

JMY/S

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PHONE HACKING

Specialist Operations Timeline from July 2009

Following an article in the Guardian newspaper in relation to 'phone hacking' (at 1) on 9th July 2009, the Commissioner asked Assistant Commissioner Yates to 'establish the facts' in relation to the MPS investigation named Operation Caryatid. AC Yates had no previous involvement with this case and was tasked by virtue of the fact that he had been appointed as head of Specialist Operations since April that year and that the Caryatid investigation had been conducted entirely by officers who were at the relevant time within the 'SO' business group.

AC Yates created a file note at this stage (at 2), outlining his 'Principles to be adopted...' in which he explains that 'this is not a review'; recognising that a review was a much more significant undertaking and was not what he had been asked to do on behalf of the MPS.

On 9th July 2009 at 1100hrs, AC Yates convened his first Gold Group on this matter (at 3). At this meeting he was briefed by the operational team on a number of key points which included, inter alia, the following:

- Legal advice had been provided that the Section 1 RIPA offence of 'Interception of a communication' was only committed when a suspect accessed someone's mobile phone voicemail without their consent and 'prior to the actual phone holder accessing it themselves'
- CPS and Counsel had advised on this case.
- The case had been overseen by DAC Peter Clarke, then head of SO13 Anti-Terrorist Branch.
- The relevant mobile phone Service Provider companies had been engaged both to assist the police investigation and in terms of crime prevention in the future with respect to voicemail security for their customers.
- That whilst many full and partial names and numbers had been found in correes' recovered from the defendants' properties, in most cases there was insufficient evidence to prove that a s1 RIPA offence had occurred.
- The many details found had been sifted and a rationale recorded by the SIO as to how those potentially affected had been notified. Priority had been given to notifying those affected from within the Royal Household, police, military or government due to the additional security concern for those in these categories due to their positions.
- The SIO confirmed that to his knowledge there was no evidence to prove that the Rt Hon John Prescott MP's mobile phone had been intercepted and that he would have been informed if so. AC Yates tasked the SIO to double-check this at this stage.
- There was no evidence at the time to prove the involvement of other journalists.
- To expand the investigation would have been vastly resource intensive at a time when the MPS and SO13 in particular were extremely busy. In fact, the day the defendants were arrested was the same day that over 20 terrorist suspects were detained as part of Operation Overt; one of the biggest Counter Terrorism operations in British history. (A more detailed explanation of the SIO's 'Blackburn' considerations at the time follows also).

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- There was no new evidence to justify re-opening the case.

An email was received from Department of Legal Service (DLS) detailing advice in relation to notifying those potentially affected (at 4) which states that:

- *'Documents obtained/prepared during the course of a criminal investigation should generally not be disclosed unless there are important considerations of public interest to justify departure...'*
- *'I would advise there are insufficient public interest grounds to justify departure in this matter.'*
- *'there was insufficient evidence to justify informing any of the other individuals that they may be a possible "victim". It would not therefore be in the public interest at this time and some years later to reveal their names.'*

Separately, on this same date, the Director of Public Prosecutions (DPP) announced that he would be conducting an *'urgent examination of the material'* in this case (at 5) in order to *'satisfy (himself) and assure the public that the appropriate actions were taken'*. The DPP acknowledged that the material was *'extensive and complex, but it has all been located'* and that this examination *'will need to be thorough'*. The announcement of this independent legal review of the case material provided additional reassurance for the MPS that the matter was being properly and objectively considered as was appropriate in light of the concerns raised.

A letter was received by the Commissioner on this day (at 6) from the Chair of the Culture Media and Sport Committee (CMS) asking that evidence be provided on the MPS's inquiry into this matter.

By way of relevant context, it was on this date (the 9th July 2009) that the Assistant Information Commissioner released a Press Statement (at 7) which explained that following a Court Order in 2008, they had provided a copy of information that they seized during a major investigation into allegations of the buying and selling of personal information to lawyers acting on behalf of Gordon Taylor (a key civil proceeding which followed Operation Caryatid and was referenced in the Guardian article). Their associated report *'What Price Privacy'* (excerpts at 8) detailed their Operation Motorman and the related MPS Operation Glade, and cited thousands of similar offences being uncovered. Many high profile individuals were apparently affected and details of peoples' phone calls were amongst those compromised. 305 journalists were reported to have been recipients of this illegally obtained information. Despite this widespread offending, only the four defendants involved in supplying the information were prosecuted and each received a conditional discharge. This operation, however, generated very little media coverage or apparent public concern at the time. This case provided a frame of reference for Operation Caryatid, which had in fact seen two men, including one journalist, not only convicted for a previously unused offence but also sent to prison for several months. Against this backdrop, it was clear that the Caryatid investigation had been a relative success within its terms of reference.

