

Witness: Peter Clarke
Statement No: 1
Exhibits Referred to: PC/1, PC/2, PC/3
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The Leveson Inquiry into the Culture Practices and Ethics of the Press

This is the exhibit marked 'PC/3' referred to in the statement of Peter Clarke,
dated this 31st day of January 2012.

Examination of Witness

Witness: **Mr Peter Clarke**, Former Deputy Assistant Commissioner, Metropolitan Police, gave evidence.

Q435 Chair: Mr Clarke, thank you very much. My apologies to you for keeping you waiting half an hour, but you had the benefit of sitting within the Committee confines so you heard what was being said. Could you just explain to us your role in the investigation prior to the investigation that was done by Mr Yates?

Mr Clarke: Thank you, Chairman. I am delighted to have the opportunity to be here today. This is, of course, the first time that anyone, I believe, involved in the original investigation has had the opportunity to meet with the Committee, and indeed it is certainly the first time that I have had the opportunity to publicly express any of these issues.

Q436 Chair: Can I thank you for responding so readily to my invitation. Unlike other witnesses, you readily said you would come and give evidence, and I am most grateful.

Mr Clarke: I am, of course, to a large extent relying upon memory of events from five or six years ago and, of course, I did leave the police some three and a half years ago. If it would help the Committee, I could make some opening remarks to set out my role and indeed many of the issues that I know the Committee is interested to hear.

Q437 Chair: I think the Committee are appraised of this, but if you could just tell me in answer, rather than reading out a statement, what was your role and when did it begin and when did it end?

Mr Clarke: My role in this particular investigation began in December 2005 when I was the head of the Anti-Terrorist Branch of the Metropolitan Police and also carried out the role of National Co-ordinator of Terrorist Investigations, which meant that I was responsible for leading the investigation of terrorist offences in the UK and against British interests overseas. I was approached in December 2005 by the head of the Royal Protection Department.

Q438 Chair: Who is-

Mr Clarke: Commander Peter Loughborough, and still is. He said that members of the Royal Household had expressed concerns that matters were finding their way into the press. They were trying to work out how this had happened and one of the concerns was maybe that somehow voicemails were being accessed. Obviously to my mind that immediately posed some issues around potential security of members of the royal family. It could, for instance, be people trying to ascertain their movements and so, because of the sensitivity and the obvious national security implications, I said that my department, the Anti-Terrorist Branch, would take on this investigation.

Q439 Chair: What was your relationship at that point to Andy Hayman? Where did he fit into the overall investigation? Was it your investigation? Were you the top man?

Mr Clarke: In essence, yes. Obviously, ultimately the Commissioner is responsible for everything that happens in the Metropolitan Police.

Q440 Chair: Yes, we have heard from the previous Commissioner. Tell us about your role.

Mr Clarke: There are many layers in the police service. My role as head of the Anti-Terrorist Branch was to set the strategy for this investigation and to set its parameters. Andy Hayman was, if you like, my boss. He was the Assistant Commissioner. I was the Deputy Assistant Commissioner.

Q441 Chair: Yes. How often would you report back to him about the things that you were doing?

Mr Clarke: We would meet on a daily basis, talking about a whole range of things, most of them obviously connected to the terrorist threat and what was going on with that in the UK.

Q442 Chair: If we could leave the terrorist threat aside and concentrate on this issue, which you had conduct for. You have heard the evidence of Assistant Commissioner Yates, and you have heard the concern of this Committee, and indeed you have been reading the newspapers, I am sure. We can't understand how an investigation conducted by the Metropolitan Police did not look at the files and the paperwork that would have revealed the names of individual people, including former Prime Ministers, the present Chancellor of the Exchequer, Members of Parliament, members of the royal family, and including John Yates, Andy Hayman and, I understand, yourself. Were you one of the people being hacked?

Mr Clarke: I am sorry, sir, this is news to me.

Q443 Chair: Fine. We are just clearing you out of the picture.

Mr Clarke: Is there a picture that I am part of this? I am sorry, I am not aware of that.

Q444 Chair: Okay, fine. You are not one of the people. That is very helpful. But Mr Hayman certainly was on the list?

Mr Clarke: Not to my knowledge.

Q445 Chair: Not to your knowledge. Have you seen the list that has been produced that Operation

Weeting has been involved in?

Mr Clarke: No, I haven't.

Q446 Chair: You have not? I will make sure that you get it. You have heard evidence from Assistant Commissioner Yates that he thought he was being hacked. Is that the first time you have heard this?

Mr Clarke: I think it is the first time I have heard it. I don't recall any previous reference to John Yates being hacked. I may have read it in the newspapers, I don't know.

Q447 Chair: Going back to the totality of it, you may not know about individual people but you had in your files a number of names. Is that right?

Mr Clarke: Not at the beginning of this investigation, no. Those names came in obviously in due course after the arrests and searches in August 2006.

