p>9 what was happening outside, would they?</p> <p>10 A. I strongly suspect they did.</p> <p>11 Q. What basis have you for saying that the remaining</p> <p>12 members of this committee were biased against you apart</p> <p>13 from pure speculation?</p> <p>14 A. I mean in terms of -- well, one only has to look at the</p> <p>15 evidence they considered and the way they considered it</p> <p>16 to know that they cannot possibly have reached the</p> <p>17 conclusions they did without that bias being there.</p> <p>18 Q. All right. You infer bias from the decisions they made</p> <p>19 rather than from any anterior facts, but it's true,</p> <p>20 isn't it, that in relation to what they were doing, they</p> <p>21 weren't making a decision on the merits, they were</p> <p>22 merely determining whether there should be an</p> <p>23 investigation by the IPCC; is that right?</p> <p>24 A. Yes, and I -- let me be clear. I have absolutely no</p> <p>25 issue with that. What I have the issue with is the fact</p> <p style="text-align: center;">Page 95</p> |
| <p>1 there was some intrusion and certainly there was some</p> <p>2 inaccurate reporting around me.</p> <p>3 Q. I've been asked to put to you certain points which bear</p> <p>4 on paragraph 132 and then 135 and 136 of your statement.</p> <p>5 I'll do so, if I may.</p> <p>6 You refer to two members of the MPA Professional</p> <p>7 Standards Committee, who you say clearly decided you</p> <p>8 were guilty of misconduct, called for your resignation</p> <p>9 publicly on several occasions, not only --</p> <p>10 A. Yes.</p> <p>11 Q. -- before the committee met to discuss the case, but</p> <p>12 also and even worse during the meeting itself.</p> <p>13 You've seen the minutes of the meeting, haven't you,</p> <p>14 which indicated that they left the meeting before your</p> <p>15 case was considered; is that right?</p> <p>16 A. Absolutely right, yes, yes, but they're members of the</p> <p>17 committee, and they recused themselves and then decided</p> <p>18 to go out both before the meeting met and knowing the</p> <p>19 meeting was in progress and called for me to resign.</p> <p>20 Q. So the reference to during the meeting itself isn't</p> <p>21 intended to be a reference to anything which happened at</p> <p>22 the meeting but it was contemporaneously --</p> <p>23 A. No, no, no.</p> <p>24 Q. Just wait, Mr Yates -- contemporaneously with the</p> <p>25 meeting but outside it. Is that what you're intending</p> <p style="text-align: center;">Page 94</p> | <p>1 they didn't consider salient facts which they had before</p> <p>2 them, and they took a decision to suspend on the basis</p> <p>3 of not a lot, and, you know, both those matters they</p> <p>4 referred to or they referred to the IPCC, on neither</p> <p>5 matter was I -- on neither matter was I even</p> <p>6 interviewed, as a witness or anything, so --</p> <p>7 Q. But to be fair to the MPA, the Amy Wallis matter, which</p> <p>8 was one of the matters which were before them and which</p> <p>9 was referred to the IPCC, was a misconduct referral to</p> <p>10 the MPA by the Deputy Commissioner on behalf of the</p> <p>11 Commissioner of the Metropolitan Police Service, wasn't</p> <p>12 it?</p> <p>13 A. Yes. And they had a range of facts which they could</p> <p>14 have considered which would have fully explained the</p> <p>15 position, and which they declined to do so. That is the</p> <p>16 bit I took issue with.</p> <p>17 Q. But the Commissioner clearly thought that there was</p> <p>18 something which needed to go to the MPA, at least for</p> <p>19 a preliminary ruling. You have to accept that, haven't</p> <p>20 you?</p> <p>21 A. No, no, no, I completely accept that and that is</p> <p>22 absolute due process, but it was the process they</p> <p>23 followed thereafter and the matters they could have</p> <p>24 considered, which they didn't, which they had before</p> <p>25 them, that's the bit I have an issue with.</p> <p style="text-align: center;">Page 96</p> |

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| <p>1 Q. And the Shami Media issue was again a misconduct 2 referral by the Deputy Commissioner and the -- 3 A. Not for me. 4 Q. And the MPA on 18 July didn't refer it to the IPCC but 5 said it needed to be investigated further, didn't they? 6 A. With no -- but my name was not -- that doesn't involve 7 me at all. 8 Q. What happened was that you resigned before you were 9 suspended, weren't you? 10 A. Say again, sorry? 11 Q. You resigned before any decision was made to suspend 12 you? 13 A. Yes. My sort of resignation statement makes that clear. 14 Q. Do you think, looking back on this, Mr Yates, that at 15 the very least there is a perception of improper 16 inference on your judgment by your contacts with 17 News International? 18 A. No, I don't accept that. 19 Q. Not even a perception? 20 A. The perception -- I can't fault perception, because 21 that's such a broad phrase, but I absolutely know and 22 I guarantee that none of that played any part in my 23 decision making. That's -- my conscience is completely 24 clear on that. 25 Q. Mr Fedorcio has put a statement to the Inquiry. In Page 97</p> | <p>1 and it was because you told him that you would have 2 thought that he would know. Is that what you're telling 3 us? 4 A. You have to rephrase that in a slightly less wordy way, 5 Mr Jay. Sorry. 6 Q. Too many words? 7 A. It's three hours into this and that's defeated me, 8 sorry. 9 Q. The basis of his, Mr Fedorcio's knowledge might have 10 been what you told him, in other words he knew -- 11 A. Yes, I would absolutely know that Dick would know that 12 Neil and I would be fighting about football and that 13 would be absolutely in his knowledge, I would have 14 thought. 15 Q. And all these dinners? Do you think he knew about that, 16 from what you told him? 17 A. I'd imagine so, yes. 18 Q. You imagine so? 19 A. There's nothing I'm trying to hide around it. It's in 20 my diary, even a private appointment. 21 MR JAY: Yes. Well, thank you very much, Mr Yates. 22 LORD JUSTICE LEVESON: Mr Yates, I understand why challenges 23 to your decision-making may be seen by you also as 24 challenges to your integrity, and I understand -- 25 A. Yes. Page 99</p> |
| <p>1 paragraph 84 of that statement, he says this: 2 "I was aware that John Yates and Neil Wallis knew 3 one another through work, but did not understand them to 4 have any significant contact outside of work." 5 Was that awareness in Mr Fedorcio based on anything 6 that you told him? 7 A. I wouldn't have seen to discuss it with Dick. Why would 8 I? Dick certainly knew that I knew Neil Wallis and that 9 he was a friend. Whether he knew that we went to the 10 football together on the odd occasion we did, I don't 11 see the relevance of it. 12 Q. Well, it goes to the Shami Media issue, and possibly 13 other issues. Just the basis of Mr Fedorcio's 14 knowledge -- of course we're going to be in a position 15 to ask him soon, Mr Yates, but one possible source of 16 his knowledge was what you told him. Do you follow me? 17 A. Yes, and I -- I would have thought he did know, to be 18 honest, but I can't -- if he says he doesn't know, he 19 doesn't know, but in terms of the Shami Media contract, 20 that was let a million miles away from me, and I made 21 that absolutely clear. 22 Q. When you said you would have thought that he would know, 23 you're basing that on presumably your personal 24 knowledge, and you may be suggesting that you told 25 Mr Fedorcio of your contact with Mr Wallis outside work, Page 98</p> | <p>1 LORD JUSTICE LEVESON: -- why you feel that. But I would 2 like your observations on how one deals with what may be 3 legitimate perception. 4 So we now know -- and we knew at the time -- 5 News International are raided by the police, the 6 Mulcaire notebook has emerged, with lots and lots of 7 names, lots and lots of details. A decision has to be 8 taken in 2006, which is entirely understandable, given 9 what is happening in the country at the time. 10 A. Yes. 11 LORD JUSTICE LEVESON: Then there is clearly a return to it, 12 there is a big civil case. There is a very substantial 13 payment made. There are documents that reveal other 14 material. Then the Guardian article, Sir Paul 15 Stephenson is up in some other meeting. You view it and 16 there is the suggestion of senior executives. You take 17 the view that your knowledge of Mr Wallis is well-known 18 that nobody could impugn you. But then when one is 19 reviewing the matter on 13 July, at your Gold meeting, 20 I think this is -- you have two meetings on 13 July. 21 This is the one at 4.30, which is your divider 16. 22 A. Yes. 23 LORD JUSTICE LEVESON: And it's reported there's been some 24 press coverage, and you've heard there are two 25 newspapers have spoken about backhanders and that this Page 100</p> |

25 (Pages 97 to 100)