Both the Rt Hon John Prescott MP and Chris Bryant MP wrote to the MPS on 9th July 2009 (at 9 & 10 respectively) asking whether they had been 'hacked' in this way by the defendants. After having had this double-checked by the SIO following the 1100hrs gold

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group, AC Yates telephoned Mr Prescott in person to state that we had no evidence to prove that his mobile phone had been subject to voicemail interception.

AC Yates released a press statement on this day also (at 11) in which he explained what he had been asked to do. He stated that:

- *'Their (sic Goodman and Mulcaire's) potential targets may have run into hundreds of people' but 'in the vast majority of cases there was insufficient evidence to show that tapping had actually been achieved'.*
- *'The technical challenges..to establish that there had in fact been interception were very, very significant'. (This is, of course a direct reference to the difficulty of proving that a voicemail was intercepted prior to it being accessed by the intended recipient. According to the legal advice given to the SIO this was what was required to prove a section 1 RIPA interception of communication offence)*
- *'Where there was clear evidence that people had been the subject of tapping, they were all contacted by the police' but that the investigation had 'not uncovered any evidence to suggest that John Prescott's phone had been tapped'.*
- *'This case has been...scrutinised in detail by both CPS and leading Counsel.'*
- *'No additional evidence has come to light since this case has concluded' and that he considered that 'no further investigation is required'*
- *Recognising the 'very real concerns' of some, we would 'ensure that where we have evidence that people have been the subject of any form of phone tapping, or that there is any suspicion that they might have been, that they have been informed'*

On 10th July 2009, AC Yates convened a second Gold Group (at 12) to retain continued Management Board level oversight of this issue. Further detailed discussions included an articulation of the 'Blackburn (ex parte)' considerations of the SIO at the time of the original case and the need to work with the CPS to *'set parameters and, from a proportionality point of view, to focus on evidence that would support charges and attract a suitable penalty at court for the level of criminality involved.'* The CPS had advised at the time that the indictments that were applied would afford the judge the maximum sentencing powers for this offence and that adding further offences (if they existed) would not have altered any sentence imposed on either defendant.

It was also briefed at this Gold Group that *'the data examined did not unravel a conspiracy with other journalists so was not extended' and of 'the victims subject to interception, apart from the two defendants, they did not have any other suspect/target numbers attempting to intercept their phones'.* In summary, whilst the original case team did not exhaustively investigate all the material due to a combination of compelling resource considerations and legal advice, there were no further outstanding suspects in this matter and - by virtue of the defendants being convicted and jailed - their offending had been stymied, and a powerful deterrent message had been sent out to others.

It was explained to AC Yates that the case team had written several times to the News of the World seeking their co-operation in identifying any further evidence that might be relevant (letters exchanges at 13).

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On 12th July, a written briefing was drafted by the SIO and his Deputy for AC Yates (at 14). In addition to the points briefed thus far, extra details here included:

- An acknowledgement by DAC Clarke in his review of the investigation in March 2006 that whilst *'the scale and breadth of this investigation could be far wider...the focus of the investigation would remain with Royal Household staff as 'victims'*. This was, after all, the reason why Specialist Operations were employing a small part of their much needed Anti-Terrorist Branch resource on this matter in 2006 instead of it being dealt with by another part of the MPS.
- The active engagement of the telephone Service Provider companies by the investigative team at the time had included the provision of the suspects' 'offending' telephone numbers in order for them to search their systems for further customers who may have been affected by their activities. This resulted in the identification of, amongst others, a Cabinet minister (not for inclusion; Tessa Jowell) and Boris Johnson (albeit these were informed and decided not to provide a statement to support the police investigation)
- Rather than *'risk the continuing exposure of an unknown number of victims to the activities of Goodman and Mulcaire...it was decided that in order to quickly prevent further intrusion to many other potential victims and in the interest of national security to urgently progress an arrest phase'*. Hence it was understood that the investigation had focussed on disrupting the suspects to protect the privacy of those affected as its main priority.
- In terms of the many *'scribblings of private information'* recovered from Mulcaire's address *'on some there (were) names which probably relate to journalists and cash sums...(as yet unconfirmed). It should be noted that no evidence existed to suggest that those possible journalists detailed on those sheets had knowledge of the illegal methods undertaken to supply these stories'*.
- The name of one NotW employee (not for inclusion; Greg Miskew) was on one agreement to pay Mulcaire (see also 15th July)
- A production order had been drafted at one stage to apply for material from News of the World but NotW lawyers indicated they would co-operate and on that basis legal advice from Counsel and DLS advised that the Courts would be reluctant to grant a production order. The briefing went on to explain that *'Some material was provided, but it centred on Goodman...Despite further requests for cooperation around understanding how their (sic NotW's) internal phone system operated this was not forthcoming and therefore beyond what we had seized/been served with there was no evidence of anything wider.'*
- At least one Service Provider (not for inclusion; O2) declined to provide details to police of their affected customers without seeking their consent first. Additionally, a number of potential victims who were identified declined to provide evidence to assist the police investigation and, moreover, specifically asked that their identities be kept confidential. Hence there were also limitations that were beyond police control in terms of our ability to establish the full extent of the defendant's activities.
- *'CPS/Counsel advice was that in addition to our...Royal Household victims, against whom there was best evidence of interception, a further 5/6 'victims' would be added to be representative of the scale and breadth of background/standing in society of all those Mulcaire may have been targeting...Any number beyond this would not add anything to the sentencing*