Q448 Chair: But you have heard the concern of the Committee that what should have happened in that very first investigation is that all those names should have been thoroughly investigated and all circumstances *should* have been looked at so you were not in the position where Mr Yates had to do his review and subsequently to see this industrial scale of the number of victims of hacking. Are you amazed that all these names have come forward or not?

Mr Clarke: I am probably not amazed. I am not surprised by anything that certain parts of the media indulge in and we are learning things day by day. There is a process that I had hoped to describe in my opening statement to you that took us from the point of the original notification to me from Commander Loughborough through to the point of arrest and then subsequent action, which describes how the parameters were reached of the first investigation, which was strictly to investigate who it was who was potentially hacking into the voicemails of people in the Royal Household and how the decision was reached after the arrests not to conduct an exhaustive analysis of the huge amount of material.

Q449 Chair: That would be very helpful, but just concentrating for one moment on the evidence we have received from Mr Yates, who of course has said his review of the evidence in 2009 was poor. Do you, as a result of what you have seen in the newspapers-I thought I heard you say in answer to my question that maybe this is what the media indulge in. Are you questioning these emails and questioning the information that has come out in the media? Do you think that this information is wrong or have you accepted that people like Gordon Brown and others have had their phones hacked?

Mr Clarke: I have absolutely no idea whether they have had their phones-I am not in the police any more; I am not involved in the current investigation.

Q450 Chair: No, I understand that. So you are a member of the public, you are completely shocked. Unlike Mr Yates who was absolutely shocked and in hindsight thinks his inquiry was not good, you are very satisfied with the inquiry that you conducted?

Mr Clarke: No, I didn't say that. I haven't said that at all. I think I share the shock of almost everybody at some of the depths to which the media seem to have sunk in some of the activities that we have learned about. If we take the Milly Dowler case, for instance, I only learned about that last week. Like every decent person, I am sure, I am utterly appalled by that. I hope that almost goes without saying.

Q451 Chair: Do you agree with the statement made by Mr Yates? When you tried to get information from News International, because we all understand what is in the public domain at the moment

arose as a result of emails handed over from News International, were they co-operative with you when you were conducting the inquiry? Mr Yates is very clear they were not co-operative with him.

Mr Clarke: News International were not co-operative at the time. If there had been any meaningful co-operation at the time we would not be here today. It is as simple as that.

Q452 Chair: Thank you. Would you like to tell us the timeline that you were keen to share with us and then other members will ask you questions?

Mr Clarke: Do you want me to read parts of it or to try to memorise it? My only caveat is, of course, this is quite a long time ago. If I rely on memory-

Chair: It depends on how many pages you have, Mr Clarke.

Mr Clarke: If I say something that subsequently turns out to be not absolutely right and I am relying on memory, then of course I would not want to be accused of intentionally misleading this Committee.

Q453 Chair: Of course, and I wouldn't want you to be in that position, but if you would just tell me how many pages do you have there?

Mr Clarke: Two.

Q454 Chair: Right. Read fast.

Mr Clarke: I shall read very fast. I have covered already the fact that I was approached in December 2005 and began the investigation into the possible hacking in the Royal Household. Mobile phone companies were approached and as the inquiry progressed it became apparent that voicemails in the Royal Household were indeed being intercepted in a previously unknown way. Access to the voicemails was being gained from the telephones of Clive Goodman, the royal editor of the *News of the World*, and Glenn Mulcaire, a private investigator.

Legal advice was sought from the Crown Prosecution Service in the person of the head of the Special Crime Division. So far as was known, the legislation was untested in being applied to the kind of activity uncovered by our investigation. The advice stated that they were potentially offences under section 1 of the Regulation of Investigatory Powers Act and section 1 of the Computer Misuse Act. The latter was a summary only offence with limited powers of punishment and there were uncertainties as to how the specifics required to prove the case might arise from the facts as presented in this case. The RIPA offence was triable on indictment with greater powers of punishment. We were advised that the offence could certainly be proved if the interception occurred before the intended recipient had accessed the message but beyond that the area was very much untested.

The parameters of the investigation, which I set with my colleagues, 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. The investigation would also attempt to find who else, other than Goodman and Mulcaire, was responsible for the interceptions. The reason I decided the parameters should be so tightly drawn was that a much wider investigation would inevitably take much longer to complete. This would carry, to my mind, two unacceptable risks. First, the investigation would be compromised and evidence lost and, second, that the much wider range of people, who we were learning were becoming victims of this activity, would continue to be victimised while the investigation took its course. This would probably go on for many months and to my mind this would be unacceptable.

