

FILE NOTE

FILE NO:

DATED: 24 March 2005

SUBJECT: Operation Motorman

PJT telephone call in from Bernard Thorogood. Bernard Thorogood telephoned. He stated that he had spoken to [] PJT stated that he had spoken to [] and that we had obviously had cross-level talks probably much at the same time.

BT stated that the impression he had been given by [] was that Whittamore will plead guilty to Data Protection Act Offences on the grounds of having been reckless. BT stated that from his perspective whilst this is a good result he feels that it does not necessarily give us the perfect platform that we need to prosecute the other people off the back of Whittamore's conviction.

BT stated that [] has said that Whittamore is effectively saying that he is about to be charged by the Information Commissioner's office but he will plead guilty to Glade in respect of DP offences as long as he can plead to the ICO's case at the same time, and the whole thing can be wrapped up in one set of proceedings.

BT stated that the view of the Crown Prosecution Service is that they wish to accept those offences for a number of reasons.

Firstly, they have had pleas from the main people in respect of the Police National Computer offences therefore Whittamore is effectively to all intents and purposes their tail end Charley. This differs from our case where Whittamore is effectively top jockey.

Further the CPS are not certain whether or not they can get home with a conviction on the misconduct offences or even necessarily on the reckless DP offences, therefore they see his pleas as being attractive on the DP offences.

The other issue that the CPS have in relation to Whittamore is that he has served evidence from a QC and a Flying Squad detective in respect of character evidence and the evidence that they have leads them to be suspicious of not getting home on a Misconduct or Data Protection Act offence because the character evidence they have would naturally differ from the emphasis that we have from our case that Whittamore was up to his neck in the conspiracy.

Because Whittamore wants to plead to the entirety would like to be in a position to put our case summary to Whittamore so that he could then see the element of the ICO case against him, and that what the Crown could contemplate doing is adjourning their case, and in particular the sentencing of Whittamore, to marry up with our case for sentence.

The complication to this is that their trial date is 11 April and the CPS in respect of this do feel somewhat over a barrel from Whittamore.

However, BT stated that he is not sure that Whittamore would plead guilty to our charges and that in particular Whittamore's offer on Glade appears to be on the basis of "reckless" and also to substantive offences.

BT stated that if we go with conspiracy then we face three issues:-

1. The defendants may offer to enter pleas to substantive only offences.
2. The prosecution in Glade will begin and they could then put pressure on us to go with the flow on the "reckless" element.
3. If we happen by coincidence to be ready to issue then we would then just need to check the position with regard to the other cases that our

commencement is not going to cause problems down in Exeter on the Devon and Cornwall case.

However, BT stated that from his perspective he feels that this case is ripe for confiscation proceedings and he would invite the Court to make an appropriate application. However, the issue on this is that to bring the confiscation proceedings we would need to have the appropriate reports made and we may in view of this need to invite a free standing confiscation body, for example possibly the DTI to do the appropriate reports rather than tasking it to our Investigations Department.

However, BT stated that he feels certain that the Judge would be with us in respect of the assumptions that go with confiscation proceedings.

BT therefore took the view that having now had assurances that our case does not prejudice Glade or Reproof, our decision is to issue and this will in some respects force the issue for the London case, however, BT still feels that we will not necessarily be able to give the CPS the joy that they want and BT still feels that Whittamore will run a mile when he sees our allegations. However, it would be superb if we are in a position to issue immediately.

BT stated that he wished to call back prior to her going into conference to pass on the following to her:-

1. We are in a position to issue.
2. Our disclosure officers need to meet as soon as possible.
3. We will be alleging conspiracy proved by reference to specific events.
4. It is enormously attractive to us with our case being dealt with in respect of Whittamore in this fashion.

PJT confirmed that BT had the authority to say that to