

Statement made on behalf of: The Commissioner of Police of the Metropolis

Witness: Philip Williams

Statement No: 1

Exhibits Referred to:

Date Statement Made: 29 September 2011

In the matter of Judicial Review Proceedings:

THE QUEEN
on the application of

- (1) CHRIS BRYANT MP
- (2) BRIAN PADDICK
- (3) LORD PRESCOTT
- (4) HJK
- (5) BEN JACKSON

Claimants

- and -

THE COMMISSIONER OF POLICE OF THE METROPOLIS

Defendant

Witness: Philip Williams

Occupation: Police Officer

Address: c/o New Scotland Yard

I believe the facts stated in this witness statement are true

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1. I am a police officer within the Metropolitan Police Service (MPS) with 28 years service. My professional life has exposed me to a wide range of policing experience that includes uniform local policing, public order, criminal investigation through to a number of corporate strategic

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postings and more latterly a number of specialist operational and command roles. All bring their unique challenges and the opportunity to gain a wide range of experience in dealing with challenging investigations within the UK and overseas. Such deployments have enabled me to develop skills in operating at both the strategic and tactical level in hostile environments with multiple international partners to save life and manage crisis. At a corporate, national level and international level I have led in the delivery of long term organisational development to the benefit of the UK and British interests overseas.

2. I joined the MPS in 1983 and spent the first 3 years of my career as a uniform constable on Borough. In 1986 I transferred to Special Branch which was my first exposure to the world of terrorism and domestic extremism. During my time as a constable, I successfully completed what was then the CID course for detective training and was trained as an 'authorised firearms officer.' In 1990 I was promoted to the rank of Detective Sergeant within Special Branch. At this juncture I was successful in a national competitive process to secure a place at the Police Staff College, Bramshill as part of a national scheme to develop potential leaders of the future. In 1992 as part of that programme I returned to Borough uniform policing and in 1996 was promoted to Inspector. From 1992 to 1996 I performed a variety of roles that included: local uniform policing responding to the everyday range of incidents and criminality, a strategic posting to Area Headquarters and leading public order teams in operations

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across London. In 1996 I returned to the Detective role carrying out investigations on Borough and then from 1998 moved to the Organised Crime Group based at New Scotland Yard. Within that Group I was promoted to Detective Chief Inspector in 1999 and specialised in kidnap, extortion and hostage negotiation. In 2004 I was promoted to Detective Superintendent and transferred to Specialist Operations - SO13, Anti Terrorist Branch which became SO15 Counter Terrorism from 2006 onwards. During that posting I completed a number of separate leadership roles that included operational support, intelligence and Senior Investigating Officer. In 2009 I was promoted to a Detective Chief Superintendent and transferred to the Specialist Crime Directorate - SCD11 Surveillance Command. My role is as an Operational Command Unit (OCU) Commander, which in the case of SCD11, means that I lead an armed command that provides human and technical surveillance services to the whole of the MPS and occasionally across the UK and overseas. I also command the MPS Hostage and Crisis Negotiation Unit which comes with a national responsibility to coordinate the UK operational response to all significant negotiation incidents within the UK and overseas. The latter includes representing the Police Service at Cabinet Office Briefing Room (COBR). The areas of criminality we work against is terrorism and serious and organised crime. In other words those criminal/terrorist networks or individuals that present the greatest risk and harm to our communities whether that be, threat to life, significant injury or other forms of significant harm.

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3. In addition to the operational experience that I have gained throughout my career I have successfully completed a number of development courses to qualify me to lead in these fields at this level. They include the Senior Investigating Officers (SIO) Development, SIO Development Course - Management of Serious Crime, Counter Terrorism SIO course, a graduate of the International Leadership in Counter Terrorism Programme, Chemical, Biological, Radiological and Nuclear (CBRN) Incident Commander and a member of the National/International Cadre of Hostage and Crisis Negotiators.

4. In terms of my personal record I have no criminal or discipline matters recorded against me, my annual reports have always been of the highest standards, I have countless letters of appreciation ranging from individual members of the public to a host of outside agencies and governments in acknowledgement of the services provided by me and those I lead. Over the course of my career, I personally have received five Chief Constable level commendations.