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| <p>1 was the reason why the investigation was not being 2 reopened, and that's because Rebekah Wade had apparently 3 said to a Select Committee that she paid the police. 4 Did it occur to you then, in the light of all this, that 5 the reputational risk to the Metropolitan Police was not 6 such that you really did have to go back to be seen to 7 be absolutely 120 per cent clear that there was nothing 8 in the original investigation? 9 A. Sir, I absolutely take your point, my Lord. It's just 10 that at that point in time -- forget what's happened 11 since -- 12 LORD JUSTICE LEVESON: Well, I agree, I agree with that, 13 I agree. 14 A. At that point in time, it was just -- there was nothing 15 there that would say would I put 40 detectives, because 16 that's what it would have taken, for several months if 17 not years, to do that exercise, when there was no 18 evidence to support that as a resource decision? We -- 19 you know, the public sector cuts were kicking in, your 20 Honour, the challenges around what you devote your 21 resources to were immense. To say I'm going to do that 22 on something where two people had gone to prison, all 23 those things had happened, it just wouldn't have 24 occurred to me and I deeply regret it now. In terms of 25 what's happened -- Page 101</p> | <p>1 for it to be put on the HOLMES system. You have that 2 email in your pack, where I've said as a matter of 3 priority I took people off counter terrorism operations 4 to put all the material on the HOLMES system. 5 Now, if during that exercise run by detectives who, 6 you know, would have a detective outlook, I would have 7 expected, if concerns began to be raised about what's 8 actually in that material, stuff that's come out, that 9 I would have been told, but that didn't happen. So 10 I was sufficiently exercised, as a critical incident in 11 the Met parlance, to put the stuff on a computer, to 12 invest I think it was ten detectives for three or four 13 months working long days to put all this material on 14 a system so I could search it, so I could actually with 15 confidence say -- when people wrote in, I could say 16 you're either on the system or not on the system. Now 17 unfortunately that exercise wasn't done as thoroughly as 18 it should have been. 19 LORD JUSTICE LEVESON: But that was to do with victims. 20 That wasn't to do with -- 21 A. Yes but -- 22 LORD JUSTICE LEVESON: I take your point. 23 A. Okay. 24 LORD JUSTICE LEVESON: I'm just concerned that the very, 25 very best person to have answered quite quickly what Page 103</p> |
| <p>1 LORD JUSTICE LEVESON: I understand that you say in the 2 scale of serious behaviour, this doesn't rank anywhere 3 near all of the other -- 4 A. No. 5 LORD JUSTICE LEVESON: -- work that you were engaged with, 6 but this isn't just about criminality. 7 A. I know. 8 LORD JUSTICE LEVESON: This is about reputational risk to 9 the Metropolitan Police, and I wasn't suggesting that 10 you put 40 police officers on for a year. I'm just 11 wondering whether it didn't require somebody to go back 12 to the original detective sergeants and the detective 13 inspectors who really were at the root of all this and 14 say what would a scope look like and what do you think 15 with your feet very firmly on the ground, rather than me 16 from my Olympian height -- and I'm not suggesting that's 17 a word you would use, but you understand the point I'm 18 making -- 19 A. Yes. 20 LORD JUSTICE LEVESON: -- what would it look like? 21 A. I mean, in fairness -- in fairness to me -- 22 LORD JUSTICE LEVESON: Well, I want you to do that. 23 A. -- on 23 July or whatever it was, I asked all this 24 thing -- I was so concerned about our inability to 25 analyse the material in any shape or form that I asked Page 102</p> | <p>1 looking further would cost, what it would involve -- 2 A. Yes. 3 LORD JUSTICE LEVESON: -- what it would lead to might have 4 been the DSs -- and I'm talking about sergeants here, 5 who were actually doing the job. 6 A. But -- 7 LORD JUSTICE LEVESON: I'm not suggesting you should have 8 asked them, I'm not suggesting there weren't chief 9 inspectors and superintendents who could have all 10 allowed it to flow down the chain of command, but -- 11 A. But that's what happened, by the way. The person that 12 was in charge of putting it all on the system was the DS 13 that was in charge of the original inquiry, so that 14 absolutely was what happened. 15 LORD JUSTICE LEVESON: Okay. We're talking about 16 Mr Maberly? 17 A. Yes. 18 LORD JUSTICE LEVESON: Are we? 19 A. Yes. And others. I mean, others who had been involved 20 in the operation, I think. I can't say that for 21 certain. 22 LORD JUSTICE LEVESON: All right. Mr Yates, thank you very 23 much indeed. Thank you. 24 A. My Lord, thank you. 25 LORD JUSTICE LEVESON: Right. I think we need another half Page 104</p> |

26 (Pages 101 to 104)

1 an hour, then we have had our lunch hour.
 2 (2.51 pm)
 3 (A short break)
 4 (3.20 pm)
 5 MR JAY: Sir, the next witness is Mr Andy Hayman, please.
 6 MR ANDREW CHRISTOPHER HAYMAN (sworn)
 7 Questions by MR JAY
 8 MR JAY: Mr Hayman, first of all, your full name, please?
 9 **A. It's Andrew Christopher Hayman.**
 10 Q. Thank you. You provided a statement to the Inquiry
 11 dated 14 February of this year. You signed and dated it
 12 and there's a statement of truth. Is this your formal
 13 evidence to the Inquiry?
 14 **A. Yes, it is.**
 15 Q. I hope you have a copy of your statement --
 16 **A. Yes.**
 17 Q. -- and a couple of exhibits in front of you. In
 18 relation to your career, you started at Essex Police in
 19 1978. You worked your way through the ranks. You were
 20 Chief Constable in Norfolk between 2002 and 2005, and
 21 then you transferred back to the MPS as an Assistant
 22 Commissioner in charge of specialist operations, and so
 23 it follows then for Operation Caryatid you were in
 24 charge in the sense that you were responsible, although
 25 you didn't have day-to-day conduct of operations; is

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1 that right?
 2 **A. It's a small point, but just worth clarifying, really,**
 3 **that you're right in saying that day-to-day**
 4 **responsibility was taken by others, but I remained**
 5 **accountable for not only that operation but everything**
 6 **else that's going on. The buck stops with me.**
 7 Q. Yes. We will deal more precisely with what you did or
 8 did not do in relation to Operation Caryatid in
 9 a moment.
 10 You announced your retirement from the police
 11 service in December 2007 and left in April 2008.
 12 In terms of the relationship between the MPS and the
 13 media, you deal with this in paragraphs 11 and
 14 following, our page number 02224, just how would you
 15 define, Mr Hayman, what you describe as a healthy
 16 collaborative working relationship; what are the
 17 incidents of that relationship and the purposes of that
 18 relationship?
 19 **A. I think to understand that maybe go to the other side of**
 20 **the coin and one that's unhealthy and one that's not**
 21 **helpful to reduce crime, to make sure the public are**
 22 **well informed and then unaccurate reporting, and also**
 23 **that not only bad news but good news gets out. I think**
 24 **it may be seen as a bit of a generalisation, but I think**
 25 **it's not just about the Met, it's also about the rest of**

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1 **the country in UK policing.**
 2 **Some years ago there was a reserve position which**
 3 **very much kept the press and the media at arm's length,**
 4 **and I don't think that that is a tenable position. And**
 5 **I certainly, after 7/7, felt that that was an impossible**
 6 **position, because the hunger for information was such**
 7 **that if you did not share information then there was**
 8 **massive speculation, and so the balance needs to be**
 9 **struck between on the one hand making sure that there is**
 10 **a clear division between what the roles of the media are**
 11 **and the police, and on the other, making sure that there**
 12 **is a collaborative relationship which has developed over**
 13 **time when there's no crisis, non-extremist, so that**
 14 **actually when you now need to use the media to ask for**
 15 **witness help or to put suspects' pictures out onto the**
 16 **press for trying to arrest people, you're not just**
 17 **making that one phone call out of the blue, actually**
 18 **there's a relationship already developed, which**
 19 **hopefully will give you the co-operation and support**
 20 **that I think the wider community would look for.**
 21 Q. Thank you. In paragraph 16 --
 22 LORD JUSTICE LEVESON: That reflects, presumably, your view
 23 as the ACPO lead on media?
 24 **A. Yes, sir. Thank you for that point. What happened --**
 25 **I forget the exact timing of it, but it was shortly**

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1 **after I returned back to the Met and I was -- no,**
 2 **actually it was before that, I was a Chief Constable in**
 3 **Norfolk. The then ACPO president, Sir Chris Fox, was**
 4 **concerned that actually nationally the relationship and**
 5 **co-operation between the police and the media could be**
 6 **improved. I competed against I think one other**
 7 **Chief Constable to pledge to try and improve it and in**
 8 **one of my exhibits we managed to retrieve my**
 9 **presentation, which sets out exactly how I thought we**
 10 **could work over the next sort of couple of years as part**
 11 **of a development plan. I haven't got it literally to**
 12 **hand here, but it's certainly in the bundle.**
 13 LORD JUSTICE LEVESON: Yes. I think it's probably in that
 14 little file there.
 15 **A. Oh, okay.**
 16 LORD JUSTICE LEVESON: And it's probably behind divider 2.
 17 **A. Thank you, sir. Maybe just for those who haven't got it**
 18 **in front of me perhaps if I just read out a few points**
 19 **that I think might be pertinent.**
 20 LORD JUSTICE LEVESON: 2197.
 21 **A. This was the start of a strategic plan, with action**
 22 **plans underneath it, and it had a national footprint, so**
 23 **I was looking to get the co-operation from other**
 24 **chief constables going to ACPO -- Association of Chief**
 25 **Police Officers -- meetings. I wanted to develop**