After Goodman and Mulcaire were arrested and following consultation with the CPS, we entered into correspondence with BCL Burton Copeland Solicitors, acting for News Group Newspapers Ltd. We asked for a huge amount of material in connection with Mulcaire's dealings with the *News of the World*, including details of who he reported to, whether he had worked for other editors or journalists at the *News of the World*, records of work provided by him, details of the telephone systems in the *News of the World* offices and much else besides. On 7 September 2006 a letter to Burton Copeland from the Metropolitan Police specifically stated the investigation is attempting to identify all persons that may be involved, including any fellow conspirators. We were assured by the solicitors that News Group Newspapers wished to assist our investigation, that we were in possession of all relevant documentation but that the material to which we were entitled was limited. In reality very little material was produced. Therefore, while we were able to prosecute the specific offences under investigation, we were unable to spread the inquiry further with News International because of their refusal to co-operate more broadly. I know you have heard conversations about the legal issues here.

Following the arrest of Goodman and Mulcaire, a large amount of material in both paper and electronic formats was seized. I have been told that it amounted to some 11,000 pages. As News International were clearly not going to offer any co-operation, the only avenue into a wider investigation would have been through that material. We considered whether there should be an exhaustive analysis of this material and decided against it for the following reasons.

Q455 Chair: "We" being-

Mr Clarke: Me and my senior colleagues within the Anti-Terrorist Branch.

Q456 Chair: Including Mr Hayman?

Mr Clarke: The process was, I would brief Andy Hayman as to how the inquiry was going.

Q457 Chair: Who were these other people you were talking to?

Mr Clarke: Again, a hierarchical structure. I had a commander, Commander McDowell, Detective Chief Superintendent Tim White, and a range of other colleagues who were conducting the-

Q458 Chair: Okay, thank you. Proceed.

Mr Clarke: First, given the wider context of counterterrorist operations against actions that posed an immediate threat to the British public, when set against the criminal course of conduct that involved gross breaches of privacy but no apparent threat of physical harm to the public, I could not justify the huge expenditure of resources this would entail over an inevitably protracted period. Instead, a team of officers were detailed to examine the documents for any further evidence and to identify potential victims where there might be security concerns. The second reason why we decided not to do a full analysis of all the material was that the original objectives of the investigation could be achieved through the following measures. First of all, the high-profile prosecution and imprisonment of a senior journalist from a national newspaper for these offences. Secondly, collaboration with the mobile phone industry to prevent such invasions of privacy in the future. Thirdly, briefings to Government, including the Home Office and Cabinet Office, designed to alert them to this activity and to ensure that national security concerns could be addressed. There was also, of course, at the time liaison with the Information Commissioner's Office.

In addition, there had been very close co-operation between my officers and the mobile phone industry throughout the investigation. After the arrests, a strategy for informing victims was put in place, which involved police officers informing certain categories of potential victim and the mobile phone companies identifying and informing others to see if they wanted to contact the police. I have since learned that this strategy did not work as intended.

Q459 Chair: Indeed, as the Committee has learned.

Mr Clarke: Indeed, and as John Yates has indicated, that is a matter, of course, of profound regret. It is also, of course, utterly regrettable that as a result of the decision not to conduct a detailed analysis of all the material seized, a category of victim that I had no idea were the targets of the hackers did not receive the support that they deserved sooner. I refer there, of course, to the victims of crime.

Finally, any account of the investigation would not be complete without reference to the counterterrorist context at the time. Since 2002 there had been a steady rise in the number and lethality of terrorist plots against the UK. London had, of course, been attacked twice in 2005 and this had given rise to the largest criminal investigation ever carried out in the UK. By early 2006 we were investigating the plot to blow up trans-Atlantic airliners in midflight and those responsible were arrested on 9 August 2006, the day after Goodman and Mulcaire. By the middle of 2006 the Anti-Terrorist Branch had more than 70 live operations relating to terrorist plots but the reality was that some of these were not being investigated because we didn't have the staff to do so.

I have been asked whether we could have returned to the unassessed material in the months after Goodman and Mulcaire's arrests. The answer quite simply is no. By December we were embroiled in the Litvinenko murder in London, and a few months later the attacks in Haymarket and Glasgow. Meanwhile, we had to service all the court cases that had been coming through the process for some years that in 2007 led to the conviction of dozens of people for terrorist-related crimes. Neither would it have been feasible to ask other departments to undertake the task using their own scarce resources in a case where there had already been convictions and there was no certainty of obtaining convictions for serious offences, given the untested nature of the legislation in these circumstances.

I can no longer speak for the Metropolitan Police, of course, but I am confident in saying that I know the officers who were involved in the 2006 investigation are looking forward to the opportunity to set out in detail to the forthcoming judge-led inquiry, in a calm forensic environment, the integrity, objectivity and no little skill with which they went about their duties in 2006. I reiterate, if at any time News International had offered some meaningful co-operation instead of prevarication and what we now know to be lies we would not be here today. I hope that helps.

Q460 Chair: I am sure colleagues will have questions for you. Can I just ask, did you at any stage think of issuing a press statement or a release to the media saying that News International were not co-operating?

Mr Clarke: At what stage?

Chair: At any stage.

Mr Clarke: Certainly I couldn't possibly do that in advance of the court case coming to fruition in 2007.

Q461 Chair: But after it was concluded?

Mr Clarke: I don't think I did, no.