5. I make this statement purely for the purpose of the forthcoming Judicial Review as a response to the Claimants' allegations as set out in their detailed grounds. This statement should not be taken as a comprehensive account of all my actions from 2005 to date. Furthermore, this statement is made on the basis that I have not received any indication or service of any notice of misconduct investigation in respect of my conduct within the matters pertinent to this statement.

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6. In 2004 I joined SO13 Anti Terrorist Branch on promotion to Detective Superintendent. The terms of reference for SO13 were set out as follows. To provide support to the National Coordinator of Terrorist Investigations, enabling the effective response to the investigations within the Capital City or wherever they occur, where there is a potential impact or connection with London. To provide counter terrorism information and reassurance to all communities in London including MPS staff. To provide a pro-active and reactive response to terrorism and kindred offences including the gathering and exploitation of intelligence and the disruption of terrorist activity. To conduct the investigation and prosecution of terrorist and kindred offences. To provide an explosive ordnance disposal capability within London. To provide specialist search advice and resources for anti-terrorist operations and investigation in the UK, crime and missing person searches within the MPS. To provide a security co-ordination capability for the MPS and to provide a counter terrorism contingency planning exercise and security advice service for the MPS. At the time there were no other anti terrorism investigation units of the size or capability within England and Wales. This meant that whenever there was a need to carry out a terrorist investigation it was led and managed from SO13 with oversight by the National Coordinator for Terrorist Investigations (NCTI) who during this period was Deputy Assistant Commissioner (DAC) Peter Clarke. He was a member of the Association of Chief Police Officers (ACPO) and the issue of terrorism within policing was in turn overseen by ACPO (TAM -

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terrorism and allied matters), the chair of which was Assistant Commissioner Specialist Operations (ACSO) Andrew Hayman.

7. Kindred or (terrorism) allied matters tended to be investigations that were not necessarily main stream terrorist investigations. They included issues like war crimes, matters that affected national security or were deemed so sensitive that they needed to be conducted within a specialist department to maintain operational security. These matters would typically involve liaison with intelligence/military agencies within the UK and overseas. They could also involve people in sensitive positions or who held roles of national importance and therefore collectively SO13 was viewed as having the appropriate, vetting, experience, access to partners and ability to both maintain operational security and have enough ease of access to information that would give the best chance of an effective investigation being conducted. Operation Caryatid was an investigation that fell into the 'kindred and allied matters' bracket.

8. In 2005, SO13 was headed by DAC Peter Clarke as the NCTI holding national responsibility for the coordination of terrorist investigations. His deputy was Commander John McDowall. The OCU Commander for SO13 Detective Chief Superintendent Tim White. Together they oversaw all aspects of the terms of reference for SO13. Peter Clarke and John McDowall had additional national oversight and coordination responsibilities with Tim White leading the operational delivery of the various assets within SO13. Due to the

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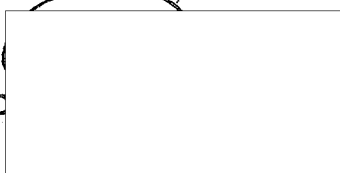
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national/international responsibilities and the higher levels of risk in terms of threat to life undertaken by the command, this 'tripartite' structure differed from other areas of criminal investigation in terms of how investigation strategy and tactics were overseen, managed and delivered. In general terms SO13 worked in close partnership with the Security Service, with the latter having the national responsibility to identify and assess potential terrorist threats to the UK. The management of those risks was shared by them in partnership with DAC Clarke as NCTI through a process called the Executive Liaison Group (ELG). Typically the ELG was chaired by the NCTI with the aim of agreeing the broad strategy as to how a terrorist threat would be mitigated. This usually included the appointment of a Senior Investigating Officer (SIO) to carry out a criminal investigation, predominantly with the ultimate aim of disrupting the perpetrators through arrest and a subsequent judicial process. Albeit 'kindred and allied matters' were not necessarily terrorism, their potential impact on national security and/or the sensitivity of what they involved often meant that there was a level of complexity and risk that lent these matters to be 'investigated' in a similar style of oversight and direction setting to that of the ELG process.