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powers of a court...this was the most proportionate means of meeting the needs of justice and use of resources based upon what we had found.'

- In terms of other people affected 'those 'victims' not in the above categories (sic Royal Household, MPs, Police, military) should be informed by their respective airtime provider'. This was the understanding of the MPS at this juncture and the Chair of the Mobile Industry Crime Action Forum was fully engaged in this aspect of the strategy also as the main conduit for mobile phone company/police liaison. It is acknowledged further down in the brief that *'It is not known in detail what each mobile phone company actually did, but anecdotally we know that upon learning of the flaws in their processes the phone companies took steps to prevent future breaches...they included contacting customers who they thought might have been a victim'*.
- With respect to the proportionality point above also, an entry in this same 12th July brief for AC Yates helpfully summarises; *'to try to identify all victims and inform them could have a disproportionate effect on SO13 resources...given the challenges and effort that went into simply identifying the 'victims' that were used for court purposes with a 'beyond reasonable doubt' judgement of integrity, the resources needed to bring any clarity to all other potential victims would be enormous. Hence, putting into balance that there was nothing to suggest life was at risk, national security had not been breached, the activity in the case had been stopped, exposed and measures were in place to introduce national preventative measures the strategy* was adopted and put into motion'*. (* This refers to the focussed approach as outlined by DAC Clarke and with which the CPS had concurred)
- It was clearly briefed to the AC however that whilst this investigation had been kept within certain defined parameters for all the above reasons, the SIO and his team had nevertheless been tenacious in their pursuit of the criminality identified on behalf of the MPS. The officers executing the search warrant at Goodman's place of work were strongly opposed by the staff there who immediately engaged their lawyers to contest their access to the suspect's work area and property.

The concluding line of this brief stated that as *'a basis for future cases, the level of effort and resources that is required to investigate this area of criminality should not be underestimated'*.

On 13th July the name Operation Quatraine was allocated in order to provide a reference point for related inquiries, corres received and costs incurred. At 1530hrs a further gold Group was chaired by AC Yates (at 15) as the SIO had now looked at some of the available material again and identified a potentially affected individual who was by then (ie. in 2009 but not in 2006) a political figure (not for inclusion; Andy Coulson). Whilst there was data to prove that the suspect/s may have called his number on several occasions, there was no proof (in terms of s.1 RIPA) that any actual interception of unopened voicemails had occurred.

AC Yates nevertheless tasked the SIO to double check the facts of this specific case and then to inform this individual immediately. The SIO was also tasked to review the remainder of the details available to them of people possibly affected *'to establish if there were any others who should be informed'* (still bearing in mind the criteria set out above).

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A further gold Group then took place at 1630hrs (at 16) at which the question of notification of those affected was discussed specifically:

- The individual cited above who now fell into the 'Political' category had been successfully contacted and informed by the SIO
- Over the weekend that had just passed, attempts had been made to contact 7 others albeit that only one of these attempts had been successful. The SIO's rationale for only attempting to contact people on the numbers that the suspect/s had attributed to them was that to go further (ie. commencing subscriber checks and other research on names and numbers) would be going beyond what was reasonable and diligent in the circumstances.

On 15th July a letter was received in the Commissioner's office from the Chair of the Home Affairs Committee (at 17) asking a number of questions about this case.

Also on this date a copy of a CPS file note from David Perry QC and his colleague Louis Mably was received by AC Yates' private office (at 18) in which Counsel states that *'We did enquire of the police ...whether there was any evidence that the editor of the News of the World was involved in the Goodman-Mulcaire offences. We were told that there was not (and we never saw any such evidence). We also enquired whether there was any evidence connecting Mulcaire to other News of the World journalists. Again we were told there was not (and we never saw any such evidence).'* This note was dated 14th July 2009. This was a significant corroboration of what the SIO had briefed to AC Yates as Counsel had had full access to all the material in this case and clearly agreed that they did not see any evidence that would implicate other suspects amongst the journalists and management at the News of the World. The fact that they had had full access was clear as Louis Mably himself had spent a number of days with the case team at their offices going through all the material and had signed the schedules to confirm that he had reviewed everything including all the unused material. The CPS then put out a statement on or about 17th July (at 19) which re-confirmed this again: *'all the unused material was seen by prosecution Counsel to determine whether or not it was capable of assisting the defence case or undermining the case for the prosecution in respect of Goodman and Mulcaire.'* Whilst it might be contended that this review was conducted in terms of relevance to the specific charges applied in this case, the file note from 14th July explicitly states that Counsel found no evidence to suggest the involvement of further suspects from within News of the World.