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| <p>1 communications, which I thought would be focused on the 2 citizen, neighbourhood policing, trying to understand 3 the enhanced profile of ACPO and its work, increase the 4 awareness of communications, what role we would play in 5 that. Basically trying to professionalise the service 6 and improve the reputation.</p> <p>7 I considered that the benefits of that was it would 8 be a better use of resources, it improved efficiency. 9 We were using our communication people better because 10 I think some of our professional staff in the media, as 11 it were, worked for us, were not given the support they 12 should have done, and there was a professional 13 communications advice with greater influence.</p> <p>14 There's quite a weird sort of diagram there which 15 I won't go to try and explain here because it might be 16 more difficult, but that's really the headline of it, 17 sir.</p> <p>18 MR JAY: Thank you.</p> <p>19 LORD JUSTICE LEVESON: All right.</p> <p>20 MR JAY: Paragraph 16, towards the top of 02226 on the 21 internet numbering page 6, you say you concluded that 22 there was benefit on both sides to having a professional 23 relationship but the terms of engagement between the two 24 had to be clearly understood. How would you define the 25 terms of engagement, as it were?</p> <p style="text-align: center;">Page 109</p> | <p>1 the case. That was a -- I shared that with the Home 2 Affairs Select Committee. It was a private thought, and 3 I did it to illustrate a point at the time and I stand 4 by that. That's not something I paraded elsewhere.</p> <p>5 I had a wake-up call on the post -- the attacks on 6 7 July when suddenly the international media were there 7 and I realised that this was just an untenable position 8 to keep that amount of distance between the 9 international media and we had to do something about 10 that. Now, the fact that there may have been personal 11 aspirations and interest in writing is a side issue as 12 to what professionally we had to do to make sure the 13 police service was well equipped and well positioned to 14 deal with extremists on a scale we'd never dealt with 15 before.</p> <p>16 Q. In paragraph 32, page 02231, you say you would "like to 17 think that the media saw their contact with me as an 18 opportunity to gain a better understanding of the 19 challenges the police were facing", et cetera.</p> <p>20 Now, maybe that was a careful choice of words, you 21 would "like to think". It suggests that perhaps the 22 media saw the purpose of their contact with you more 23 broadly or differently. Is that what you're trying to 24 say or to avoid saying?</p> <p>25 A. No. That's a very astute observation. What I'm trying</p> <p style="text-align: center;">Page 111</p> |
| <p>1 A. I came to this work with the background -- and I've put 2 this in my statement -- of being very reserved towards 3 the media. I didn't feel I needed to engage, because 4 I felt that sometimes that kind of relationship was 5 difficult. There was some -- if you went and speak with 6 colleagues, there were probably experiences where it 7 wasn't particularly positive on either side. So I saw 8 that at worst there could be the media's objective to 9 try and get exclusives and cross a line, and on the 10 other side at worst, from the police side, the danger 11 would be that maybe people would cosy up and start 12 leaking inappropriately information to the media.</p> <p>13 But I didn't feel that that was necessarily an 14 obstacle to embark on this work. That was just 15 something that we needed to manage.</p> <p>16 I have to say, trying to drive this nationally was 17 difficult, because I think people always went to their 18 default position of this is just too difficult, I'm not 19 going to do it.</p> <p>20 Q. You told the Select Committee, I think, that your career 21 choice was always between police and journalism. It 22 might be said that very statement indicates that you 23 might be close, if not overly close, to people in the 24 media. Is that a fair interpretation or not?</p> <p>25 A. I would say that up until 2005, July 2005, that was not</p> <p style="text-align: center;">Page 110</p> | <p>1 to diplomatically say, I think if you look at the media 2 in its broadest sense, which just doesn't include the 3 written media, it includes radio and TV, is that there's 4 not one type, there's all different styles and 5 approaches, just as there are with senior police 6 officers or junior police officers. It would be a lot 7 easier, wouldn't it, if everyone was operating in the 8 same way, but they don't, and therefore I think what I'm 9 trying to say there diplomatically is there may be -- 10 I would like to think that the mainstream would see it 11 for what it is, that relationship, but I hope I'm not 12 naive to realise that there may be other agendas playing 13 which people might seek to exploit.</p> <p>14 Q. What was your attitude in relation to social encounters 15 with members of the media? Particularly dinners I'm 16 referring to.</p> <p>17 A. Yes. I think we would describe the relationship in the 18 Met, which it certainly wasn't my idea and I put that in 19 my statement, I can't remember whether I inherited it or 20 not, but there was a structure in place where with this 21 Crime Reporters Association there were regular lunches 22 which my colleague, Peter Clarke, would go to, and when 23 I joined the Met, that's something that I did as well. 24 And it's on as regular basis.</p> <p>25 The purpose of those lunches was to develop and</p> <p style="text-align: center;">Page 112</p> |

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| <p>1 foster the relationship I tried to describe earlier 2 where you just didn't pick the phone up when you wanted 3 something. 4 Of course I was operating here with two hats on, and 5 I was trying to do the same nationally with the ACPO 6 media group hat on, and therefore what I felt there was 7 an awful lot of benefit in probably going the extra mile 8 with that ACPO hat on, because I wanted to get traction 9 not just in London but also elsewhere, and I wanted to 10 support the media officers within each force 11 accordingly. 12 So that would extend beyond a lunch, and I would 13 have meetings in the evening at dinner, not necessarily 14 in London, it could be elsewhere. And I remember one 15 event which I put in my statement was with the Society 16 of Editors where I think I spoke at their conference, so 17 it would be beyond just those CRA lunches, but I would 18 want to make sure everyone understood that the social 19 scene of interacting was businesslike, but it was also 20 to develop the relationship which hopefully I could have 21 built on around that plan I set out. 22 Q. So entirely businesslike and always within proper 23 bounds, is that the way you would characterise it? 24 A. I hope so, yes. 25 Q. What is your reaction to page 237 of Lord Blair's book Page 113</p> | <p>1 A. That's not right. I am not saying that there weren't 2 meetings in the evening with the press. I'm sure that 3 they could be found. What I will say is that the hours 4 that were being worked through that period between 2005 5 and beyond, even after I retired, were on a scale that 6 no other -- none of us in our team had experienced 7 before, to the point where fatigue across the team, both 8 junior and senior levels, was a regular facet of work. 9 Q. May we look at some entries in relation to you and the 10 gifts and hospitality register, the first page of which 11 is 6382. This is the formal register, of course, 12 which -- 13 A. Would you direct me on the papers here, please? 14 Q. Well, I think you have printed out only the pages which 15 relate to you for the period March 2005 to April 2007; 16 is that correct? This is in the register. If not, it's 17 going to come up on that screen. 18 A. Oh, okay. 19 Q. I'm not quite sure whether that -- 20 LORD JUSTICE LEVESON: No, that's Mr Hogan-Howe. 21 MR JAY: Yes. 22 LORD JUSTICE LEVESON: I think in order that you make 23 progress, let Mr Hayman have my copy. (Handed). 24 MR JAY: I also have your personal diary, in the sense that 25 the Metropolitan Police have transcribed for me, as they Page 115</p> |
| <p>1 in relation to you where he says that something went 2 wrong: 3 "I began to pick up that Andy seemed to be spending 4 a great deal of time with the press. Quite early on 5 there were rumours that he was briefing in a careless 6 and sometimes disloyal manner, although I never had any 7 proof." 8 He's making two points there. Can we deal with the 9 first point, an implied criticism, spending too much 10 time with the press and inappropriately. 11 A. If you viewed it as my primary role in the Met, I can 12 understand why he might say that, his opinion. But if 13 you put my other hat on as well, I would argue that that 14 was a proportionate amount of time being spent. He's 15 expressed a view there about information that was being 16 shared. I completely disagree with that and I think 17 it's important that he does qualify that at the end. 18 Q. He does. Then he says, page 240: 19 "So what happened? Perhaps Andy got carried away by 20 the power and prestige of his job. Burned the candle at 21 both ends, developed a lifestyle of late evenings and 22 could not see the danger to his professional standing." 23 Well, the lifestyle of late evenings may well be 24 intended to accommodate, in that sentence, late evenings 25 with members of the press; is that right? Page 114</p> | <p>1 have done in relation to the previous witness, Mr Yates. 2 There was a dinner, 8 November 2005, with 3 Lucy Panton, who of course was with the News of the 4 World, and that does feature in the register. 5 A. Yes, I have it. 6 Q. On the third page. The register doesn't tell us, 7 because strictly speaking it's right, the offer, as it 8 says, comes from the News of the World. It's to you in 9 your capacity as ACSO; is that right? 10 A. Yes, it is. 11 Q. Described as a working dinner. What sort of things 12 might have been discussed at that dinner with 13 Lucy Panton? 14 A. There was another, on my recollection, I've put it in my 15 statement, I can't be 100 per cent sure about this, but 16 what I can -- so I'm in a way speculating, but given the 17 timing of this and it was shortly after the attacks, we 18 were keen -- sorry, the News of the World were keen to 19 run campaigns to help tackle the threat from terrorism. 20 They had some rough ideas of what they wanted to do, and 21 I recall trying to guide and give advice on that. 22 A good example of that was when the airline plot was 23 discovered and we had a very graphic reproduction of 24 a plane -- a pressurised plane being exploded with the 25 types of explosive that were going to be smuggled onto Page 116</p> |

29 (Pages 113 to 116)