Q462 Chair: The regret that you have expressed in your very helpful statement today is to whom? To whom are you regretting? Are you apologising to the victims? Are you just saying you regret that the strategy was not carried out? Who is the regret directed to?

Mr Clarke: The primary focus has to be the victims of crime. It always is. In this case, because the victim strategy that we put in place in the last week of August 2006 hadn't operated as intended, clearly there are people who have found that they have been the victims of hacking who deserved to

know sooner, but obviously most importantly it is the victims of crime who have found some of the most distressing things about what has been happening to their private lives and invasion of their privacy in the past.

Q463 Chair: Thanks. Finally, for the record, you have had no hospitality given to you or any connection whatsoever with News International?

Mr Clarke: No. During my time serving in the Metropolitan Police there were occasionally, organised by the Directorate of Public Affairs, meetings with the Crime Reporters Association, which reaches right across the British media of course, print and broadcast, and there were occasions certainly on which I would meet groups of reporters, usually either perhaps one week the broadcast media, another time the broadsheet.

Q464 Chair: But not specifically private dinners with News International?

Mr Clarke: No, absolutely not.

Q465 Mr Clappison: Mr Clarke, you have been a very distinguished senior officer, particularly in the field of counterterrorism, but I have to say I find your evidence today hard to accept, particularly on what you have told us about the parameters that were set for this inquiry, which perhaps might explain one or two things. In the normal course of policing, if an offence is discovered and it is discovered that there has been further offending associated with that offence, the police normally investigate the further offending, don't they? If, for example, you stop somebody for driving while disqualified and you find they have been committing burglaries, you would investigate the burglaries as well, wouldn't you?

Mr Clarke: With respect, this is not about driving while disqualified or burglaries. This is an entirely different category. The only thing you could possibly align this to would be an enormous fraud where you focus the investigation at an early stage, you decide what the potential offences might be and then you focus on trying to prove those offences, and you do put parameters around investigations. It is a completely normal investigative process and in this case, if I may, the first indication was that there was something within the Royal Household and I said that is what we will investigate.

Q466 Mr Clappison: Did you suspect that there was other offending taking place in the *News of the World* newsroom involving other journalists?

Mr Clarke: Yes, which is why we pursued it as far as we could through the correspondence with the *News of the World* lawyers.

Q467 Mr Clappison: You have told us that one of the reasons why you didn't choose to investigate further and set these parameters was that you were concerned that victims would continue to be victimised if the offences were investigated.

Mr Clarke: Yes. What I was trying to say there was that if we had tried to mount an investigation into every potential victim, which was beginning to emerge from our work with the phone companies, that could have taken months, or potentially even years, to bring it to the point where we would go to the Crown Prosecution with a file.

Q468 Mr Clappison: Do you think it is more or less likely that a victim would be victimised if the police investigate and find out who was doing the victimising?

Mr Clarke: I think, with respect, sir, you are missing the point here.

Mr Clappison: Well, I hope so.

Mr Clarke: We did not know the full scope of how many people were being victimised. It was clearly wider than just the initial parameters of the investigation. If we were to try to conduct a full investigation to find out the full breadth of this, this would take potentially months. We couldn't possibly start going to victims in advance of an arrest phase because clearly that would become public knowledge sooner or later, particularly bearing in mind the nature of some of the victims. If we had done that and it had become public knowledge, clearly those who were responsible could well have lost or destroyed evidence. So what I am trying to say to you here is that if we had let this run on for months the completely unacceptable breach of individuals' privacy would have continued and to my mind that was just simply not the right thing to do.

Q469 Mr Clappison: We can all have the benefit of hindsight but I think with the benefit of what has emerged since that was a catastrophic decision that you took, wasn't it? It has allowed this network of spying and corruption to continue untouched.

Mr Clarke: I have to disagree with that because, as I said, the original objectives were to-

Q470 Chair: You disagree with Mr Clappison's assertion that if you had done this earlier we would not have had this continuing?

Mr Clarke: I have to disagree that the web of spying and corruption has continued untouched. The evil we were trying to investigate and then to stop was the illicit access to people's voicemails. So far as I am aware, by and large after 2006, and it may be completely since 2006 because of our work with the mobile phone companies in getting the protective security arrangements around voicemails changed, voicemail hacking no longer continues.

Q471 Chair: I have to tell you, Mr Clarke, when the mobile phone companies came to give evidence to us they were very critical of the Metropolitan Police. They were basically waiting to inform the victims and you never told them to inform the victims.

Mr Clarke: We are talking about two different things here, sir. If we are talking about the protective measures put in to try to stop the voicemail hacking then I believe that that was entirely successful.

Q472 Chair: In respect of your inquiry and to the victims of what has happened.

Mr Clarke: I have already conceded that the victim strategy did not work as intended and that is, of course, a matter of great regret.

Q473 Mr Clappison: You have told us that you decided not to undertake an exhaustive analysis of the material that was first seized in the inquiry from the limited search that took place of Mr Mulcaire. Does that mean it wasn't read?