A brief was received in AC Yates' private office on 15th July in relation to operation Glade (at 20) which was the MPS investigation which was linked to Operation Motorman. Of particular note, the News of the World employee whose name was found in Operation Caryatid on the agreement to pay Mulcaire (not for inclusion; Greg Miskew) was actually interviewed during Operation Glade along with other journalists about buying information that had been obtained illegally by the suspects. The brief provided by DPS to AC Yates' private office clearly stated that in interview *'all the journalists said that they believed the information had been obtained legitimately'*; an obvious, understandable - and very difficult to disprove - defence for any journalist who might find themselves in this position. All were subject to no further action.

On 16th July, The Director of Public Prosecutions, Keir Starmer QC, released a statement following the CPS's *'urgent examination'* of the material in this case (at 21) which further supported the decisions made and specifically stated that *'it would not be*

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appropriate to re-open the cases against Goodman and Mulcaire, or to revisit the decisions taken in the course of investigating and prosecuting them'. The statement also includes reference to 'a focus on the potential victims where the evidence was strongest, where there was integrity in the data, corroboration was available...'. The statement further supported the SIO/CPS approach taken in 2006 by clarifying that 'any other approach would have made the case unmanageable and potentially much more difficult to prove'.

On 17th July at 0800hrs a further Gold Group was chaired by AC Yates (at 22) during which a question was raised about the possible involvement of Neville Thurlbeck following a question to AC Yates from an MP (not for inclusion; Chris Huhne). A brief was later provided by the SIO for AC Yates (at 23) explaining why the original inquiry did not 'follow up' on the possible involvement of 'Neville' (presumed to be Neville Thurlbeck). In essence this was because there was insufficient evidence to prove his involvement and it was felt that (as per the learning from the Operation Glade interviews with journalists accused of purchasing information obtained illegally) there was no realistic prospect of reaching this threshold by means of interview. Additionally, the 'for Neville' document had been reviewed by prosecution Counsel at the time and, as per their findings/statements above, they concurred that there was no evidence to suggest that he or any other journalists at the News of the World (other than Goodman) were 'connected' with Mulcaire's criminality.

Also in this Gold Group it was decided that *'to ensure the MPS has captured all names in the seized material, (the SIO) is scoping costs to scan all (sic the Caryatid material) on ALTIA to enable it to be searched and indexed in the future'*. ALTIA was a relatively new IT system - unavailable when the investigation began - which enabled the mass scanning of hard copy exhibits to make them searchable on the HOLMES database. The original inquiry had not been run on HOLMES in order to keep the inclusion of police officers and staff to a minimum due to the sensitivities of the case with respect to the Royal Household. Using ALTIA to back-record convert the material onto this searchable database however offered an opportunity to render it searchable for the purposes of queries from those who were concerned that they may have been affected, and for the purposes of informing likely civil proceedings brought by private individuals against the News of the World.

All parties at the Gold Group on 17th were also tasked to review draft written evidence which had been prepared prior to it being sent to the Chairs of both the Culture Media and Sport and Home Affairs Committees following their respective letters to the Commissioner. **The final version (at 24) is attached and is a composite of the key points that have been outlined in this report. This statement set out the facts that had been established to the best of our knowledge at the time and formed the consistent bedrock of AC Yates' evidence to both Committees hereafter.**

Following a meeting with the DPP on 20th July, the SIO collated a report which was then sent to the CPS outlining the challenges of the investigation at the time (at 25) including the 'Neville email' and re-articulating the CPS advice that *'To prove the criminal offence of interception the prosecution must prove that the actual message was intercepted prior to it being accessed by the intended recipient'*. This report explains at length the technical challenge this posed, the limitations on what the Service Providers could offer in terms of evidence (specifically vis-a-vis voicemail data) and why one specific company were best placed to assist in this specific respect.