9. In 2005 there were 4 main investigation teams within SO13. Each was led by a Detective Superintendent, 1 Detective Chief Inspector (DCI), 3 Detective Inspectors (DI's) 9 Detective Sergeants (DS's) and 36 Detective Constables (DC's) a total of 50 officers and each team focused on a number of terrorist investigations. There were four other

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main strands within the command each led by a superintendent: Intelligence, Forensics, Operational Support and Search/Organisational learning (dealt with CT, CBRN policy and exercise planning). My role was as Head of Operational Support which included securing and ensuring that the appropriate resources were coordinated across the whole of SO13, particularly for the large scale investigation like Operation Theseus (7/7 London Bombings) Operation Vivace (21/7 attempted London Bombing). I was also responsible for the SO13 24/7 'Reserve' (including the Anti Terrorist Hotline'), bomb disposal team, dedicated CCTV recovery and viewing unit and the development of a photographic intelligence unit. In addition, I was directly tasked by all three of my senior management with a variety of projects in terms of developing long term national CT policy or taking on distinct pieces of operational work that did not fall into the clear category of a main line terrorist investigation. In this aspect along with my fellow Detective Superintendents leading Intelligence and Forensics, we provided an additional SIO capability for SO13. Typical examples include my responsibility to lead a course of work with the Home Office and CPS to bring the new Terrorism Act 2005 (Control Orders) in to operational reality across the UK. As well as setting up the operational structures to oversee and manage Control Orders my additional role as an SIO meant that I led the operations that served, managed and investigated any breaches of Control Orders.

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10. Since 2001 the increase in anti terrorist investigations within SO13 was unprecedented. With the bombing in July 2005 the resourcing requirements for all investigations were well beyond the capability of SO13, a fact that was recognised by both ACPO (TAM) and government leading to the creation of three Counter Terrorism Units (CTUs) outside of London and the merger of SO13 and SO12 Special Branch into SO15 Counter Terrorism Command by October 2006. As an indicator of what this growth looked like in the new SO15, there were now five full time investigation 'Pods' each consisting of 1 Det Superintendent, 2 DCI's, 4 DI's, 12 DS's and 44 DC's - a total of 63 staff per investigation Pod representing an overall growth of 26%. In my decision log dated 21st June .2006 I wrote a file note as follows: - "I believe it is important to formally record that this investigation (Caryatid) has been conducted against a backdrop of sustained and increasing workload for SO13 since at least December 2005. Over that period the number of operations has increased from numbers in the 50s to today at tasking where we have reached 72 active operations with a number of them posing significant life threatening risks. Today again at tasking, as in previous weeks, there were requests for additional resource with there no longer being any spare capacity. This has resulted in some lower priority anti terrorist operations being placed on hold to release officers to higher priority operations. The level of current workload is unprecedented and the assessment for the future is that this is unlikely to ease." In terms of national threat levels the UK from 7th July 2005 had been on 'Critical' (highest level) and during the pre arrest phase of Operation Caryatid

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had gone down one level to 'Severe.' On 9th August 2006 (day after the arrest of Mulcaire and Goodman) it went back up to 'Critical' due to Operation Overt - the trans-Atlantic airline plot. By the end of August 2006 the level went back down to 'Severe' (there are 3 further lower levels of threat/risk) where it consistently remained until June 2007 when it went back up to 'Critical' due to Operation Seagram - the London/Scotland bombings. In practical terms this meant that everyone working in SO13/15 was working long hours on multiple investigations. A few staff did work solely on one investigation, but this was limited to key roles in the largest operations, e.g. Theseus, Vivace and Overt.

11. The senior management team of SO13/15 from DAC to Superintendent were acutely conscious of the risks presented by terrorism throughout this enduring period, together with the responsibility we each held to make critical, proportionate decisions around the management of what had become scarce and stretched resources. In terms of managing this unprecedented threat to life, the key determining factors was to assess the relative levels of harm being presented at any given time by an operation, balanced against the likelihood/proximity of it occurring.

12. It was against this backdrop that in December 2005 I was contacted by DCS Tim White and asked to look into a concern that had been raised by members of the Royal Household that voicemail messages were being intercepted and listened to by persons without permission

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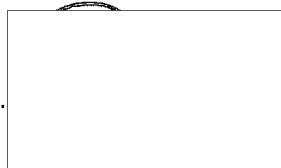
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and lawful authority and that the information contained in the voicemail concerning members of the Royal Family was then appearing in the press. Due to the obvious security implications and sensitivities surrounding members of the Royal Household, it was decided by DAC Peter Clarke that SO13 would carry out the enquiry. The parameters set by DAC Clarke at the outset were very clear. They were to investigate the unauthorised interception of voicemails in the Royal household, to prosecute those responsible if possible, and to take all necessary steps to prevent this type of abuse of the telephone system in the future.