Mr Clarke: No. A team of officers were detailed to go through that material with a range of objectives. One, of course, was to look for evidence relevant to the offences that had been charged. The second objective is, of course, to make sure that our obligations in terms of disclosure under the Criminal Procedure and Investigations Act are fulfilled. That is done, first by police officers and then as was done by counsel. Then third, to look for potential victims where there were national security implications.

Q474 Mr Clappison: So all the material was read?

Mr Clarke: I can't say whether all the material was read. It was a manual search, because at that time we didn't have the technical-I can't be absolutely certain.

Q475 Chair: You don't know?

Mr Clarke: I wasn't there looking over people's shoulders.

Q476 Mr Clappison: Did you ask people to look through all the material?

Chair: I thought you were running the inquiry.

Mr Clarke: Yes, I was running the inquiry.

Q477 Chair: The question Mr Clappison asked is surely a no-brainer. Wouldn't you ask your team, "Have you read all the documents?" before you closed your files?

Mr Clarke: Not necessarily, no. The team was tasked to look with particular objectives in mind, not to do an exhaustive analysis of every name, phone number and so and on and so forth.

Q478 Chair: Even though some of those names were very important people?

Mr Clarke: Those people were notified, those who immediately jumped out of the page.

Chair: Mr Clappison will come back to you, unless this is the final question.

Q479 Mr Clappison: It is the question that I was putting to the previous witness that I think should really be put to you. In that study of the material, did you find the names of other people who had been the victims of hacking and other journalists who were involved in the hacking, apart from those who were subsequently on the indictment? Did they include, for example, the victims of crime, which you told us about? Did you find victims of crime had been subject to hacking, or anybody?

Mr Clarke: I was certainly not aware of any of the victims of crime that have been publicised in the last week.

Q480 Mr Clappison: Other names who had been the victims of hacking, other people, other individuals?

Mr Clarke: There were other people for whom there were indications that they probably had been. We could only tell if somebody had been the victim of hacking from the technical data from the mobile phone companies. If they told us that somebody's voicemail had been accessed by Goodman or Mulcaire, then they were informed.

Q481 Chair: So the answer is yes, you did find other names of people?

Mr Clarke: Yes.

Q482 Bridget Phillipson: You have compared this issue to fraud. If, when dealing with a complex case such as fraud, you were faced with a business or an individual showing unwillingness to co-operate would that not make you somewhat suspicious that they perhaps had something to hide rather than to accept that you simply couldn't pursue it any further?

Mr Clarke: I was not only suspicious, I was as certain as I could be that they had something to hide.

Q483 Bridget Phillipson: What prevented you from taking that further?

Mr Clarke: The law.

Q484 Bridget Phillipson: In what sense?

Mr Clarke: I think it has been explained many times before this Committee that there was correspondence entered into between us and News International. The letters that were sent from the Metropolitan Police were put together in consultation with the Crown Prosecution Service. The replies came back through the lawyers acting on behalf of News International and I know that the people, both from the CPS and from the Met, at the time who were looking at this were very frustrated at finding themselves in what they regarded as a legal impasse.

Q485 Bridget Phillipson: But had the material been subject to exhaustive analysis there may have been further grounds to pursue?

Mr Clarke: As I have said, given the complete lack of co-operation from News International, the only way to get into this would have been to do an exhaustive analysis of all that material. I have already explained that, because of the range of other life-threatening activity that was going on at the time in terms of terrorist offences, I took the decision that this didn't justify it.

Q486 Bridget Phillipson: It is just disappointing that for whatever reason-I am sure you can appreciate-the unwillingness of potential criminals to co-operate with a criminal investigation meant that prosecutions didn't happen.

Mr Clarke: I know it sounds a slightly sort of banal point; would you expect criminals to co-operate with the police? No, of course you don't, but this is slightly different, and I don't mean to be flippant here, from someone taking the lead off the church roof. This is a global organisation with access to the best legal advice, in my view deliberately trying to thwart a criminal investigation.

Q487 Mark Reckless: Do you believe that BCL Copeland, as well as News International, may have a case to answer in respect of what they wrote on behalf of their clients?

Mr Clarke: I couldn't possibly say. I am sure they were acting on instructions.

Q488 Mark Reckless: Couldn't you have looked through this 11,000 pages of material, not necessarily completely but at least enough to see if the names of any News International journalists were there, such that you could then have forced them to give you more material?

Mr Clarke: I am sorry, I am trying to take your point, sir. Could you repeat that, please?

Q489 Mark Reckless: Surely you could have looked, skimmed even, this 11,000 pages to see if there were the names of any other News International journalists and then use that information to force News International to open up.

Mr Clarke: It's possible. I am not sure that skimming 11,000 pages is an exercise that could be undertaken.

Q490 Mark Reckless: Why didn't you notify Mr Bryant that his phone had been hacked?