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No other interpretation or advice was expressed by the CPS on receipt of this document. On the contrary, 10 days later on 30th July, the DPP wrote to the Chair of the CMS Committee (at 26) and reiterated this line exactly (save for underlining the word 'prior') under the title 'The Law'; *'To prove the criminal offence of interception the prosecution must prove that the actual message was intercepted prior to it being accessed by the intended recipient'*. This unequivocal statement from the DPP and the exactness of its correlation with the SIO's understanding of the advice given previously further reassured AC Yates that what has (since October 2010) now been termed the 'narrow interpretation' was in fact 'The Law'.

On 22nd July, AC Yates directed (at 27) the then head of SO15 Investigations (formerly SO13) to ensure that the Operation Caryatid material was *'scanned onto ALTIA in its entirety and fully documented and indexed on a secure HOLMES account as a matter of priority'*. This in itself was a highly resource intensive exercise which would take about 10 police officers and staff 3 months - working longer than average days - to complete. The cost of this was nearly £200,000. This was a further reflection of how very seriously the MPS and AC Yates viewed the concerns raised by members of the public, the media and politicians.

On 13th August, a letter was sent from the MPS's Department of Legal Services to Chris Bryant MP acknowledging receipt of his letter (at 28)

On 21st August a letter was sent to AC Yates from Rt Hon John Prescott MP asking when he might receive a response to his letter dated 9th July 2009 (at 29).

On the 25th August a report from the SIO was provided to AC Yates in advance of their impending appearance before the CMS Committee (at 30) which set out again the key points covered thus far and included also:

- The fact that it was *'Challenging in the extreme to prove this offence is an understatement. Each company uses varying types of engineering software to manage their systems. Not designed to be used in court – integrity variable. Companies hold data for varying periods, at best twelve months. One company actually wrote new software to help us.'* This referred to the issue of voicemail data and the challenge of proving a voicemail was open or not at the point of its interception by someone other than the intended recipient. It is also noted that *'the data alone does not even show whether or not messages existed only that the voicemail had been called.'*
- A reiteration of the fact that one service provider (not for release; 02) would not release any victim details to the police without contacting their customers themselves first as per our agreement.
- An acknowledgement that at this stage we did not know how many people may have been affected in total and that there were many hundreds of names. That said, a quote was included from the DPP that *'it was reasonable to expect that some of the material although classed as personal data, was in the legitimate possession of the defendants due to their respective jobs. It is not necessarily correct to assume that their possession of all this material was for the purposes of interception alone and it is not known what their intentions were or how they intended to use it.'*

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- That 'those 'victims' not in the above categories (sic Royal Household, MPs, police, military) should be informed by their respective airtime provider. In terms of timing this was not an immediate action, but ongoing bearing in mind the desire to not unduly prejudice any court case'.
- It was also noted that 'This strategy was therefore seeking to alert potential past victims in a proportionate manner without causing undue alarm (ie. contact via a phone company as opposed to police) and set in motion measures within the overall mobile phone industry to prevent it happening in the future'.
- In relation to the 'Neville email' a further quote from the DPP was copied in this brief which stated that Counsel had revisited this issue and 'based on his knowledge of the investigation and prosecution strategy it appears to him unlikely that he would have advised the CPS that further investigation should be undertaken in relation to the email of 29th June 2005 and that it appeared to him unlikely that he would have formed the view that the police had sufficient grounds to arrest and/or interview either the sender of the email or Neville Thurlbeck. He has also advised me that based on his current knowledge and understanding of the case his advice would not be any different today.'

On the 2nd September 2009, AC Yates and the SIO gave oral evidence to the CMS Committee (31) which reflected the briefings and discussions that had been had since the 9th July 2009 and as outlined above. Part of his opening comments were as follows:

'I found a letter only this morning in terms of these matters where we clearly set out to the solicitors acting for the News of the World, and this was in September 2006, a range of issues that we wanted them to disclose to us, and we finished the letter by saying, "The investigation is attempting to identify all persons that may be involved, including fellow conspirators". One of the bullet points we looked for was: "Who does Mr Mulcaire work for? Has he completed work for other editors and journalists at the News of the World? Can we have a copy of any other records for work completed by Mulcaire for these editors and journalists, including the subjects on which you might have provided information?" There was a very clear strategy set out from the start to ensure that we covered all those bases if there was evidence in the case. Our job, as ever, is to follow the evidence and to make considered decisions based upon our experience which ensures limited resources are used both wisely and effectively and, supported by senior Counsel, including the DPP, the collective belief is that there were then and there remain now insufficient grounds or evidence to arrest or interview anyone else and, as I have said already, no additional evidence has come to light since.'

In terms of whether Neville Thurlbeck should have been interviewed or not AC Yates did accept in his evidence that 'perhaps in 2006 it ought to have been done; I do not know, but in 2009 that is going to take us absolutely nowhere.' However, he also reiterated Counsel's advice on this same question as above.