13. There are 2 decision logs in relation to this matter, the first commenced on 21st December 2005 and the second, which was a continuation of the first, commenced 6th July 2006. These logs detail the main decisions made by myself and Keith Surtees in terms of carrying out DAC Clarke's mandate. During the course of the investigation DCS Tim White was my direct line manager, however throughout this investigation, oversight and strategic direction was provided by DAC Clarke, Commander McDowell and DCS White in the 'tripartite' manner described above.

14. To achieve the direction provided by DAC Clarke I instigated a confidential enquiry with the aim of 'establishing whether or not a third party had been accessing Jamie Lowther-Pinkerton's (JLP) and Helen Asprey's (HA) voicemail without their permission. Dependant upon that outcome there may be evidence of criminal offences.' As a

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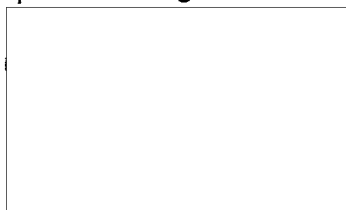
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'confidential enquiry' the knowledge of what we were doing was kept to a very limited number of people. This was due to the sensitive nature of those involved, the potential national security issues involved and as the enquiry progressed, to prevent loss of evidence should our interest in this area become more publicly known.

15. Having met JLP and HA I recognised that there could be a number of explanations that did not amount to criminal offences as to how stories concerning the Princes were appearing in the media based on information apparently limited to very few people. Therefore from the basis of an open mind we looked at a range of stories appearing in the media around that time to get a flavour for what was being reported and commenced some enquiries with the telephone companies. This was conducted by DI Kevin Southworth who worked in the Intelligence Unit of SO13 which included the Telephone Intelligence Unit.

16. Those enquiries were to Vodafone and O2, the mobile service providers for JLP and HA. Their initial response was that they had not experienced anything of the nature we were suggesting and did not think it was possible. It was only due to the tenacity of DI Kevin Southworth with Vodafone and their engineers that around 30th January 2006, we discovered how voicemail worked within the mobile phone industry. Furthermore, that the service providers did have some engineering software that, albeit not definitive, revealed that 'potential rogue' numbers were calling into JLP's voicemail number.

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These "rogue numbers" were investigated and one of the numbers belonged to the address of a Mrs Goodman who we believed was married to Clive Goodman, the Royal Editor of the News of the World (NoTW).

17. It was at this juncture that I commented in my decision log (Decision 8) that not only might this behaviour amount to a criminal offence under the interception of communication, but the apparent vulnerability in the voicemail system could be quite far reaching for the mobile phone service providers.

18. Having briefed in my senior management, the enquiry was still in its early stages and although I speculated it could involve others the focus was to remain on the primary victims who had made the original complaint with a view to establishing whether what we had discovered were a one off set of occurrences or something more systematic. This vulnerability had apparently taken Vodafone by surprise and as the investigation continued the same was true for the other service providers both in terms of the fact that their systems were vulnerable to this particular technique and to the fact that their 'software engineering' was limited in its ability to establish what was actually happening within the voicemail system. In terms of the latter aspect, Vodafone and O2 had some capability, but it fast degraded to nil for the other providers.

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19. By March 2006 we had an emerging picture of Goodman making a significant number of calls to JLP, HA and potentially others within the Royal Household over a sustained period of time. Security advice and liaison with the Royal Household was being managed through Commander Loughborough and I was going to seek guidance from the CPS (through Sue Hemming, Head of Counter Terrorism within the CPS) around my thoughts on potential offences.
20. On 4th April 2006 I provided a review of the case for DAC Clarke and as a record within the decision log. It was at this juncture that I speculated that this practice could be 'quite widespread amongst those who might be interested in such access - a much wider security issue within the UK and potentially worldwide.' I also commented that, dependant upon any change to my parameters, that there could be significant resource implications and impact on core SO13 operations. The widening nature and implications on resourcing was documented and guidance sought from DAC Clarke on a number of occasions thereafter right through until arrest, including activity carried out in relation to News of the World leading up to the trial. The parameters set by DAC Clarke remained consistent throughout the enquiry. I understood that the rational for this was to very clearly establish that this type of behaviour was criminal; it carried a definitive punishment of imprisonment which would act as a future deterrent against this type of behaviour. Furthermore, as a consequence of our actions, preventative measures would be put in place to deal with the unknown scale of the potential activity. This pragmatic approach was