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| <p>1 the plane and we wanted to run an article in the paper 2 about that, and then put on the website the 3 reconstruction of the video.</p> <p>4 So when we talk about working dinner, I can't 5 accurately remember what that was about, but it was 6 certainly in line with my recollection that the paper 7 was being proactive about trying to tackle the whole 8 issue of this unfolding home-grown threat from 9 terrorism.</p> <p>10 Q. Three days later there's a meeting at the News of the 11 World offices, it's not in the gifts and hospitality 12 register because there may well not have been any 13 hospitality, because it's only between, according to the 14 diary, 12.30 to 13.00 hours, and Lucy Panton was going 15 to meet you at the entrance. Can you remember what 16 that --</p> <p>17 A. I haven't got that in front of me. It's very difficult 18 to remember that, Mr Jay, but I'm trying to be helpful. 19 Not knowing you were going to ask that question, that 20 does fall in line with my recollection which I've just 21 rehearsed to answer the previous question. I can only 22 guess that it was something to do with a campaign. That 23 working dinner would have been probably because it was 24 very busy during the day, that was the only time to get 25 it, and it was a precursor before going to their</p> <p style="text-align: center;">Page 117</p> | <p>1 the Met's director of public affairs, and it was -- 2 I imagine it was to meet these two people, because 3 I didn't know them beforehand, and I -- so I'm half 4 guessing but I think it's just to meet them.</p> <p>5 Q. Well, it's clear from the diary that Mr Fedorcio is 6 there as well, so again that chimes with your 7 recollection.</p> <p>8 A. To reinforce that point, sir, I -- it would just be 9 inappropriate given who was in contact with who at the 10 Met at that time and I wouldn't even know what to do in 11 terms of contacting those two individuals, having not 12 met them before. I don't think I'd met them before, 13 anyway.</p> <p>14 Q. Fair enough. At that stage, what -- well, presumably 15 you did know about Operation Caryatid; is that correct?</p> <p>16 A. Yes.</p> <p>17 Q. But the scope or possible scope of Operation Caryatid 18 was not known to you; is that right?</p> <p>19 A. No, it wasn't, not in the detail that many think was the 20 case.</p> <p>21 Q. Okay. The diary entry, just to clear up one doubt in my 22 mind --</p> <p>23 LORD JUSTICE LEVESON: We will be returning to that, will 24 we?</p> <p>25 MR JAY: Yes.</p> <p style="text-align: center;">Page 119</p> |
| <p>1 building maybe to develop the conversation further, but 2 I'm guessing.</p> <p>3 Q. 25 April 2006, which is on the internal numbering page 5 4 of the hospitality register, it's: 5 "Dinner, editor and deputy editor of the News of the 6 World."</p> <p>7 A. Mm-hm.</p> <p>8 Q. And the location we don't know from that document but 9 probably do from the diary.</p> <p>10 A. I think I can help you on that. I believe that it was 11 Soho House, I think.</p> <p>12 Q. Correct.</p> <p>13 A. Yes.</p> <p>14 Q. Well, it's all correctly recorded in the hospitality 15 register, as we can see. The editor and deputy editor, 16 editor at the time was Mr Coulson. The deputy editor, 17 I believe, was Mr Wallis, but I'm not 100 per cent sure. 18 Maybe you could help on that.</p> <p>19 A. I think it was, yes.</p> <p>20 Q. What was the purpose of that dinner?</p> <p>21 A. I can't remember, but what I do remember from that was 22 it -- ordinarily that would be not some -- those people 23 would not be someone from professional life that I would 24 be on a daily contact with. That dinner was not 25 arranged by me, my recollection is it was arranged by</p> <p style="text-align: center;">Page 118</p> | <p>1 There's an entry in the diary for 22 August 2006. 2 I only mention it so you can clear this one up. This is 3 in the afternoon: 4 "Rebekah introductory meeting following 5 Lucy Panton's maternity leave." 6 What was that a reference to?</p> <p>7 A. My recollection is -- I don't know the surname -- 8 certainly all the events that are going on, people need 9 to know was that Rebekah Brooks, I guess. That was not. 10 That was a member of staff that was going to take over 11 Lucy Panton's role when she went off on maternity leave, 12 and I think that -- I'm more than sure that was an 13 introductory meeting to say, look, this is the person 14 taking the job over and this is as a mutual sort of 15 handshake thing.</p> <p>16 Q. Because Lucy Panton was your contact at the News of the 17 World, and whilst she was away, you needed a different 18 contact; was it as simple as that?</p> <p>19 A. Yes, she was the CRA rep from the News of the World, 20 yeah.</p> <p>21 Q. She was someone, like the previous witness, who you saw 22 on a number of occasions. There was, for example, 23 8 March 2007. This is just for half an hour, though, at 24 about lunchtime. Lucy Panton comes to 556 New Scotland 25 Yard to meet you. It's not in the hospitality register,</p> <p style="text-align: center;">Page 120</p> |

30 (Pages 117 to 120)

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| <p>1 it's in the diary, and she's coming alone. Is that when 2 she's back from maternity leave and you're picking up 3 contact with her? 4 A. I don't know. 5 Q. 24 October 2006. There's an evening meeting with 6 Neil Wallis, but it's between 1700 and 1900 hours and 7 it's with him alone. Can you help us with that entry? 8 A. No, I can't. The trouble with relying on the diary is 9 sometimes the diary might -- hopefully the diary is as 10 accurate as it possibly can, but I'm not -- sometimes it 11 becomes dated, the meetings don't happen, or if they're 12 in there and there's no other note beside it to remember 13 what that meeting was about or indeed if it happened is 14 very difficult. 15 Q. Okay. 29 March 2007, only in the diary, not in the 16 hospitality register: 17 "Lunch. Working lunch at Santini's", Lucy Panton 18 and Neil Wallis this time. 19 A. What was the date, sir? 20 Q. 29 March 2007. 21 A. Yes. I can remember that. 22 Q. What was the purpose of that meeting? 23 A. I can't remember the purpose. I can remember the lunch. 24 I can't remember the purpose of it. But it would not be 25 anything different to what I've described earlier, which Page 121</p> | <p>1 2007 which are not in the hospitality register. The 2 first is at Shepherd's Restaurant, lunch for nine. 3 Page 4 on your Amex card, which again is the MPS Amex 4 card. £566, of which £181.50 was spent on alcohol. 5 What was the purpose of that lunch? 6 A. It was the regular practice -- I don't know whether 7 other people do it, but I certainly did it in Norfolk as 8 the Chief Constable there and also in the Met -- that 9 when people were leaving, their departure, whether it's 10 on retirement or promotion, would be marked as a thank 11 you. That in this instance in my view would be too 12 extravagant. So it was -- that was one of the reasons, 13 one of the colleagues on our top team was leaving to 14 another force on promotion. Coincidentally that was at 15 a force where we were building a new detached counter 16 terrorism unit. 17 But more importantly, the reason for taking my top 18 team out there was that we would normally have away days 19 where we would go to different venues for planning 20 meetings for the whole day, but these were people that 21 had sacrificed holidays since 2005, and had really 22 worked their socks off for nearly two years, and I did 23 that as a Metropolitan Police gesture of gratitude 24 because of the fact that their families and them had 25 gone through what they had, and also to mark the Page 123</p> |
| <p>1 is the ongoing support that that paper was trying to 2 give to the terrorism campaign, as it were. 3 Q. The conversations didn't extend further than that; is 4 that right, Mr Hayman? 5 A. Absolutely not. 6 Q. Again it's not in the register. What probably happened 7 on this occasion, but tell me if this is right, is that 8 you paid for that lunch with your MPS Amex card. Might 9 that be right? 10 A. If the records show that, that -- my instinctive answer 11 to that, sir, is that -- and I've made the point in my 12 statement, that the CRA lunches -- and I'm using this as 13 a comparator to try and describe my thinking on that -- 14 were always under the basis for I think when 15 Peter Clarke went, and maybe my successors, were on the 16 basis that the CRA were actually paying for things, and 17 I over time did feel uncomfortable about that, and on 18 two occasions I paid the bill for the lunches to the CRA 19 and I would imagine the same principle, if it shows 20 I paid for that on the Amex, if the Amex shows that, 21 then that would be under the same arrangement, but 22 I can't remember paying for it but I wouldn't dispute 23 any record that's there. 24 Q. Your expense claims were investigated at a later stage, 25 as you know, and there are two entries for 1 February Page 122</p> | <p>1 colleague's promotion. 2 Q. Okay. There was a business dinner -- this is a Crime 3 Reporters Association business dinner -- later that same 4 day. I gave 2 February, in fact it's 1 February, both 5 of these occasions. But it ended up in the -- or maybe 6 it started in the Oriel Wine Bar and Bistro and just 7 before 10 o'clock you spent £47 on a bottle of champagne 8 on your Amex card, and when asked about it you stated 9 that you recall that this was a Crime Reporters 10 Association representative, possibly from the News of 11 the World. It could have been a female whose name you 12 did not know. 13 A. Mm. 14 Q. Is that right? 15 A. Yes, I think the only thing I'd put right there, sir, is 16 that it wasn't a function or a dinner. I can't remember 17 the event. If that's what I said in interview, then I'm 18 going to rely on that from that interview. 19 Q. Just who that representative might have been, might it 20 have been Lucy Panton or possibly Rebekah? Can you help 21 us? 22 A. I can't remember, sir. But if I've said in interview 23 that it -- and I think I've re-looked at that and I was 24 cautioned against guessing, I think, by the interviewer. 25 Q. But if it's Crime Reporters Association, if it's News of Page 124</p> |

31 (Pages 121 to 124)