Mr Clarke: To the best of my knowledge I didn't know Mr Bryant's phone had been hacked.

Q491 Mark Reckless: Why didn't you do anything when it emerged that Gordon Taylor, nothing to do with the royal correspondent, had been given a payoff by News International?

Mr Clarke: Because by then I had retired from the police service.

Mark Reckless: Fair enough.

Q492 Lorraine Fullbrook: Mr Clarke, in evidence you gave to Mr Clappison and Mr Reckless you said that you didn't have an exhaustive search of the evidence. Why didn't you do an exhaustive search of a sample of the evidence and then you would have seen the iceberg underneath what you were dealing with?

Mr Clarke: I am just trying to reflect on that.

Chair: Well, it is a simple question.

Mr Clarke: It is a simple question and there is no simple answer, because it is inviting me to consider why I didn't do part of a job. I suppose I took the view you either do the job properly or you don't do it at all.

Q493 Lorraine Fullbrook: But you didn't do the job properly.

Mr Clarke: Well, I consider that the decision taken at the time was perfectly reasonable, and I had to weigh up the conflicting priorities of counterterrorism and invasion of privacy. I made the decision and, as others have said recently, I stand by that decision and people can make their judgments.

Q494 Lorraine Fullbrook: Do you think you would have done the job better had you done an exhaustive search of a sample of the evidence that you had?

Mr Clarke: It may or may not have made any difference at all. I can't say. It's pure speculation.

Q495 Michael Ellis: You say, Mr Clarke, that the law effectively stopped you because you, Scotland Yard, were up against an international, global organisation. The law doesn't allow fishing expeditions, but what the law does allow and what the law would have done to support you, as in the Yard, would have been, if you had obtained sufficient evidence to justify a reasonable suspicion, you would have been able to obtain access, and no amount of high-paid lawyers would have been able to stop you. So the question is, there were 11,000 pages sitting there that were not properly reviewed. I suggest they could have been reviewed, should have been reviewed and would have disclosed evidence that would have allowed the police to obtain legal access to News International and maybe others.

Mr Clarke: If I may, sir, there is a degree of speculation at the end of your question. I have already explained the reason why I made the decision not to have them reviewed at the time.

Q496 Michael Ellis: But if I may, Mr Clarke, we are dealing here with, according to the *Guardian*, members of the royal family, including the Prince of Wales, Prince Harry, Prince William, the Duchess of Cornwall. You were tasked with royalty protection, were you not, ultimately, and this is a matter relating to royal protection, as far you knew it at the time of your investigation. It wasn't a routine investigation. Wouldn't it have been an obvious thing to do to investigate the matter fully?

Mr Clarke: Sorry, you said, sir, that I was tasked with royalty protection ultimately.

Q497 Michael Ellis: I thought you told the Committee that you were originally tasked to investigate this matter because you had oversight over royal matters.

Mr Clarke: I understand you now. I thought you were referring to the fact that I was commander of the Royalty Protection Department back in the 1990s.

Q498 Michael Ellis: No, but you had responsibility over royalty protection, did you, or did you not?

Mr Clarke: No, not in 2006.

Q499 Chair: Anyway, whatever your responsibility was, should you not have done the search that Mr Ellis has suggested?

Michael Ellis: Would it not have disclosed further information that would have then given you legal grounds to obtain access?

Mr Clarke: I don't know whether it would have revealed further information to give me legal grounds because we didn't carry out the exercise.

Q500 Chair: Indeed. During your investigation, did you at any time speak to the DPP?

Mr Clarke: No, I didn't.

Q501 Chair: So you had no contact with Lord Macdonald, or Sir Ken Macdonald as he then was?

Mr Clarke: No.

Q502 Chair: Who in your team sought the legal advice that was necessary for you to continue?

Mr Clarke: The legal advice was sought by the senior investigating officer, working with the head of the Special Casework Division.

Chair: Who was that?

Mr Clarke: That would have been either Detective Chief Superintendent Williams or Detective Superintendent Surtees.

Q503 Chair: Do you know for a fact that they did consult the DPP?

Mr Clarke: I know they consulted with the Crown Prosecution Service. I doubt the DPP was personally involved. I don't know.

Chair: We have a letter from the DPP saying he had oversight of it.

Mr Clarke: In the same way that lots of people have oversight.

Q504 Dr Huppert: If I can say, Mr Clarke, I think you have been very straight with this Committee, and it is always nice to hear that. I think the error that was made was drawing the boundaries far too narrow to start with, too much of a focus on royal and high security, and I suspect you would agree that with hindsight it could have been broader. Certainly had I realised how big this was when I wrote to the Chairman of this Committee last year suggesting we look at this and we might have been able to do even more work.

Chair: And we have put on record we are very grateful you did.