When asked about whether Rt Hon John Prescott MP's mobile phone had been hacked, AC Yates answered 'There is no evidence that it was'.

(Numbers from this point forward are in second binder)

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On 11th September, AC Yates wrote to Rt Hon John Prescott MP reiterating this response and explaining that he had not done so sooner as he had already telephoned him personally on 9th July 2009 with this same answer (at 1).

On 20th October, a letter was sent from the Chair of CMS to AC Yates with some further questions (at 2)

On 3rd November, the DPP wrote to the Chair of the CMS with his own responses to further questions from the Committee (at 3). In this letter he stated that in terms of s1 RIPA, the offence *'requires the communication to be intercepted in the course of its transmission'...Subsection (7) has the effect of extending the time of communication until the intended recipient has collected it*.

Also on 3rd November, AC Yates responded to the letter sent on 20th October by the Chair of CMS. In this reply (at 4), AC Yates stated that:

- *'Given our duty to respect ...individuals' private and family lives, we are unable to provide all of the details requested'*.
- He explained in the same letter that whilst the numbers of people notified in the four categories itemised in the victim strategy was *'low'* the *'Cabinet Office was briefed about the risks'* at the time.
- AC Yates also reiterated that the mobile phone companies *'were supplied with the potential phone numbers that Mulcaire and Goodman had used to see if they could ascertain to what degree their respective client base may have been vulnerable due to calls from these numbers'*.
- It was re-emphasised at this stage that *'We made clear that 'the investigation is attempting to identify all persons that may be involved including any fellow conspirators' in terms of what had been asked of News International in 2006. Their response had been that 'their position was that either the material did not exist or they assessed that it was confidential journalistic material.'*

On 24th November, Rt Hon John Prescott MP wrote to Ed Solomons, Head of DLS, requesting notification of *'any reference of any kind to myself'* (at 5).

On 9th December, DLS wrote to Chris Bryant MP, stating that one piece of paper had been found with his name and mobile number on it (at 6).

On 15th December, DLS wrote to Rt Hon John Prescott MP (at 7) explaining that whilst we had *'no documentation in our possession that suggested that Mulcaire had attempted to intercept any of your voicemail messages'* there was a piece of paper with his name on it and the word *'Hull'*. His name also appeared on two *'Self-billing tax invoices'* referencing payments of £250 Mulcaire's company.

On 28th January 2010, the SIO emailed the Clerk of the CMS Committee (at 8) to notify them that we had responded that day to a Freedom of Information Act (FOIA) request which had asked for *'the number of individuals in relation to whom PIN codes ...are recorded'*. The answer provided was that *'from the material seized there appear to be 91 individuals'*. This response had been made possible by the ALTIA scanning process that had been conducted in late 2009 on the direction of AC Yates and which now rendered the material seized electronically searchable for the first time for the purposes

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of responding to requests from people who might be concerned that they had been affected, to FOIA requests and to inform responses to requests arising from any civil proceedings. The scanning exercise itself had not been a 'review' of the material; it had been a back-record conversion of it for these specific purposes.

Also in January 2010, the SIO created an options paper related to the ongoing victim strategy (at 9). The Case Officer had identified a number of people (within the list of 91 for whom we had PIN numbers associated) whom telephone billing data indicated the suspect/s had telephoned for more than ten seconds. This had been determined as the minimum threshold of evidence required to form the view that an interception may have taken place of their voicemail/s. This was based on the fact that it would take more than ten seconds of call connection-time for a suspect to access someone's voicemail. Even this, however, did not prove that an interception had taken place in terms of s1 RIPA as we had no voicemail data to suggest that any message existed at all or, if it did, whether it was still *'in the course of its transmission'* or whether the intended recipient had already listened to it. It was decided that these people would be contacted on the numbers we had listed for them. This resulted in a further 6 people being notified. Attempts were made to contact 11 others but without success.

On 9th February 2010, AC Yates responded to a letter from the Chair of CMS to explain that the figure of 91 PIN numbers had not been available at the time of his oral evidence to the Committee in September 2009 (at 10). It had been generated from an electronic search of the material seized during the original investigation which was by then possible due to the ALTIA back-record conversion process which AC Yates had initiated and which only concluded in late 2009.

Chris Bryant MP wrote to Ed Solomons on 25th February (at 11) to explain that he had been in contact with his Service Provider and that they had informed him of potential attempts being made to 'hack' into communications on his mobile phone in 2003. He asked additional questions about the material seized and provided more details to be searched on.