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| <p>1 the World, the number of candidates, I think, are 2 reducing logically. It's only going to be Lucy Panton, 3 or maybe if she was on maternity leave, it would have 4 been Rebekah. It can't have been anybody else.</p> <p>5 A. No, I'm -- no, I'm not arguing that point. All I'm 6 saying is I remember at the time -- I tried to be 7 helpful but the interviewer said, "If you don't know, 8 don't guess".</p> <p>9 Q. Would you accept, if I can put this gently, that this is 10 possibly an example of going a bit too far in 11 entertaining a member of the press? Or not?</p> <p>12 A. My judgment was at the time the work it was producing 13 was worth the investment of the time.</p> <p>14 Q. I'm not going to labour the point on these registers, 15 but in the diary there are two further working lunches 16 with Wallis, Mr Wallis, these are both in the register 17 as well, 5 September 2007 and 16 November 2007. And 18 also there's a CRA lunch both in the diary and register 19 for 31 August 2007, and Lucy Panton was there. So some 20 involvement in your case continuing with the News of the 21 World into 2007; is that right?</p> <p>22 A. Yeah, and I've never -- and the reason why they're in 23 the diary and in the register is because I've always 24 wanted to declare as best I can everything that was 25 going on.</p> <p style="text-align: center;">Page 125</p> | <p>1 next attack was going to come. But the point you're 2 making in hindsight as we pore over this, at the time it 3 was absolutely well intended, honourable, but on 4 reflection I can see what people can see.</p> <p>5 LORD JUSTICE LEVESON: Nobody was to know what was going to 6 happen, but -- well, you've got the point. Yes?</p> <p>7 MR JAY: Maybe we can take the evidence in relation to the 8 Times quite shortly. You leave the Metropolitan Police 9 in April 2008 and your contract with the Times starts, 10 I think, in August and continued through until July 11 2011. You were paid £10,000 per annum, not the sort of 12 figures we've seen bandied around in some place.</p> <p>13 In hindsight in your own words, what is your view 14 about this?</p> <p>15 A. Would you mind, sir, if I just spent a couple of minutes 16 just building the picture on this? Because I think it's 17 important that people understand how this came about. 18 I will be brief.</p> <p>19 Once I'd retired, I didn't do an awful lot, just 20 tried to sort of make the transition into retirement, 21 and so effectively on paper I wasn't entering the Yard 22 from December 2007, and it was towards the beginning of 23 the summer I was approached not by a News International 24 outlet, but by someone else, another paper, and also TV 25 outlets who were interested to sign me up, as it were.</p> <p style="text-align: center;">Page 127</p> |
| <p>1 Q. Okay. May I go back to your witness statement and 2 paragraph 42, which deals with your writing for the 3 Times.</p> <p>4 LORD JUSTICE LEVESON: Just before we move on, I understand 5 your judgment at the time, but do you think it creates 6 or runs the risk of creating a perception of 7 a relationship which goes beyond that which is 8 appropriate?</p> <p>9 A. In hindsight, sir, I totally see the point you're making 10 and I think when we go on to the discussion about the 11 Times, the same point could be levied at that as well.</p> <p>12 LORD JUSTICE LEVESON: Well, I deliberately -- before you 13 got onto the Times, I just wanted to section that little 14 bit off.</p> <p>15 A. On reflection and I want to go back and think, well, 16 what was my thinking at the time. I was very 17 enthusiastic about the whole national build for counter 18 terrorism. We wanted to be much better than we were in 19 2007, 2005. That meant building a national picture, 20 counter terrorism units, both covert and overt, across 21 the country from scratch. What had to go hand in glove 22 with that was a media strategy, and inevitably a lot of 23 that was centred in London because that's where the hub 24 of the media was. So it was nothing but enthusiasm and 25 a bit of a -- bit hasty, because we didn't know when the</p> <p style="text-align: center;">Page 126</p> | <p>1 In hindsight I think probably because there were a lot 2 of activities going on with trials around terrorism and 3 they would want someone to perhaps offer an opinion on 4 it.</p> <p>5 This was something that I'd never really thought 6 would happen, and I therefore went to an agent to get 7 some advice and help, and I let the agent deal with all 8 the negotiations.</p> <p>9 The point that I now find out is that 10 News International, the Times, and I think this has been 11 put in statement, is -- got wind of the other person's 12 interest and then that's how we ended up having two 13 outlets, as it were, wanting to sign me to write.</p> <p>14 Now, I did give this long thought, and I thought 15 what is the difference here -- set phone hacking aside 16 just for one minute, if we may. What is the difference 17 here between a retired police officer, of which there 18 are others who have written, doing commentary and 19 hopefully working alongside a journalist who can do 20 a factual journalistic reporting, but a police 21 commentator can give more of an insight to the reader, 22 and working hand in glove, that could actually produce 23 some good reportable material, which would also enhance 24 this profile and contact with the police as well.</p> <p>25 I made the comparisons in my mind, albeit they're</p> <p style="text-align: center;">Page 128</p> |

32 (Pages 125 to 128)

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| <p>1 not directly comparable, between sportsmen who retire, 2 maybe politicians and maybe financiers, and I honestly 3 did not make the connection that I was embarking, if 4 I made that choice rather than that choice, into 5 a stable that was part of the News of the World. I just 6 didn't make that connection. I didn't know the people, 7 didn't know the editor, the deputy editor. I was 8 formally interviewed. Never met them before. 9 Throughout the whole relationship, never any hint of 10 trying to exploit what may be my contacts, what may be 11 a relationship there. My experience was it was 12 completely above board.</p> <p>13 However, going to the point of your question, if 14 I had my time again and I was able to make that link, 15 presentationally that is difficult and it's difficult to 16 people to probably in a way believe that account, but 17 that is the account as it happened and there are many 18 people who were involved in those negotiations that 19 I think can corroborate what I've said.</p> <p>20 LORD JUSTICE LEVESON: It's all a perception thing, isn't 21 it?</p> <p>22 A. Yes.</p> <p>23 LORD JUSTICE LEVESON: Although presumably if you walked 24 into -- were the Times then working in Wapping?</p> <p>25 A. Yes, sir.</p> <p style="text-align: center;">Page 129</p> | <p>1 follow me.</p> <p>2 A. Okay sir.</p> <p>3 Q. It's been absorbed fully into your formal evidence. But 4 I've taken the view it doesn't need to be tested today. 5 I'm sure you would wish to develop paragraph 89 of 6 your statement, which is our page 02253. It's the 7 distinction between being accountable for Caryatid, 8 because you were the Assistant Commissioner at the top 9 of SO13 at the material time on the one hand, and being 10 involved in the day-to-day running of Operation 11 Caryatid, which of course you weren't, on the other 12 hand. Is that right?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Can I just understand, though, and this is possibly of 15 some importance, we know that you had regular briefings 16 from DAC Clarke as to what generally was going on in 17 S13, and I think probably on a daily basis when you were 18 both there; is that right?</p> <p>19 A. I wouldn't -- no, that's not right. Daily would not be 20 the case, no.</p> <p>21 Q. About how often would you speak to Mr Clarke?</p> <p>22 A. We'd have contact daily, but on that particular 23 operation --</p> <p>24 Q. No, I wasn't suggesting you had daily contact over 25 Operation Caryatid.</p> <p style="text-align: center;">Page 131</p> |
| <p>1 LORD JUSTICE LEVESON: Then they're in the same building, 2 different floors of the same building, aren't they?</p> <p>3 A. I used to walk past the News of the World entrance and 4 go down the road to the Times. The editorial -- even 5 when I went to the office, as it were, you know, there 6 was no feel of -- I don't mean this in a disrespectful 7 way -- of the red tops. It was the broadsheet writing 8 and commentary and everything was around that.</p> <p>9 LORD JUSTICE LEVESON: I think one of the witnesses from one 10 of those journals gave evidence that actually there was 11 no real connection between the Times on the one hand, 12 the Sunday Times on the other, the Sun and the News of 13 the World. They were all very, very different and very 14 competitive.</p> <p>15 A. To the point where --</p> <p>16 LORD JUSTICE LEVESON: That's what somebody said, anyway.</p> <p>17 A. To the point I can honestly say I can't ever remember in 18 that building bumping into anyone that I had 19 professional contact with when I was in the police 20 service.</p> <p>21 MR JAY: We'll go back to the issue of one piece you wrote 22 in the Times on 12 July 2009 fairly soon, but can I go 23 straight now, Mr Hayman, to Operation Caryatid? The 24 other parts of your statement which we're not dealing 25 with specifically we're going to take as read, if you</p> <p style="text-align: center;">Page 130</p> | <p>1 A. Oh, sorry, then what you said is right, sir.</p> <p>2 Q. Can I just understand, though, in relation to Operation 3 Caryatid, how much contact was there between you and 4 Mr Clarke? First of all, how frequently was it?</p> <p>5 A. On one hand, I would say, sir. The whole life of it. 6 I think it was -- yes, on one hand.</p> <p>7 Q. Can we just see at what stages, counting out by five 8 occasions, Mr Hayman, this might have been? Might you 9 have been involved at the very start, because it was an 10 investigation into the security of the royal household?</p> <p>11 A. Would it help if I just spent a very brief time 12 positioning not only that operation but others that were 13 going on -- not the detail of those, but the style of 14 working? Because I think again on reflection there is 15 some learning that comes out of this.</p> <p>16 If you -- my span of command was not only looking 17 after specialist operations which had something like, 18 I don't know, 150 investigations, maybe more, going on 19 at one time. I also had my corporate responsibility of 20 running the Met, and then the national build 21 responsibility, which we've already heard about.</p> <p>22 I don't think any colleague chief constable can 23 honestly say that when there's investigations going on 24 in their command in the counties they have all the 25 details to hand. I think you always remain accountable</p> <p style="text-align: center;">Page 132</p> |

33 (Pages 129 to 132)