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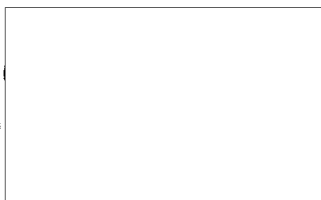
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very much based on longstanding SO13 investigative doctrine to follow the clearest evidence that would best achieve our goals balanced against the need to protect the Public from the extremely challenging environment in which we operated. In this fashion we were discharging our duty to protect the Public in the most expeditious, effective and proportionate manner.

21. On 18th April 2006 I submitted a further review to the enquiry and the key issue at this stage was that I believed we had not only uncovered a pattern of behaviour that was criminal, but that I had support from the Royal Household to take the case forward with the intention of mounting a criminal prosecution. The issues that I presented to DAC Clarke were again around the potential scale of the investigation and the use of SO13 resources given our current counter terrorism (CT) workload. My parameters remained in terms of keeping the investigation focused on the primary victims supported by an uplift in resourcing to enable the evidential gathering phase to begin in earnest. It was at this juncture that DCI Keith Surtees became my deputy and through him I was able to access additional investigative resources. He and his team came from 'Pod 3' led by another Detective Superintendent. They, like everyone else, were working on a number of investigations and in effect some of their time was being loaned to me to enable what was named 'Operation Caryatid,' to go forward with the goal of prosecution.

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22. With prosecution in mind I provided a written briefing on what we had discovered to date and both Keith and I met with Carmen Dowd, Head of Special Crime, CPS. Early engagement with CPS was viewed as best practice within SO13, particularly in complex and challenging cases. Operation Caryatid absolutely fitted into that mould. With the CPS I confirmed that we were dealing with a set of circumstances that had never been prosecuted before in an area of law that was rarely used. Carmen Dowd confirmed my own assessment that the two potential criminal offences were S1 RIPA 2000 - interception of communication and S1 Computer Misuse Act 1990 - unauthorised access to computer material. In terms of securing the confidence and willingness for any 'victims' to be willing to give evidence in court my strategy was to try to prove the offences based on technical evidence rather than bringing into a public arena who might have been leaving messages for whom and almost inevitably, what the content of any message might be by way of proof it existed. Equally I wanted to be able to present the case in a clear and concise manner to ensure the best chance of a successful prosecution and thereafter provide the greatest sentencing powers. Overall this would support both DAC Clarke's and my overall aims of achieving a clear signal that this behaviour was wrong, a criminal matter with severe consequences thereby maximising the deterrent effect. Advice from CPS confirmed that S1 RIPA by far met this criterion. Anecdotally Carmen Dowd explained that computer misuse could become quite technical in terms of trying to lead a jury through what was 'data.' Previous cases had apparently not been all that

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successful, because rather like complex fraud cases, juries had become lost and confused in the machinations of it all. In our case, one of the challenges around 'data' was that the service providers' engineering software could not actually say whether a message new/old existed within the voicemail, hence a prosecution for this offence might well be more challenging as well as carrying a much lower penalty.

23. In Decision log entry 21 (26th April 2006) I set out how I intended to mount a 'sting operation' to try to secure best evidence based upon CPS advice - a key part of which was that for S1 RIPA the message must be 'new' i.e. unopened for it to complete the offence. If an 'opened' message were listened to this would not constitute S1 RIPA. This was my understanding of the law from the beginning of the enquiry, it was a key question put to the CPS which they confirmed as being correct and thereafter it was central to all our activity in terms of securing best evidence including the use of an expert witness. If at any time the advice had been otherwise I would not have had to go the lengths I went to, to both shape the investigation and identify any 'potential victims' of this form of criminality.