A letter was received from solicitors representing Rt Hon John Prescott MP on 2nd March stating that they had written on his behalf on 22nd July 2009 and requesting a response. (at 12). Also on this date, DLS wrote a letter to Chris Bryant MP acknowledging his latest letter dated 25th February (at 13)

On 12th March, DLS replied to solicitors representing Rt Hon John Prescott MP (at 14) explaining that their letter of 22nd July 2009 had not been received in the MPS but that responses had already been given directly to their client as outlined earlier. They replied on 15th March (at 15) asking that all corres' be routed to them in relation to their client and mention of him in *'Operation Motorman'*. On 24th March, DLS replied to clarify that it was believed they were referring to Op Caryatid instead and provided the requested details that were believed to be required again (at 16).

25th March saw two letters cross each other in the post as Chris Bryant MP wrote to ask for a substantive response on the same day that DLS provided the same (at 17 & 18). The DLS response explained that a search on his mobile number had now revealed a further piece of paper (albeit without his name on it). It was explained to Mr Bryant why the MPS could not conduct searches on other peoples' details (as he had requested) without their permission as this might breach our duty of confidentiality to them.

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On 29th March, a response was sent to Nick Davies of the Guardian after he had submitted an FOIA request asking for various statistics about the material seized during Op Caryatid (at 19). With a number of provisos it was explained that:

- 4332 names or partial names had been found by a search of our database,
- 2978 mobile numbers or partial numbers were found,
- 30 tapes were seized.

The same details, and the figure of 91 PIN numbers were also shared with Don Van Natta of the New York Times following an FOIA request from him on 16th June 2010 (at 20)

On 1st September 2010, the New York Times published an article which included allegations from several individuals about the scale of 'phone hacking' at News of the World (at 21)

AC Yates made a statement on 5th September (at 22) in relation to this article, explaining that the MPS had asked the New York Times to provide *'any new material that they have for us to consider'* and that the CPS would then be consulted on how best to progress. In this same statement, AC Yates addressed recent claims in the media from Lord Prescott that his phone had been hacked. It was made clear that Lord Prescott had been provided with the information as outlined earlier and also that the actual documents themselves could not be made available without a court direction as it *'was obtained for the purpose of a criminal investigation and cannot be used for another purpose, ie. a civil action.'*

On 6th September, a Gold Group was chaired by AC Yates at 1600hrs with clearly defined Terms of Reference (at 23) to 'provide ACPO oversight of the various MPS strands relating to *'phone hacking'*. This now included not only the latest allegations in the New York Times but also an SCD-led investigation into allegations of similar offences, the management of a growing number of letters from people concerned that they may have been affected by phone hacking, preparation for Parliamentary Committees and a high number of FOIA and other requests for information on this subject. The minutes of this Gold Group (at 24) noted that:

- A new SIO was tasked *'to seek clarity as to whether there was any new evidence amongst the recent media reporting'*
- This was *'not, at this stage, a new investigation'*
- DLS would draft a formal letter to the New York Times to seek their disclosure of any information they held on this matter.

On 7th September 2010, AC Yates gave oral evidence at the Home Affairs Select Committee in relation to phone hacking (at 25). His evidence reflected the points covered thus far and furthermore:

- in response to questions as to whether the MPS would be speaking with Andy Coulson in relation to the allegations in the New York times article, he explained that this may occur but not before any new information had been gathered and considered.

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- In terms of notifying those affected the MPS had *'in conjunction with the major service providers-so the Oranges, Vodafones-to ensure where we had even the minutest possibility they may have been the subject of an attempt to hack or hacking, we have taken all reasonable steps in my view'*. These steps included of course the previous sharing of the suspects' offending numbers with the mobile phone service providers in order for them to identify affected customers for themselves from their comprehensive data-sets complementing the notifications made directly by the MPS as detailed earlier.
- With respect to a question about the 91 names that had PIN numbers associated with them; *'because of the degree of concern I said we were to be extra cautious here and make sure we have established whether there is a possibility-and we put some criteria around that...-they have been hacked'*. The criteria were, as outlined in the victim strategy options paper, the presence of a PIN number and evidence of a call from a suspect phone of at least 10 seconds duration.
- AC Yates reiterated that there was still a low number of offences that could be proven to the evidential standard required under s1 RIPA but equally re-asserted the MPS's commitment to consider opening a new investigation if new evidence came to light.

On 9th September, a further Gold Group was chaired by AC Yates (at 26) to ensure continued governance of the various issues. For administrative purposes, the name Operation VAREC was subsequently obtained as a title for the ongoing work of the SIO.

On 10th September, another Gold Group was convened (at 27). It was noted in the minutes that:

- Two Counsel had been commissioned to give further advice on s1 RIPA.
- AC Yates reiterated the need for timely responses to letters from those concerned they may have been affected.
- The SIO of the original investigation was tasked to provide a brief on the victim strategy to date.
- AC Yates' guidance to the Op VAREC SIO was that 'all new witnesses of this nature will need to be approached' (referring to those who had spoken up recently of phone hacking offences)

Also on this date, feedback was received from a HOLMES supervisor in the SO15 Major Incident Room who had been tasked to search the database for a range of permutations of Rt Hon John Prescott's name (including even nick-names such as 'Prezza') and no additional material had been found (at 28).