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| <p>1 as being the person who's the chief constable, but the 2 day-to-day responsibility you empowered us to do because 3 they're the best people to do it. And what is really 4 difficult is that if you start allowing yourself to get 5 drawn down into too much detail, you're actually 6 neglecting your role which I believe is to create the 7 environment where all these investigations can flourish, 8 so you're putting an umbrella over the investigation and 9 protecting day-to-day operations from the intrusion 10 maybe of senior people and maybe outside stakeholders. 11 It was very regular for me to understand the general 12 scope of it, to try and create that environment and give 13 resources and empower people. 14 Now, the real nub of this operation, which I think 15 what hacking has elicited here, is that in the widest 16 sense of what else was going on, you're making the 17 judgment is this as important -- and I don't mean to 18 minimise the terrible impact this has had on the victims 19 about the threat to life or what hacking represents, and 20 that will be a dictation as to the decisions made by the 21 SIO. But had we known -- my job would be to make 22 a judgment: how much do I intervene and take a notice of 23 what's going on in that operation? And the more I give 24 to that, I'm neglecting that one over there. 25 I have to say, sir, at that time with the threat of</p> <p style="text-align: center;">Page 133</p> | <p>1 main suspects were? 2 A. No. My recollection is, in my own words, it originally 3 was identified by the royal command, who have particular 4 functions which does not include specialist 5 investigations. They haven't got the skills and 6 experience. They're very good at what they do but this 7 would be beyond their experience and capability, with 8 all due respect, and that therefore I allocated that to 9 Peter, Peter Clarke, said, "Can you please look at this 10 and come up with an investigation strategy and an 11 operation?" 12 So I was actually allocating that to Peter, and my 13 recollection is that Peter would brief me on exemption, 14 ie when there was something in his judgment was 15 significant that I needed to brief up or that he needed 16 more people with. 17 I think it's very significant, sir, that I didn't 18 know when the arrests were going to be made, I didn't 19 know when the search warrants were going to be executed; 20 indeed, I wasn't in the country when that happened. 21 That illustrates the empowerment that Peter was 22 given by me and the detachment that I had, because 23 I felt that at that time -- I mean this -- I say this 24 term graphically to make the point -- you could have 25 eaten that on what we knew at that time. What we now</p> <p style="text-align: center;">Page 135</p> |
| <p>1 a future attack around the airline plot, and then six 2 weeks after the airline plot we arrested 12 more people 3 in Operation Overamp, all of the intrusion from me, if 4 ever, was on the terrorist rather than that job, and the 5 danger would be more effort putting into something that 6 doesn't endanger life means that you're neglecting 7 something that does. 8 A long-winded way of answering the question, but 9 what I'm trying to put here is some flesh on the bones 10 of something that says you're accountable but you're not 11 responsible for day to day, but when you do empower 12 people to do the day-to-day responsibility, occasionally 13 you would have to intervene and it's a judgment as to do 14 I intervene a lot or not? On this one, the briefings 15 I were getting was enabling me to brief above and 16 protect them and allow them to get on would be their 17 job, but I had a deputy that I would rate very, very 18 highly and he had a team which he would rate very, very 19 highly and, as far as I was concerned, it was light of 20 touch and that's why I left it very much to them. 21 Q. Can I just understand what you were told by Mr Clarke as 22 Operation Caryatid progressed. Maybe in your own words, 23 Mr Hayman, presumably at the start you were told 24 possible security risks to the royal household. Were 25 you told who the perpetrators were or might be, who the</p> <p style="text-align: center;">Page 134</p> | <p>1 know, we didn't know then, and of course we would have 2 had a completely different approach. 3 LORD JUSTICE LEVESON: Well, that raises a couple of 4 interesting issues, but what I take from that is that 5 your exercise of command was to allocate it to the 6 Deputy Assistant Commissioner and then effectively to 7 leave him to get on with it, to come back to you (a) if 8 he felt there was something you needed to report up to 9 the Commissioner, or (b) if from within his own resource 10 he had a problem coping with demand. Is that -- 11 A. That's a fair summary. 12 But I do allude to what we would do differently, 13 because clearly there needs to be something done 14 differently in the light of how things unfolded. It's 15 about making clearer in strategy terms about that level 16 of intrusion intervention, and I don't know how you 17 would solve that, but there needs to be the check and 18 balance that strikes the balance between the boss 19 getting in the way of people who know how to do it 20 better than he or she does, but at the same time the 21 boss not find themselves completely isolated. 22 LORD JUSTICE LEVESON: I'm just not quite sure -- I'm not 23 sure I understand precisely what you're suggesting. 24 "Make clearer in strategy terms about the level of 25 intrusion into intervention"? Sorry, could you</p> <p style="text-align: center;">Page 136</p> |

1 elaborate, please?

2 **A. What -- it's the -- what you're trying to do, sir, is**

3 **give people their space by creating that environment**

4 **that they can succeed, hopefully, in their endeavours,**

5 **and what you're doing is you're making a judgment as to**

6 **how much latitude -- and that's just not me, that's all**

7 **senior people and that probably goes down to supervisors**

8 **as well -- you give that individual, and the question**

9 **would be that they deserve the checks and balances so**

10 **they have something to have their own decision-making**

11 **checked against.**

12 MR JAY: Are we to derive this message from your evidence,

13 Mr Hayman, and tell me if we're not, that if you knew

14 then what we know now, you would have wished the

15 investigation to have been expanded?

16 **A. There's only one proviso on that, is that the decision**

17 **always must be about the threat to life, and I --**

18 LORD JUSTICE LEVESON: In 2006, the terrorism issues were

19 such that you were sucking people into the Met to help

20 cope with them.

21 **A. Sir, it was unprecedented. There's again examples to**

22 **try and illustrate the point. If you imagine New**

23 **Scotland Yard, the incident rooms for the attacks on 7/7**

24 **stretched right the way around two floors and when you**

25 **compare a typical incident room for a murder would be**

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1 a room something like this, that's the scale of the 7/7

2 attack.

3 Then we had the other plots that were going on that

4 we were trying to thwart, and of course running in

5 parallel with this operation, the phone hacking

6 operation was going to probably dwarf 7/7 and be, as

7 many commentators have said, the sort of 9/11 for the

8 UK, and that was also the other operation, Operation

9 Overamp, which was the 12 people arrested in Sussex.

10 They were the ones that were, you know, grabbing all the

11 attention and close management, and it was -- I'm --

12 I feel terrible for the impact for the victims of phone

13 hacking, it must be absolutely awful and I wouldn't

14 minimise that, but at the same time I'd rather be facing

15 questions around that than I would be about more loss of

16 life, which 7/7 was awful.

17 LORD JUSTICE LEVESON: That's entirely understandable and

18 you may not have heard what I said to Mr Clarke this

19 morning that, as a use of resource, the decision-making

20 is perfectly understandable, and it's nothing to do with

21 me, it's the police decision not mine, but I would have

22 thought inevitable. The question then is what you do

23 about the work that you can't do and how you

24 characterise the state of that investigation. The issue

25 for me may be just as much that, what was said, what was

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1 done, what was not said and what was not done, not

2 merely in 2006 but thereafter, and it's important in the

3 context of this Inquiry because of the perception of

4 a relationship which might have meant that the police

5 did not go as hard into this particular problem not

6 because of resource implications of terrorism, but

7 because of a relationship issue. That's effectively

8 what I think I am required to think about, and you've

9 picked up yourself, as you've given evidence this

10 afternoon, strands of material which would allow

11 somebody -- you would say: quite wrongly and

12 inaccurately -- to draw an inference about that, and

13 that's the issue.

14 **A. I'm totally with you on that. Just a couple of -- three**

15 **points to help.**

16 LORD JUSTICE LEVESON: Please do. It's your evidence, not

17 mine.

18 **A. Firstly, the number of police officers that were being**

19 **brought in from around the country was unprecedented.**

20 **You know, the -- without making any sort of alarmist**

21 **statements here, the pot was actually running dry, so we**

22 **had nowhere really to go. Within the Met, that was**

23 **exactly the same. We see the number of resources that**

24 **are now being used as events have unfolded. That would**

25 **have had a massive impact on counter terrorism, those**

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1 numbers.

2 I can absolutely accord with your point around

3 perception, but I can tell you that the team that were

4 on it are ferocious, they have a reputation of being

5 ferocious, and if, let's say, there is a scenario, which

6 some people have argued around the conspiracy that there

7 was a not such ferociousness around because of

8 a perceived relationship, it was impossible, in my view.

9 If you wanted to be disproportionate towards those

10 alleged perpetrators, or you wanted to dilute down the

11 investigation, the security and parameters that were set

12 by the SIO would make that impossible. And if

13 I personalise that, if there was an agenda from me or

14 any other person, Assistant Commissioner, who wanted to

15 dilute or disproportionately ramp up that operation, it

16 would be impossible for that to happen without the SIO

17 calling foul or asking for that individual to record why

18 they want something done in that decision log.