24. In April 2006 I had meetings with the heads of security for Vodafone and O2 as the main service providers for the Royal Household victims to secure their understanding of how I was approaching the investigation with a view to securing their support through to prosecution. We absolutely needed their cooperation and expertise

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using technical data that had not previously been used in court. Equally as we secured data based on the phones used by Goodman and subsequently Mulcaire, we would not have been able to resource the administrative process of lawfully applying for information on every piece of phone data we had secured. To that end we needed the service providers' cooperation with us providing the 'rogue numbers' (as we identified them) and the service providers then trying to establish which of their voicemail numbers may have been compromised. In being 'forward leaning' they absolutely recognised the seriousness of what we had discovered in terms of the compromise to their systems and the potential business reputation issues. To that end I was at pains to ensure that no one company was singled out as being particularly at risk/fault because to an extent, we only knew what we knew from those companies who had software that could give an indication of potential interception. For those who did not have this ability, there was no knowing the extent of any wrongdoing. Later on in the investigation this relationship and the wider media issues was cemented through the Mobile Industry Communication Action Forum (MICAF) led by Jack Wraith. As I understand it MICAF is the service providers' voluntary forum through which they share best practice and develop policy on mobile phone crime issues to ensure consistency of approach.

25. Keith Surtees and the investigation team had an ongoing, close relationship with the service providers throughout the investigation period and it was only due to their support and fulsome cooperation

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that we discovered more potential victims and by May 2006, Glen Mulcaire.

26. In May 2006 I was working overseas and Keith took over as SIO and ran a 'test period' of monitoring with our primary victims and the service providers all seeking to actively capture what was happening within the voicemail system. At the core of this process was the principle that we had to secure best evidence to demonstrate that any message was accessed by one of our 'rogue numbers' before the deposited new message had been listened to by one of our victims. This period concluded in June 2006 and through examination by our expert witness, David Bristowe and in conjunction with the CPS it produced our only examples of absolute proof of interception for a number of messages left on JLPs phone whilst he was overseas.

27. I am aware that in June 2006, Keith and members of my investigation team met with Carmen Dowd to go over what we were discovering and show examples of some of the material. An initial Advice File was provided which was the first of three leading up to the arrests in August 2006. Each of these contained where we believed the best evidence lay and the purpose was to seek assurance from the CPS that we had the basis for a viable prosecution. The advice given as to the interpretation of S1 RIPA remained consistent and, albeit complex to prove, we were assured we had the basis of a good case based on the strategy that I was wishing to pursue in terms of being able to

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maintain the confidence of our primary victims to support a prosecution.

28. On 20th July 2006 I provided a written update for DAC Clarke which highlighted a number of concerns; the growing number of potential victims, the role of SO13 in leading the investigation should the parameters widen and the timing around any executive action (arrest). The three concerns were central to the parameters of my investigation. If the enquiry was to be widened then given our experience to date and the technical challenges we had faced, it would require more resources and would probably be longer in duration. If kept covert then there was an ongoing risk to an unknown number of victims. At this juncture all of our original objectives could be achieved through a prosecution centered on the original victims. I believed that the latter was the most proportionate and effective use of resources in terms of what we could prove centered on the original parameters set by DAC Clarke and this was endorsed by him.

29. Towards the end of July 2006 whilst on leave, the service providers informed Keith Surtees of a member of parliament who may have been a victim and this served to reinforce our view that executive action should take place sooner rather than later. Keith Surtees as Deputy SIO carried this phase out with Goodman and Mulcaire being arrested on 8th August 2006. The following day 25 people were arrested for conspiracy to blow up 9 transatlantic planes as part of

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Operation Overt. This was one of the largest CT operations ever undertaken which was in addition to everything else that was ongoing.

30. I returned early from leave on Saturday 12th August 2006 to assist on Operation Overt as part of my new role as head of intelligence for SO13. A significant part of my time was taken up in supporting Operation Overt together with managing the ongoing intelligence risk around current and new developing CT threats. This large workload was no different from anyone else and I have always remained as the SIO for Operation Caryatid. I received a full brief from Keith Surtees concerning the circumstances of the arrest, the items found and the processes that he had put in place to assess the material. This included the production of what we believed to be the definitive list of potential 'victims' adduced from the material seized. The list was compiled into a table form and the front cover of the original document is blue card, hence it has become known as the 'blue book.'