On 17th September, a Gold Group was again chaired by AC Yates (at 29). At this stage it was noted that:

- Several witnesses had been spoken to/approached by the Op VAREC team and thus far no specifics had been offered.
- In terms of people writing in who believe they may have been victims of phone hacking it was decided that a letter template would be drafted to ensure consistency and to ask the respondents to speak with their service providers in the first instance to see if there is any data to support their concern.

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- The potential for a Judicial Review being brought by Chris Bryant MP and others was raised .
- Initial liaison was underway between the Op VAREC team and the CPS.

At a case conference on 1st October 2010 (at 30), the CPS stated that Counsel *'has on balance favoured a broad interpretation of the statute and that a prosecution could go ahead in respect to a message being listened to (in the course of transmission) even after the intended recipient had listened to it.'* This was the first time that any other interpretation of this legislation had been suggested by the CPS.

On 7th October, the SIO leading the work under Operation VAREC wrote to the Editor of the News of the World requesting access to any material in the possession relating to the recent media reporting including in the Dispatches programme on 4th October 2010. Colin Myler replied on the 13th October to say, amongst other things, that *'I am as sure as I can be that neither the newspaper nor its staff are in possession of such material whenever it may originally have been collected'* (both letters are at 31)

On 21st October, Tom Crone, the Legal Manager for News Group Newspapers wrote to the SIO with a list of current staff in order to enable the former to write to them individually and ask if they were *'able to assist...in relation to 'phone hacking''*. Letters were sent to 19 staff members who it was understood had worked there since 2005/6 and who might be able to assist. No meaningful response was received from any of these. (relevant letters at A)

On 21st October a further Gold Group was chaired by AC Yates (at B) at which the original SIO was tasked to write to the mobile phone service providers in order to ascertain which of their customers who might have been affected they had informed. This was then to be compared with the MPS list of those notified and the results briefed back to the Gold Group. This letter was sent out on the 28th October to all the Service Providers (at C)

Between the 2nd and 22nd November, all three Service Providers replied (at D) albeit that only O2 acknowledged having contacted any of their customers to notify them that they may have been affected. In light of this, the original SIO provided his overview of the victim strategy. There were still 58 people out of the list of 91 names with PIN numbers associated who have not yet been contacted. This was partly as they sat outside the criteria that had been set to require a direct notification by the inquiry team and partly as it was now clear that what we had felt was an agreed way forward with the Service Providers had apparently been misunderstood or not acted upon. At this stage we now had to consider the implications of:

- The potential wider interpretation of s1 RIPA, which would radically change our definition of what constitutes a potential victim.
- The prospect of a Judicial Review on this matter.
- The ongoing work of Op VAREC and the continued absence of any new evidence at this stage or meaningful co-operation from NotW.

On 10th December, the final written legal advice was provided by the CPS in relation to Op VAREC (at E) which stated:

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- *'The approach I intend to take is therefore to advise the police and prosecutors to proceed on the assumption that a court might adopt a wide interpretation of sections 1 and 2 of RIPA' and 'that an offence may be committed if a communication is intercepted or looked into after it has been accessed by the intended recipient...'*
- *'In summary, I do not consider that there is now any evidence that would reach the threshold for prosecution...In my opinion there is insufficient evidence to provide a realistic prospect of conviction against any person identified in the New York Times article. In fact I consider that the available evidence falls well below that threshold.'*

The original investigation therefore remained closed at this stage in the absence of any new evidence. The consistent caveat remained that if any new material did emerge, then this may change.

In the first week of January 2011 it was reported in the media that Ian Edmundson had been suspended by NotW and the Op VAREC SIO wrote again to Colin Myler on 7th January asking them again for access to any material that might *'be potential evidence of phone hacking'* (at F) No response was received until 26th January (see below)

On 14th January, AC Yates invited the DPP to *'further re-examine all the material collected in this matter'* in light of *'outstanding public, legal and political concerns'* in order establish *'what, if any, further action may be required'* (at G) This was catalysed by the Op VAREC legal advice (finalised on 10th December as above) in which the potential for a wider interpretation of s1 RIPA was raised by the CPS. This would of course have a significant bearing on how we had a victim of a s1 RIPA interception of communication offence would be defined.

On 26th January new material was provided by News International to the MPS in relation to allegations of phone hacking and a new investigation was opened by the Specialist Crime Directorate (at rear).

T/Detective Superintendent K. Southworth
Staff Officer to Assistant Commissioner Yates

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