19 LORD JUSTICE LEVESON: Yes, it's not specifically an

20 Assistant Commissioner going in and saying, "I don't

21 think I want you to do this any more." It would be much

22 more subtle than that. Somebody would say, "Well, this

23 isn't terribly important and that seems more important

24 and I have to balance all these resources." It doesn't

25 specifically arise in this case in relation to 2006

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| <p>1 because of the enormity of the problems that you were 2 facing, but that may not be quite so easy to explain 3 away in connection with all the later decisions. That's 4 the point.</p> <p>5 A. I accept that.</p> <p>6 MR JAY: Were there any discussions between you and 7 Mr Clarke as to the possible widening of the 8 investigation? By which I mean not merely to embrace 9 other victims, but more importantly other journalists?</p> <p>10 A. I can't recall any conversation on that.</p> <p>11 Q. Was there any conversation about -- with Mr Clarke about 12 the quality of the evidence? Not merely in relation to 13 Goodman Mulcaire but more generally?</p> <p>14 A. I can't recall that, no.</p> <p>15 Q. Were you aware at any stage that there was a -- there 16 were potential security issues here because Members of 17 Parliament, cabinet ministers, members of the military, 18 policemen, even, were suspected to have been victims of 19 this operation?</p> <p>20 A. No, sir.</p> <p>21 Q. When the issue comes back in 2009 in July, you, of 22 course, wrote a piece in the Times on 11 July, which 23 I hope you have to hand, do you, Mr Hayman? You 24 probably remember it. In the bundle which has been 25 prepared for you, it's tab 4.</p> <p style="text-align: center;">Page 141</p> | <p>1 So, pausing there, Mr Hayman, it appears that you 2 were shown -- this was a point which came out through 3 the Select Committee --</p> <p>4 A. Yes.</p> <p>5 Q. -- a list of those targeted which your reaction before 6 the Select Committee was along the lines that it was 7 eight to ten pages; is that right?</p> <p>8 A. I can remember it distinctly, sir. I think Peter was 9 away, Peter Clarke. The late John McDowall was standing 10 in as his deputy, and the conversation probably only 11 lasted less than, I don't know, four or five minutes 12 when he -- I was in my office, he came to my office and 13 it was along the lines of, "Just so you're aware, the 14 investigation team appear to be creating a list and 15 here's a list of names, we don't know what the status 16 is, haven't got a clue where this is going, but we just 17 want you to know there's a list emerging", and I didn't 18 think any more of it and I remember that being -- on the 19 numbers I've come to here -- and, sorry, there was -- 20 also within that conversation he described where the 21 investigation may be able to identify if someone went 22 beyond just having an address book into having more than 23 the telephone number, but that's my recollection.</p> <p>24 Q. The list that's being referred to can only be tab 94 of 25 the first file. Now, it's going to be probably one of</p> <p style="text-align: center;">Page 143</p> |
| <p>1 A. Yes.</p> <p>2 Q. First of all, so we can be clear about this, when you 3 wrote this piece in the Times, did you have reference to 4 any documents or were you writing this just from your 5 memory?</p> <p>6 A. Absolutely no reference to any documents. Indeed, when 7 I left the Met, that would be absolutely inappropriate 8 for me to either try and elicit that or have any 9 conversation about that. This was on what I understood 10 from my recollection, my general broad recollection, of 11 how events were.</p> <p>12 Q. Fair enough, but can we look at what you said? The 13 third paragraph, the Guardian has said that it 14 understands that:</p> <p>15 "... the police file showed that between 2,000 or 16 3,000 individuals had their mobile phones hacked into, 17 far who than was ever officially admitted during the 18 investigation and prosecution of Clive Goodman. Yet my 19 recollection is different. As I recall the list of 20 those targeted [and we'll come to that in a moment], 21 which was put together from records kept by 22 Glenn Mulcaire, ran to several hundred names. Of these 23 there was a small number, perhaps a handful, where there 24 was evidence that phones had actually been tampered 25 with."</p> <p style="text-align: center;">Page 142</p> | <p>1 those files over there. I don't know what that file is.</p> <p>2 LORD JUSTICE LEVESON: It's at the end of volume 1 of files 3 disclosed. Somebody will find it for you.</p> <p>4 MR JAY: I'm going to ask you to look at it and see whether 5 this chimes with your recollection now.</p> <p>6 A. I will obviously, sir, but the way the interaction went, 7 it was a flying of the sheets of paper. You know, 8 I don't remember pouring through it and looking as to 9 who was on the list at all.</p> <p>10 LORD JUSTICE LEVESON: You won't see much on the list here 11 because it's been redacted, but --</p> <p>12 A. Without -- again, sir, with respect, it was a colleague 13 coming in and sort of flying in, flying out, "There's 14 a list here that's emerging"; "Okay, thanks very much".</p> <p>15 MR JAY: But you're writing here in the Times that your 16 recollection was that this list ran to several hundred 17 names, which is not actually far from our -- we think 18 there are probably 419 names on the list. Of these -- 19 well, you say a small number, perhaps a handful, where 20 there was evidence that the phones had actually been 21 tampered with. That's your interpretation of what the 22 evidence showed, presumably?</p> <p>23 A. Of what was said to me, yes.</p> <p>24 Q. Can we just see? It won't take very long. Look at 25 tab 94 of that bundle, which is towards the very end of</p> <p style="text-align: center;">Page 144</p> |

36 (Pages 141 to 144)

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| <p>1 it. The list we have runs to 25 pages or 24 pages. 2 This is the only one I think -- 3 A. I don't -- my first reaction is I don't remember grids 4 and matrices; I remember just a whole sheet of list of 5 names. 6 Q. Can you recall why the late commander came to you with 7 this list? 8 A. No. John was a sort of guy who would just turn up to 9 the office, and if I wasn't either busy or in a meeting 10 he would probably then literally say "good morning", 11 "good afternoon". He was a very sort of sociable guy, 12 and he also kept me -- I suppose in his mind -- I don't 13 know what he was thinking, but I guess he thought he's 14 been told that and he's briefing me but it wasn't 15 anything substantial. 16 Q. Well, is that right, Mr Hayman? Can we just think 17 through this? From your perception you knew about the 18 arrests on 8 August 2006, didn't you? You had in your 19 mind an operation which was very narrow. It involved 20 two men and it involved the mobile phones of members of 21 the royal household. Yet what this list showed, or 22 might have showed, is that the operation of Mulcaire and 23 perhaps others went far wider. Instead of there being 24 five victims or nine victims, you had hundreds of 25 victims. Maybe that was information which he felt quite Page 145</p> | <p>1 different walks of life. Isn't that the message of it? 2 A. No, that's not. Because I think the distinction was 3 being drawn at the time between what's the difference 4 between a journalist or someone who works for 5 a journalist having telephone numbers, which is sensibly 6 an address book, versus it going beyond just an address 7 book into something more sinister. And my recollection 8 was this is a number of people who could just be part of 9 the address book as opposed to something that had been 10 more sinister or attacked. 11 LORD JUSTICE LEVESON: Well ... 12 MR JAY: But why bother the Assistant Commissioner with that 13 prosaic piece of information? 14 LORD JUSTICE LEVESON: He's got an address book! 15 A. I don't know, I don't know. 16 MR JAY: Well -- 17 A. If the judgment there is that that could have been 18 a trigger that should have been acted upon, I hear what 19 you say. 20 LORD JUSTICE LEVESON: Let me just take the next sentence in 21 your -- 22 MR JAY: Well, that's what I was coming to. 23 LORD JUSTICE LEVESON: Mr Jay, you do it, you do it. 24 MR JAY: I'm sorry, I was just setting it up a little bit. 25 Had there been evidence, you say in the Times, of Page 147</p> |
| <p>1 rightly he needed to share with you because of its 2 importance. Don't you think that's a possibility? 3 A. I can see why you wouldn't want to say that, but having 4 remembered what that interaction was like, if he wanted 5 more and it was something more substantial, he would 6 have asked for it. He didn't ask for that. 7 LORD JUSTICE LEVESON: It obviously made an impact on you 8 because three years later you remembered it and even 9 remembered it was a list targeted running to several 10 hundred names, with only a small handful of phones 11 actually tampered with. 12 A. Yes. 13 MR JAY: The ordinary common sense of this, or the sense of 14 one's understanding of the human interactions here, 15 you're the Assistant Commissioner, you're leaving this 16 to DAC Clarke to run, quite rightly. He's in charge. 17 You deal with the more Olympian issues. Yet here is 18 the -- Clarke is away so he's in command for the time 19 being, he's coming to you with something important, 20 something exciting, to share with you. That must be 21 right, mustn't it, Mr Hayman? 22 A. I think that's probably the accurate way, yes. 23 Q. Yes. And what he was trying to share with you was at 24 least this much: look, this extends far more widely than 25 the Royal Family, it extends to a range of victims in Page 146</p> | <p>1 tampering in the other cases, that would have been 2 investigated, as would the slightest hint that others 3 were involved do you stand by that? 4 A. I didn't -- say that again, please? 5 Q. Just read it for yourself. It's your own words. 6 A. Yes, I see the point now. 7 Q. But what's the answer then, Mr Hayman? 8 A. Well, they weren't investigated and I don't 9 understand -- you know, I've written that as part of an 10 article, and to go back to in that office and that 11 interaction to remember why things were or weren't done, 12 I just can't do. 13 Q. Maybe this is to help you out a bit, if I may say so, 14 journalistic licence. Are you reacting perhaps 15 peremptorily to something which you saw in the Guardian, 16 you thought was nonsense -- wrongly, as it happens -- 17 and you fire off from the hip with this when in fact you 18 don't mean this, do you? 19 A. I can see how you can -- others and you could have that 20 view. 21 Q. Well, that's helping you out, because if you do mean 22 this, it probably works in a different -- 23 LORD JUSTICE LEVESON: I have another alternative 24 suggestion, which is to the one which Mr Jay says is the 25 alternative. Page 148</p> |