31. On 21st August I attended a case conference with Counsel and CPS where the scale and nature of what we had found was briefed. Issues that were covered included the potential number of 'victims' and how many to ideally include to best represent the scale and nature of the criminality thereby affording a court the appropriate sentencing powers. In addition to Royal victims, a further 5-6 victims was agreed appropriate. Beyond that number it would make no difference how many victims there may have been, the outcome in terms of

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sentencing would not increase. Prosecuting Counsel advised that these individuals should be included on the indictment even though we could not prove that their messages had been intercepted before the intended recipient had listened to them. This was in order to test the law and to see if the Court would accept a less narrow interpretation of s.1 RIPA than we had been advised by the CPS.

32. Counsel was of the opinion that we had good evidence against two main 'culprits' and the case would serve to deter others. We agreed that we would consider pursuing a Schedule 1 Production Order and if that identified another defendant we would consider that at the time. Discussion took place around what we could seize by way of assets that Goodman/Mulcaire may have accrued as a consequence of their criminality. A discussion took place around S1 RIPA versus computer misuse and overall counsel assessed that we had a good case and that S1 RIPA was the way forward, particularly because it was simpler to present to a jury.

33. As a consequence of that meeting I met with DAC Clarke and DCS White to brief them on the direction of the case. In particular we discussed the issue of 'potential victims' the outcome of which I wrote in the document 'informing potential victims.' This document, dated 24th August 2006, became part of the decision log as our collective record as to how, in principle, we should deal with the potential victims.

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34. This potential victim strategy involved police officers informing certain categories of potential victims - Royal, Military, MPs and Police where there was some definitive indication from the service providers that their voicemail had at least been called. With regards to anyone else, the mobile telephone companies would continue to identify/inform others, as indeed I believed they had been doing.

35. This strategy was based upon learning from our partnership with the service providers, advice from CPS/Counsel and the parameters set for the investigation by DAC Clarke, cognizant of the wider operational environment/proportionate use of resource. It did not seek to hide the potential to be a 'victim' of this behaviour. Far from it, the whole aim was to secure maximum public awareness of the vulnerability through an effective and decisive criminal prosecution in an arena that had historically always been controversial when it came to the issue of individual rights to privacy versus the wider public interest/good argument maintained by the media.

36. This investigation was merely intended to lay down a clear marker for the benefit of all on this particular activity as opposed to what would be an never ending investigation into the varied methods used by the media to gather information for stories - this was for other bodies to deal with.

37. The strategy also highlighted the challenge in determining who might be a victim of what. I felt that there was arguably a duty to inform

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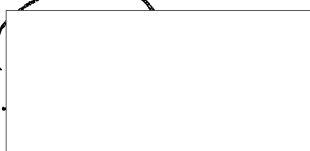
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people who may have been a victim of crime in this case and I felt that this was best defined by 'for those people who we know are victims by virtue of the fact that our suspects' called their voicemails.' If those people could be identified it was a case of by whom, how and when those people would be informed. The rationale for such a distinction was based upon a proportionate sharing of the resources that would be required, the level of risk/harm and who, police or service providers, had the best discrete channels to carry out the task.

38. In my strategy I suggested that for those who fell outside of the main four categories, the informing should be through the service providers and potentially that could take the form of a police/mobile phone company letter. This latter idea was merely a suggestion from me at the time, as I was alive to the issue of business reputation for the service providers. I knew that some companies had already been active in informing customers directly and I merely wanted to encourage the process to continue wherever possible.

39. Another reason why I favoured this strategy was again based on the learning from working with the companies. The service providers had a national policy whereby before any customer went to the police concerning criminal allegations in relation to the use of their airtime service, they would first be advised to go the service provider. This enabled the exact nature of the problem to be identified and thereafter if it were a criminal matter and the customer wanted to pursue the

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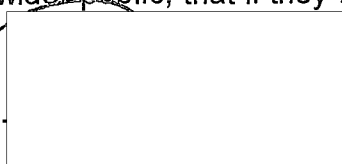
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allegation; they could then go to the relevant police force armed with the necessary support/evidence from the service provider.

40. This as a concept dovetailed in with another issue that had arisen in our partnership. Albeit all of the companies and police were pragmatic in sharing data in what potentially would bring us to an administrative halt if we went down the full process, neither party was willing to share long lists of names for obvious privacy/data protection reasons. Therefore the informing potential victim strategy embraced these issues by providing the optimum, discrete means of informing anyone who was identified as a potential victim supported by a single, well worn route for those who may wish to report the matter to police.