Dr Huppert: Thank you, Chairman. My question is that, during 2006, the Information Commissioner laid not just one but two command papers to the House of Commons, to Parliament, *What price privacy?*, which I think Nicola Blackwood referred to earlier, and *What price privacy now?* a six-month follow-up, highlighting that, from his perspective at least, this was a major issue. In that it talks about finding that 305 journalists were identified during Operation Motorman as customers driving the illegal trade in confidential personal information. It goes on in the follow-up report-

Chair: Please don't read it all out. Just ask your question.

Dr Huppert: I won't, Chairman. It goes on to detail a huge range of newspapers. In fact the *Daily Mail* is at the top; *News of the World* is only fifth on the list. Did that not spark any alarms that you had evidence of trade in personal information. You knew this was a high priority for the Information Commissioner. Did that not then make you think, "Should we link these together?"

Mr Clarke: I have to confess that in 2006 I was not aware of those reports. I suppose my focus was on terrorist issues.

Q505 Dr Huppert: Should somebody else within the Met have been aware of them and put two and two together?

Mr Clarke: I think someone else probably was aware of them-

Dr Huppert: But didn't put two and two together?

Mr Clarke: -but clearly two and two were not put together, if they were there to be put together.

Q506 Mr Winnick: Was there a feeling at the most senior level of the Met, Mr Clarke, that it wouldn't be wise to make an enemy of News International?

Mr Clarke: No, I just can't agree with that, Mr Winnick.

Q507 Mr Winnick: Are you really saying that which you have already described as a huge global organisation, with all its media outlets and what it can do, made absolutely no difference whatsoever?

Mr Clarke: If there had been any feeling of the kind that you describe, Mr Winnick, I think it unlikely that my officers would have gone unannounced to the News International building and faced the sort of hostility and obstruction that they did when they went to conduct the search on the day of the arrests.

Chair: Sorry, could you speak up, Mr Clarke?

Mr Clarke: Yes, sorry.

Q508 Mr Winnick: But surely that hostility and obstruction, which surprises no one, even less now, if anything that would be a discouragement to probe further, knowing the dogs of war could be used without hesitation.

Mr Clarke: I understand what you are saying, Mr Winnick, but perhaps I am arrogant enough to think that I had a reputation as a fairly dogged investigator, and hostility and obstruction might make me more determined rather than less.

Q509 Mr Winnick: One more question, Mr Clarke. You said that, understandably, no criticism, you socialised, if that is the right word, with crime reporters. No one would have expected otherwise. That seems to be perfectly above board, but you didn't have any socialising with the most senior people in News International. Would that be true of other colleagues, senior colleagues?

Mr Clarke: I can't speak for what they did.

Q510 Mr Winnick: You weren't aware one way or another?

Mr Clarke: No, absolutely not.

Q511 Nicola Blackwood: Mr Clarke, I think it would be helpful to understand the scale of your investigation and exactly where it ranked in your day-to-day work. Was this investigation the only investigation that you were conducting at the time?

Mr Clarke: No. I think I've explained, under my oversight there were some 70 investigations within the Metropolitan Police Anti-Terrorist Branch and across the country as well.

Q512 Nicola Blackwood: Where would you say it ranked in terms of priority?

Mr Clarke: You can't place a rank on it.

Nicola Blackwood: Well, just give us an assessment: bottom third, top third?

Mr Clarke: I couldn't list. What I could say is that it certainly would not compete with any other investigation where there is a threat to the safety of the public.

Q513 Nicola Blackwood: How many officers were assigned to the investigation?

Mr Clarke: It varied according to what stage the investigation was at.

Chair: On average.

Mr Clarke: There is no such thing, I'm afraid. I am not being awkward, Mr Vaz, but there is no such thing.

Q514 Nicola Blackwood: At the beginning of the investigation?

Mr Clarke: At the beginning of the investigation, partly because of the sensitivity of it and partly because it was a very focused investigation, we kept it very tight and I would say perhaps there were 10 to a dozen. Then when it came to the arrests and searches, we borrowed officers from other parts, from Specialist Crime Directorate, and on the day of the searches and the arrests there were probably as many as 60 involved in it.

Q515 Nicola Blackwood: So about 10 to 11 officers working exclusively on the case and supplemented by additional officers at various times?

Mr Clarke: And other means of support such as analysts, intelligence officers, document readers.

Q516 Nicola Blackwood: What was the duration of that investigation from beginning to end?

Mr Clarke: The beginning would be December 2005 until the conviction of Goodman and Mulcaire, which I believe was in January 2007.

Q517 Nicola Blackwood: Do you feel that the message that you were getting from the command structure was that you should not be prioritising this investigation, particularly in the context of all the other terror-related activities you were involved in?

Mr Clarke: No, absolutely not. It was my decision.

Q518 Steve McCabe: Mr Clarke, I guess what troubles most of us is that this 11,000 pages of material now turns out to be a rich seam for any able-minded investigator. Was it the fact that your officers were asked to concentrate exclusively on looking for connections involving Goodman and Mulcaire and therefore to disregard any other connections they saw, or is there some technical way

you can review the material only looking for Goodman and Mulcaire that would in some way screen out any other possible connections? I think that is what people don't understand. They understand the pressures of time, the fact you had to make choices about narrowing, but we now know this was a minefield and somehow it escaped everyone's attention.