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| <p>1 Would you agree that if there was a list not merely 2 of a mobile phone number, but also the private PIN 3 number that could be used by the owner of that mobile 4 phone to access their own private voicemails, and that 5 access to the private voicemails itself constitutes an 6 offence under the Computer Misuse Act, and might also, 7 depending upon your view of the law, which I won't 8 trouble you with now, constitute an offence under RIPA, 9 that is evidence of tampering in other cases?</p> <p>10 A. Yes, I would take your learned view on that. If that 11 was known at that time, then --</p> <p>12 LORD JUSTICE LEVESON: No, there's no learned view here at 13 all. I'm merely asking you -- well, you can take my 14 view on what the Computer Misuse Act says and what RIPA 15 says, and I don't think that's contentious, but if there 16 is evidence on a piece of paper that somebody like 17 Mulcaire has not merely the phone number but the PIN 18 number, would you agree that would be evidence of 19 tampering in another case, in that case?</p> <p>20 A. I think it's persuasive, yes.</p> <p>21 LORD JUSTICE LEVESON: Yes. And if there was a reference in 22 the corner to a name which could be linked to 23 a journalist, that would at least be the slightest hint 24 that somebody else was involved?</p> <p>25 A. Yes. That's persuasive, yes.</p> <p style="text-align: center;">Page 149</p> | <p>1 A. Yes.</p> <p>2 LORD JUSTICE LEVESON: Because what you're saying to me is 3 that material of the type that I've just described to 4 you would itself be sufficient to justify carrying on, 5 of course, all other things being equal, and if there 6 are terrorist --</p> <p>7 A. I see the point.</p> <p>8 LORD JUSTICE LEVESON: -- problems then that's very 9 different. Now, is that fair or not?</p> <p>10 A. I think that's -- what you said there with those caveats 11 is fair.</p> <p>12 LORD JUSTICE LEVESON: Thank you.</p> <p>13 MR JAY: Because what you told the Select Committee, Home 14 Affairs Committee, on 12 July 2011, dealing with the 15 Commander McDowall evidence, was that you can look at it 16 if you like, but I'll paraphrase it I'm sure accurately 17 that you were shown foolscap or A4 pages, you think they 18 were in the region of eight or nine. There were three 19 groups of names. There was ostensibly a contact list, 20 which in itself you wouldn't expect from anyone, it's 21 like an address book of numbers of people. Then you 22 said: 23 "I believe that the second column or list was a 24 shorter number where I think my recollection was that 25 they might have been PIN numbers that were known."</p> <p style="text-align: center;">Page 151</p> |
| <p>1 LORD JUSTICE LEVESON: So your view is that in the normal 2 course of events, if there's evidence such as we've just 3 described, or the hint such as we've described, you 4 would expect that to be pursued and to be investigated?</p> <p>5 A. Yes.</p> <p>6 LORD JUSTICE LEVESON: Yes. Now, that may be overtaken by 7 events because of the terrorist threat.</p> <p>8 A. Yes, yes.</p> <p>9 LORD JUSTICE LEVESON: I agree, I recognise that. So far 10 from it being journalist spin, which is one possibility, 11 one Mr Jay has just offered to you, the other is that 12 what you are here setting out is accurately your 13 understanding of how the police investigate material 14 which comes into their hands?</p> <p>15 A. Right. What I can definitely say is that the way you've 16 set that out was not known to me.</p> <p>17 LORD JUSTICE LEVESON: Oh no, no, no, no, no. Of course it 18 wasn't. I understand that. You've described very 19 carefully how much you knew and how involved you were, 20 and I understand that. I'm actually trying to get to 21 think about what others have said about the quality of 22 the material that actually was available in the Mulcaire 23 documents.</p> <p>24 A. Right.</p> <p>25 LORD JUSTICE LEVESON: Do you see the point?</p> <p style="text-align: center;">Page 150</p> | <p>1 That was your best recollection on 12 July 2011, 2 which of course was more or less two years to the day, 3 bar one day, after the piece you wrote in the Times, so 4 your recollection had -- well, it may not have improved, 5 it may be that you just didn't set that out in the Times 6 article?</p> <p>7 A. Sure.</p> <p>8 Q. But is that your best recollection?</p> <p>9 A. Absolutely.</p> <p>10 Q. And then the third column, the third category of person 11 where they had technologically proved that they'd used 12 the PIN number and the telephone number to access the 13 voicemail, so this was, as it were, the people you are 14 referring to in the article, and you say perhaps 15 a handful, where there was evidence that the phones had 16 actually been tampered with?</p> <p>17 A. Mm.</p> <p>18 Q. I think Lord Justice Leveson's questions were directed 19 to the second group of person, if your recollection is 20 right, and possibly even the first group of persons?</p> <p>21 A. Sure.</p> <p>22 Q. Had all of this been explained to you by DAC Clarke or 23 by anybody else, would you then, as you say in the 24 Times, have taken the investigation further, or would 25 you have accepted DAC Clarke's decision not to broaden</p> <p style="text-align: center;">Page 152</p> |

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| <p>1 the investigation?</p> <p>2 A. I would go on the judgment of the people who are</p> <p>3 weighing up the competing demands. I mean, the danger</p> <p>4 with the -- just holding onto the article is that the</p> <p>5 much bigger picture, the finesse of the bigger picture</p> <p>6 just would not get included in that and therefore that</p> <p>7 gets lost, the full understanding gets lost. But again</p> <p>8 it's Peter's and the team's decision weighing up against</p> <p>9 the threat to life, et cetera, the things that have</p> <p>10 already been said.</p> <p>11 Q. Yes. I'm not going to go through all the evidence you</p> <p>12 gave to the Select Committee save to note that you were</p> <p>13 severely criticised by the Select Committee. Do you</p> <p>14 accept their criticisms or not?</p> <p>15 A. I respect their view and they have expressed their view.</p> <p>16 MR JAY: Okay. Unless there are other matters, I'm going to</p> <p>17 leave it there.</p> <p>18 LORD JUSTICE LEVESON: I'll just ask one more question.</p> <p>19 Just looking at the Times article again:</p> <p>20 "The obvious way of getting to the bottom of whether</p> <p>21 more could have been done by the police is to conduct</p> <p>22 a review ..."</p> <p>23 Now, a review means going through the whole thing</p> <p>24 again.</p> <p>25 A. Yes, sir.</p> <p style="text-align: center;">Page 153</p> | <p>1 being asked that question?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And your answer was that:</p> <p>4 "My judgment was at the time the work it was</p> <p>5 producing ..." from News of the World, that is, was</p> <p>6 worth it, in effect.</p> <p>7 Can I just ask you this. In terms of the work that</p> <p>8 the newspaper was producing, which made it worth it, did</p> <p>9 that work include the provision of information to you?</p> <p>10 A. No, sir. This was -- can I clarify what I meant by</p> <p>11 that?</p> <p>12 Q. Yes, of course.</p> <p>13 A. This was about trying to get accurate balance,</p> <p>14 responsible reporting, in an environment where in some</p> <p>15 quarters people were sceptical about the degree of the</p> <p>16 threat, and more importantly, one thing that was a real</p> <p>17 shock to the authorities was that we were always</p> <p>18 planning for a threat of terrorists coming into this</p> <p>19 country from abroad as opposed to home grown. My</p> <p>20 recollection, sir, is that to try and get those messages</p> <p>21 out, that was very, very important to try and garner</p> <p>22 support to get that reported.</p> <p>23 Q. But it didn't involve the provision of information from</p> <p>24 the News of the World to the police?</p> <p>25 A. Not to my recollections. I never did, no.</p> <p style="text-align: center;">Page 155</p> |
| <p>1 LORD JUSTICE LEVESON: "... as suggested by the CPS. This</p> <p>2 route will bring closure by either endorsing the</p> <p>3 original investigation or demanding further work be</p> <p>4 completed. In retrospect the speed with which the Met</p> <p>5 came out and said it would not be reopening its files</p> <p>6 might have been a mistake."</p> <p>7 Do you endorse that view even more so today?</p> <p>8 A. Yes, sir.</p> <p>9 MR SHERBORNE: Sir, can I rise just to ask one question? As</p> <p>10 you may be aware, the core participant victims have</p> <p>11 provided Mr Jay with a line of inquiry in relation to</p> <p>12 all of the witnesses, the police witnesses who have come</p> <p>13 to talk about the phone hacking scandal. Mr Jay has</p> <p>14 covered pretty much most if not all of them but there is</p> <p>15 one in relation to Mr Hayman which I would like to ask.</p> <p>16 It's simply one question, sir. I hope it won't detain</p> <p>17 us very long.</p> <p>18 LORD JUSTICE LEVESON: All right.</p> <p>19 Questions by MR SHERBORNE</p> <p>20 MR SHERBORNE: You were asked about socialising with the</p> <p>21 News of the World. You referred in particular to an</p> <p>22 event in February 2007, which is on page 186 of the</p> <p>23 transcript. And specifically, Mr Hayman, you may recall</p> <p>24 Mr Jay asked you if you were going a bit too far in</p> <p>25 entertaining a member of the press. Do you remember</p> <p style="text-align: center;">Page 154</p> | <p>1 MR SHERBORNE: I'm very grateful. Thank you.</p> <p>2 LORD JUSTICE LEVESON: Thank you very much, Mr Hayman.</p> <p>3 Thank you.</p> <p>4 Right. A rather unusually ordered day today, but</p> <p>5 thank you very much for co-operating to allow us to hear</p> <p>6 the evidence of Mr Yates from whichever part of the</p> <p>7 world he was.</p> <p>8 Monday morning, 10 o'clock; is that right? Thank</p> <p>9 you very much.</p> <p>10 (4.40 pm)</p> <p>11 (The hearing adjourned until 10 o'clock</p> <p>12 on Monday, 5 March 2012)</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">Page 156</p> |

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