41. When I wrote the strategy, it was based on what I believed was already happening in terms of our relationship with the service providers and as the case progressed to prosecution that ongoing support, discovery, cooperation and joint media releases served to reinforce my belief. I believed the strategy was being carried out as an ongoing process and I had merely formalised the process at a moment in time with the official endorsement of my senior management. Indeed with the admissions of guilt, sentencing and media coverage around both, I believed that the objectives agreed with DAC Clarke had absolutely been achieved. Furthermore, based on my original speculation that this behaviour could be much more widespread, this case served as a medium for communicating to the wider public, that if they felt they may have been a 'victim' of this type

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of intrusion into their private lives, here was clarity around what may have happened together with an avenue for dealing and/or preventing it as with any other form of crime prevention awareness.

42. In relation to the consideration around obtaining a Schedule 1 Production Order, this was discussed between CPS, Counsel, the investigation team and the MPS Department of Legal Services. Having been largely thwarted by News of the World (NoTW) on legal grounds in terms of the extent to which we could search NoTW at the time of arrest, the purpose of seeking the production of further material was to support the prosecution. A key question was around who was tasking Mulcaire, what he provided to whom in return and potentially, the level of awareness in NoTW. Based on legal advice regarding the processes to follow before a Production Order would be granted, we entered into correspondence with BCL Burton Copeland Solicitors, acting for Newsgroup Newspapers Ltd. We asked for a large amount of material in connection with Mulcaire's dealings with the NoTW, including details of who he reported to, whether he had worked for other editors or journalists at NoTW, records of work provided and details of the telephone systems. Specifically we did make it clear that we were 'attempting to identify all persons that may be involved including any fellow conspirators.' We were assured by the solicitors acting for NoTW that they would assist the investigation, but the reality of the situation was that limited evidence was supplied strictly in relation to what they said they had in relation to the matters for which Mulcaire and Goodman were charged. In relation to the

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questions around who had tasked Mulcaire and what he had supplied in return they formally replied on behalf of NoTW, 'no documents exist recording any work completed by Mulcaire, monitoring of Mr Mulcaire's return of work, reporting structure or any persons for whom Mr Mulcaire may have provided information.' Furthermore, they informed me that with regards to anything else it would be highly likely that it would amount to journalistic material.

43. Now that the nature of our investigation was overt, I was not surprised at the lengths that NoTW went to within the law to make sure that we only ever received what they were obliged to provide. However, whatever my speculations, my role as an investigator is to make realistic assessments based on the evidence that is available which could be used in a criminal prosecution. I also have to balance that against competing demands and levels of risk/harm. In that respect all that we had discovered was briefed and shown to our senior management. Given the wider terrorist climate in which we were operating and the successful completion of our objectives as set by DAC Clarke, I agree with his decision not to expand the investigation. It was an extremely pragmatic decision based on threat, the significant resources that would probably need to be expended over a long period against an unknown likelihood of securing enough evidence to secure any measurable, additional significant benefit for the Public beyond what we had already achieved.

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44. In the months following the arrest and right up to prosecution nothing more was forthcoming and DAC Clarke's decision to continue within the parameters as originally set and thereby not go any further in terms of the material seized from Mulcaire and Goodman, remained. My understanding of this enduring rationale was that this would have involved a commitment of huge resources that could not be justified given the climate concerning, in particular, terrorism. On balance it was felt that the safety of the public was more important than protecting invasions of privacy; and that it was not the job of police to regulate the media, rather that it should regulate itself through the PCC.

45. Our primary concern was to protect the public from the criminality undertaken by Goodman and Mulcaire and this objective, in my view, was achieved by: -

- I. the arrest and (eventual) prosecution of two senior reporters
- II. working with phone companies to tighten up procedures
- III. working and briefing government so they were aware of issues and could take steps to protect their privacy
- IV. ensuring that the PCC were informed, given that the press are self-regulated
- V. As previously stated, the victims/potential victims who were informed were those who were named on the indictment, those who were contacted and asked if they would agree to being included on the indictment and those who had been

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identified and who fell into the specific categories of MPs, Royal household, Police and Military. To this end I understand that briefings were given to the Home Office but that a list of MPs who had potentially been compromised was not provided as we expected the warnings to be disseminated down throughout the House. I am aware that the Commissioner informed one MP personally.

46. I personally informed George Galloway and a senior police officer that they may have been victims.

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