Mr Clarke: Yes, absolutely. I think it is a mistake though, if I may say so, Mr McCabe, to think that we were focusing solely on Goodman and Mulcaire. We weren't, and the correspondence that we entered into with News International makes that very clear. I read an extract from it this morning. We were looking to find any other conspirators as well. If the evidence had been forthcoming we would have followed it.

Q519 Steve McCabe: It must have been there. As Mr Ellis said, had you pursued the question of Gordon Taylor it would have been painfully obvious you should have interviewed another journalist. So it must have been there.

Mr Clarke: It was there in all the material, yes, but as I say we didn't do an exhaustive analysis of that material at that time.

Q520 Steve McCabe: I am trying to figure out why that was. Were your officers supposed to disregard it when they saw someone else, or was there some process by which it was reviewed that meant they couldn't see other people? I can't figure out how if all these names are coming up an experienced police officer going through that material couldn't have said, "Oh, there's that name and again and again, and look it's connected to this." I don't understand that.

Mr Clarke: That is what was happening, and I think I am right in saying that in the initial stages about 28 people were informed that they had potentially been the victims of hacking as a result of the initial review of that. I agree, the analysis of the 11,000 pages was not comprehensive.

Chair: Yes, I think we have got that.

Q521 Alun Michael: In that context, I can understand, and you made a very clear statement about, what your priorities were in terms of combating terrorism and the lower order of putting the big administrative task out. Was any consideration given to stripping out the non-terrorism-related aspects of your command and putting these sorts of responsibilities, which could be seen as a distraction in those terms, to other parts of the Met, the Specialist Crime Directorate or whatever?

Mr Clarke: I suppose you could say that this type of investigation was never core business for the Anti-Terrorist Branch. It came to us because of the national security issues at the beginning.

Alun Michael: That is rather my point.

Mr Clarke: Having got to that point, forgive me, is the point then that could I have tried to pass the investigation to somebody else? I think the realistic point-and I certainly thought about this at the time and it is reflected in the decision logs from the time-is that for the previous two years I had already been stripping out other parts of the Metropolitan Police to support the Anti-Terrorist Branch in a whole series of anti-terrorist operations. A lot of other serious crime had gone uninvestigated to the extent it should have done because of the demands I was placing on them. I took the view that it would be completely unrealistic, given that we were heading towards a prosecution of Goodman and Mulcaire, to then go to another department and say, "We've got a prosecution running. We have a huge amount of material here that needs analysing. We don't know, given the uncertainties of the legal advice, whether there will be further offences coming from this or not. Would you like to devote 50, 60, 70 officers for a protracted period to do this?" I took the judgment that that would be an unreasonable request and so I didn't make it.

Q522 Alun Michael: In your answer, you have indicated that other aspects were stripped out of the command in order to give you the maximum resource for dealing with terrorism. With the obvious benefit of hindsight, might it not have been better to shift this activity as well?

Mr Clarke: I don't honestly see where I could have shifted it to. It would have been more a case of trying to invite people, I think, to lend me more officers and, to be frank, I think I had tried their patience quite sufficiently over the past years. I don't mean it to sound trite but it would have been a very difficult request to have made to colleagues.

Q523 Alun Michael: But it wasn't pushed up the tree as a responsibility?

Mr Clarke: To be honest, there wasn't much of a tree to push up above me. I know this is something I discussed not only with my own colleagues in the Anti-Terrorist Branch but of course with Andy Hayman as well.

Q524 Chair: Mr Clarke, you have been very helpful to the Committee in giving evidence today but, although we accept the integrity of the way in which you presented your evidence, we remain puzzled that at the time of the investigation this information was not properly analysed, for whatever reasons, whether it is resources or judgments that you made. You came right at the start with your regret that certain things were not done. Could you remind the Committee, because you seem to be quite defensive of what you have done in saying that you have done the best you can, what was the reason for your regret that you mentioned in your original statement?

Mr Clarke: The regret is quite simply that people who have suffered enough already through being the victims of crime now find that because of the activities of basically the *News of the World*-and maybe others, who knows-their suffering has been increased.

Q525 Chair: As a result of something you didn't do?

Mr Clarke: As a result, partly, of the fact that the victim strategy, which we set in place in August 2006, appears not to have worked as we had intended.

Q526 Chair: Had that worked you would have been very satisfied with your inquiry?

Mr Clarke: I would have been satisfied with the inquiry that we conducted. Obviously, as a former investigator I can't be happy that there is material in our possession that subsequently turned out to contain important information, but I come back to the point if only News International had seen fit to co-operate at any early stage.

Chair: Yes, we have got that message. Thank you very much for coming, Mr Clarke. We are most grateful. Could we call our next witness, Andy Hayman? You are welcome to stay if you wish, Mr Clarke.